

TASMANIA.

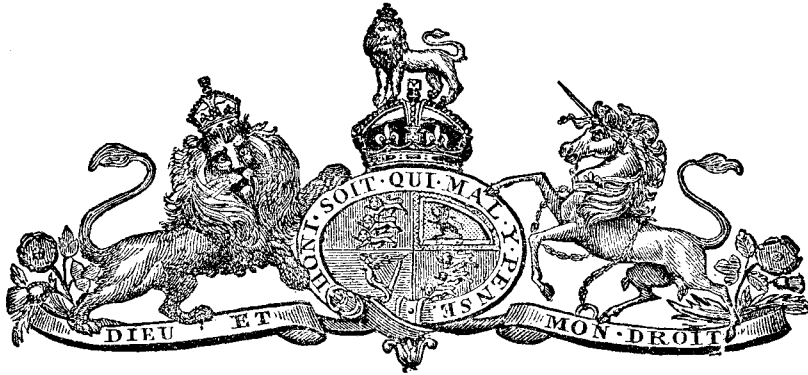
THE MARINE ACT, 1930.

ANALYSIS.

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| <p>1. Short title.</p> <p>2. Amendment of 12 Geo. V. No. 60.</p> <p> Section 8.</p> <p> Section 14.</p> <p> Section 20.</p> <p> Section 44.</p> <p> Vacation of office of warden or trustee.</p> <p> Section 48.</p> <p> Section 64.</p> <p> New Section 65a.</p> <p> Construction of wharf below high-water mark.</p> <p> Section 68.</p> <p> Section 75.</p> <p> Heading to Division III. of Part VIII.</p> <p> New Section 77.</p> <p> New Section 78a.</p> <p> Remission of dues.</p> <p> New Section 79.</p> <p> Wharfage rate on transhipment cargo.</p> | <p> New Section 87a.</p> <p> Damage to wharf or works of board.</p> <p> Section 88.</p> <p> Section 89.</p> <p> New Section 90a.</p> <p> Vessels to obey directions of harbour-master.</p> <p> Section 92.</p> <p> Power of harbour-master to detain vessels.</p> <p> Section 94.</p> <p> Section 108.</p> <p> Section 117.</p> <p> Section 128.</p> <p> Section 130.</p> <p> Section 139.</p> <p> Section 144.</p> <p> Section 149.</p> <p> Section 153.</p> <p> Section 158.</p> <p> Section 163.</p> <p> New Section 166a.</p> <p> Notice of action.</p> <p> Schedule.</p> |
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TASMANIA.



1930.

ANNO VICESIMO PRIMO

GEORGII V. REGIS.

No. 65.

AN ACT to amend the Marine Act, 1921.
 [12 January, 1931.]

A. D.
 1930.

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited as "The Marine Act, 1930."

Short title.

2 The Marine Act, 1921, is amended as follows:—

I. By inserting after the word "trust" in the fourth line of Section Eight the words "and shall include the waters beside and beneath any wharf controlled by any other person than the board or trust as the case may be":

Amend-
 ment of 12
 Geo. V. No.
 60.

Marine.

A.D. 1930. Section 14.

16. Geo. V.
No. 38.

Section 20.

Section 44.

Vacation of
office of
warden or
trustee.

II. As to Section Fourteen, by inserting the figure “ (1) ” immediately before the word “ The ” in the first line and adding at the end of that section the following new subsection:—

“ (2) Within the boundaries of the wharf so defined as aforesaid, the board or trust shall have jurisdiction exclusive of that of any municipal or local authority, and the by-laws of a board or trust in relation to the management and control of such wharf shall have effect, notwithstanding anything to the contrary contained in the Traffic Act, 1925, or in the by-laws of any municipal or local authority.”:

III. By deleting the words “ or extraordinary ” in the third line of Section Twenty:

IV. By repealing Section Forty-four and substituting therefor the following new section:—

“ ~~44~~ The office of a warden or trustee shall become vacant if—

- I. He is absent from four successive ordinary meetings of the board or trust, unless he has leave of absence or is prevented from attending by illness:
- II. He becomes, or is made, bankrupt, or takes the benefit of any law relating to bankruptcy, or makes any assignment or composition for the benefit of his creditors:
- III. He becomes of unsound mind, or is convicted of a crime, or of any offence which, if committed in this State, would be a crime:
- IV. He accepts any office of profit under the board or trust:
- V. He directly or indirectly, by himself or by any person whatsoever in trust for him, or for his use or benefit, or on his account, undertakes, executes, holds, enjoys, or is concerned in, in the whole or in part, any contract or agreement with or any work done or to be done by or for the board or trust; but nothing in this paragraph shall extend to any contract or agreement made or entered into by any company or firm consisting of at least six persons where the contract or agreement is made or entered into in the ordinary course of the business, and for the benefit, of the company or firm, nor when goods are supplied, or services are

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rendered by him or his firm, or any company of which he is a member, in the ordinary course of business and not knowingly, for the purposes of the board or trust; nor when he is acting as agent only in the supplying of such goods, or the rendering of such services, and without any such knowledge.

