

Queensland



HARBOURS AMENDMENT BILL (No. 2) 1993

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Harbours Amendment (No. 2)

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1993

A BILL

FOR

An Act to amend the Harbours Act 1955

The Parliament of Queensland enacts—	1
Short title	2
Clause1. This Act may be cited as the Harbours Amendment Act (No. 2) 1993.	3 4
Commencement	5
Clause2. Section 5 is taken to have commenced on 1 July 1993.	6
Amended Act	7
Clause3. The Harbours Act 1955 is amended as set out in this Act.	8
Insertion of new Part 7A	9
Clause4. After Part 7— insert—	10 11
‘PART 7A—SETTING OF HARBOUR DUES BY BOARDS	12 13
‘Guidelines	14
‘136B. A regulation may prescribe guidelines to be followed for recommendations made under section 136C.	15 16
‘Changes in harbour dues	17
‘136C.(1) The Minister may approve a recommendation of a Board—	18
(a) that existing harbour dues for a harbour (a “Board harbour”) for which the Board is established be amended in a specified way (whether by increasing or decreasing their rates or otherwise); or	19 20 21
(b) that specified new harbour dues for a Board harbour be levied or	22

charged; or	1
(c) that specified existing harbour dues for a Board harbour be abandoned.	2 3
‘(2) The approval may be given only if the Minister is satisfied that the Board’s recommendation is in accordance with the guidelines in force under section 136B.	4 5 6
‘(3) If the Board’s recommendation is not in accordance with the guidelines, the Governor in Council may approve the recommendation.	7 8
‘Notice of recommendation	9
‘136D. If the Minister or the Governor in Council approves a recommendation of a Board, the Board must cause a notice describing the general effect of the recommendation to be published at least once in a newspaper generally circulating in the locality to which the recommendation relates.	10 11 12 13 14
‘Copies of approved recommendations to be available	15
‘136E. If the Minister or the Governor in Council approves a recommendation of a Board, the Board must ensure that copies of the recommendation are available for inspection and purchase (at reasonable cost) at its offices in the locality to which the recommendation relates.	16 17 18 19
‘When approved recommendations commence	20
‘136F. An approved recommendation commences on the day the first notice under section 136D is published for the recommendation.	21 22
‘Approved recommendations to prevail over by-laws	23
‘136G. If an approved recommendation is inconsistent with a by-law, the approved recommendation prevails to the extent of the inconsistency.’.	24 25

Insertion of new Part 11	1
<i>Clause</i> 5. After section 210—	2
<i>insert—</i>	3
‘PART 11—TRANSITIONAL PROVISIONS ABOUT	4
THE ESTABLISHMENT OF THE PORTS	5
CORPORATION	6
‘Definitions	7
‘211. In this Part—	8
“amending Act” means the <i>Harbours Amendment Act (No. 2) 1993</i> ;	9
“Order” means the <i>Harbours (Ports Corporation) Order 1993</i> ;	10
“transferred assets and liabilities” means the assets and liabilities mentioned in section 214;	11 12
“transferred employee” means an employee of the Ports Corporation to whom section 218(1) applies;	13 14
“transferred harbour” means a harbour mentioned in section 213(2).	15
‘Establishment of Ports Corporation	16
‘212. The Order is taken to have validly established a harbour board called the Ports Corporation of Queensland.	17 18
‘Responsibility for harbours	19
‘213.(1) The Order is taken to have transferred, on 1 July 1993, responsibility for the harbours specified in subsection (2) from the Harbours Corporation to the Ports Corporation.	20 21 22
‘(2) The harbours for which responsibility is taken to have been transferred are—	23 24
• Abbot Point	25
• Burketown	26
• Cape Flattery	27

• Cooktown	1
• Hay Point	2
• Innisfail	3
• Karumba	4
• Lucinda	5
• Margaret Bay	6
• Maryborough	7
• Port Kennedy	8
• Quintell Beach	9
• St. Lawrence	10
• Weipa.	11
 ‘Transfer of assets and liabilities	 12
‘214.(1) The Order is also taken to have transferred, on 1 July 1993, all the property and other assets, and all the liabilities, of the Harbours Corporation that relate to the transferred harbours to the Ports Corporation.	13 14 15
‘(2) Subsection (1) extends to agreements to which the Harbours Corporation was a party and to any associated guarantees.	16 17
‘(3) The necessary adjustments must be made to any register of property dealings to take account of the transfer of the assets and liabilities.	18 19
‘(4) Stamp duty and other fees are not payable for the change in the ownership of the assets.	20 21
 ‘Land designation of Ports Corporation	 22
‘215. All land in which the Ports Corporation gains an interest by the Order keeps its previous designation under section 62A.	23 24
 ‘Certain acts of Harbours Corporation valid	 25
‘216. An act done or omitted to be done on or after 1 July 1993, and before the commencement of the amending Act, by the Harbours	26 27

Corporation is taken to be an act done or omitted to be done by the Ports Corporation if it relates to a transferred harbour or the transferred assets and liabilities. 1
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‘Proceedings started by or against Harbours Corporation’ 4

‘217.(1) A proceeding is taken to have been started by, or may be continued against, the Ports Corporation if it— 5
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(a) is started or continued by or against the Harbours Corporation on or after 1 July 1993 and before the commencement of the amending Act; and 7
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(b) is pending at the commencement of the amending Act; and 10

(c) relates to— 11

(i) a transferred harbour or the transferred assets and liabilities; or 12
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(ii) anything done, or omitted to be done, by the Harbours Corporation in relation to a transferred harbour or the transferred assets and liabilities. 14
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‘(2) An act done on or after 1 July 1993, and before the commencement of the amending Act, by the Harbours Corporation for a legal proceeding mentioned in subsection (1) is taken to have been done by the Ports Corporation. 17
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‘Transfer of staff’ 21

‘218.(1) Each person who, at the end of 31 December 1993, is an officer of the public service and seconded to the Ports Corporation ceases to be an officer of the public service on 1 January 1994 and becomes an employee of the Ports Corporation. 22
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‘(2) The person’s terms of employment must, on 1 January 1994, be not less favourable than the terms of employment that applied to the person on 31 December 1993. 26
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‘(3) The person— 29

(a) keeps the entitlements that have accrued to the person because of employment in the public service; and 30
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- (b) continues to accrue entitlements as an employee of the Ports Corporation as if the person were continuing to serve as an officer of the public service.

‘Preservation of superannuation

‘219.(1) This section applies to a transferred employee who was, at the end of 31 December 1993, a contributor to the State Service Superannuation Fund or a member of the State Public Sector Superannuation Scheme.

‘(2) The person continues to be a contributor to the State Service Superannuation Fund or a member of the State Public Sector Superannuation Scheme and, for that purpose, is taken to be an officer within the meaning of the *State Service Superannuation Act 1972* or eligible for membership of the scheme under the *Superannuation (State Public Sector) Act 1990*.

‘(3) However, if—

- (a) the Ports Corporation later establishes or takes part in a superannuation scheme for the benefit of its employees (other than the State Service Superannuation Fund or the State Public Sector Superannuation Scheme); and
- (b) a person continued to be a contributor to the fund, or a member of the scheme, under subsection (2);

the person may, under arrangements prescribed by regulation, stop being a contributor or member and become a member of the scheme mentioned in paragraph (a).

‘Right of return to public service

‘220.(1) A transferred employee may, on or after 1 January 1994 and before the end of 1 year after the Ports Corporation becomes a GOC within the meaning of the *Government Owned Corporations Act 1993*, elect to re-become an officer of the public service.

‘(2) If a person re-becomes an officer of the public service under subsection (1)—

- (a) the person’s initial terms of employment must not be less favourable than the terms of employment that applied to the

person on 31 December 1993; and	1
(b) for superannuation and leave entitlements, the person is treated as—	2 3
(i) not having left the public service when the person became an employee of the Ports Corporation; and	4 5
(ii) having been an officer of the public service while the person is an employee of the Ports Corporation.	6 7
‘References to Harbours Corporation	8
‘221.(1) If a reference in an Act or document to the Harbours Corporation applies to a harbour mentioned in section 213(2), the reference is, for that application, a reference to the Ports Corporation.	9 10 11
‘(2) A reference in the <i>Aurukun Associates Agreement Act 1975</i> to the Harbours Corporation is a reference to the Ports Corporation.	12 13
‘Expiry of certain provisions	14
‘222. Sections 212 to 217 expire on 1 January 1994.’.	15 16