The renting of land or offices shall not bring a warden or trustee within the provisions of this section: or

VI. He ceases to hold the qualification of a warden or trustee.”:

V. By expunging Paragraph VII. of Subsection (1) of Section 48. Section 48.
Section Forty-eight and substituting therefor the following new paragraph:—

“VII. If, in any ballot under this section, there is an equality of votes for two or more candidates, and the number of votes cast for each of such candidates exceeds the number of votes cast for any other candidate, the result of such ballot shall be determined by lot in manner prescribed.”:

VI. As to Section Sixty-four—

(a) By adding at the end of Paragraph VII. Section 64.
the words “, including power to fix the times at which any vessel may berth at, or depart from, any wharf in any port within the jurisdiction of the board”:

(b) By adding at the end of Paragraph VIII. the words “and to abate and remove any nuisance or obstruction in any port at the expense of the person, if any, causing the same, or otherwise”:

(c) By inserting after Paragraph IX. the following new paragraphs:—

“IXa. To prohibit navigation by a specified class of vessel in any specified waters generally or during any specified period: Provided that any by-law under this paragraph shall be first approved by the Governor:

“IXb. To regulate the use of harbours and the good order and government of vessels in any harbour.”:

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- A.D. 1930 ——— New Section 65a.
Construction of wharf below high-water mark.
- Section 68.
- Section 75.
- Heading to Division III. of Part VIII.
New Section 77.
- New Section 78a.
Remission of dues.
- New Section 79.
Wharfage rate on transhipment cargo.
- VII. By inserting after Section Sixty-five the following new section:—
“**65a**—(1) No person shall construct or set up below high-water mark in any waters within the jurisdiction of a board or trust, any wharf or structure without the permission of such board or trust.
(2) Where it is proposed to construct or set up any such wharf or structure, for or on behalf of His Majesty or any department of the State, reasonable notice thereof shall be given to the board or trust concerned, and due consideration shall be given to any objection thereto by such board or trust before the proposed work is carried out.”:
- VIII. By deleting the word “apply” in the twelfth line of Section Sixty-eight and substituting therefor the word “ply”:
- IX. By inserting after the word “outlay” in the first line of Paragraph IV. of Section Seventy-five the words “which a board or trust may consider to be.”
- X. By adding to the heading of Division III. of Part VIII. the words “and Remissions”:
- XI. By repealing Section Seventy-seven and substituting therefor the following new section:—
“**77** The ordinary wharfage charges shall be payable on cargo the property of, or imported by or for the Government of the Commonwealth of Australia or the Government of the State of Tasmania.”
- XII. By inserting after Section Seventy-eight the following new section:—
“**78a** A board or trust, by resolution, may remit the payment of any rate, due, or charge, or any part thereof, but no such resolution shall be passed except after three days’ notice of motion therefor.”:
- XIII. By repealing Section Seventy-nine and substituting therefor the following new section:—
“**79**—(1) No wharfage rate shall be payable in respect of cargo which is landed upon any wharf for the purpose only of transhipment to some other port in this State and in respect of which notice of such purpose is given at the time of such landing to the board or trust controlling such wharf, except as hereinafter provided.

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(2) With the approval of the Governor, a board or trust may prescribe a charge in respect of any such cargo if the same remains on a wharf of such board or trust for any period exceeding fourteen days.

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(3) The wharfage rate collected in respect of such cargo at the port of its final destination shall be divided equally between all the boards and trusts whose wharves have been used in the transit of such cargo to such port.

(4) If any dispute shall arise between any board or trust and any other board or trust in the application of this section to any particular case, the same shall be determined by the Governor.”:

XIV. By inserting after Section Eighty-seven the following new section:—

“**87a**—(1) The owner of every vessel shall pay to the board the amount of any damage caused by such vessel to any wharf within the jurisdiction of the board, or to any work or thing the property of the board, notwithstanding that such vessel, at the time when the damage is caused, is in charge of a pilot or of a harbour-master.

New
Section 87a.Damage to
wharf or
works of
Board.

(2) Any person who casts into the water any material or article by which any damage is caused to any work of a board shall pay to the board the amount of such damage.

(3) The owner of any wreck shall pay to the board the amount of any damage caused by such wreck to any work of a board.

(4) The amount of any such damage as aforesaid may be determined upon the complaint of a board under the Justices Procedure Act, 1919, and upon such complaint an order may be made for—

10 Geo. V.
No. 55.

- I. The payment to the board of the amount of any such damage:
- II. The detention of any vessel causing such damage until payment of the amount thereof:
- III. The sale of any material, article or wreck, and for the payment to the board of the amount of such damage out of the proceeds of such sale: and
- IV. The giving of sufficient security for the payment of the amount of any such damage.”:

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A.D. 1930. Section 88.

XV. By adding at the end of Section Eighty-eight the following new paragraph:—

“VI. In any case where the expenses incurred in the removal or sale of any article under this section exceed the amount received as a result of the sale of such article, the difference between the amount so received and the amount of the expenses incurred shall be paid to the board by the owner of such article, and in default of payment may be recovered by the board on complaint under the Justices Procedure Act, 1919.”:

10 Geo. V.
No. 55.
Section 89.

XVI. By deleting the word “its” in the sixth line of Section Eighty-nine and substituting therefor the words “such vessel or article”:

New
Section 90a.

XVII. By inserting after Section Ninety the following new section:—

“90a. The master and crew of every vessel within a port shall obey the orders and directions of a harbour-master.”:

Vessels to
obey direc-
tions of
harbour-
master.
Section 92.

XVIII. By repealing Section Ninety-two and substituting therefor the following new section:—

“92. A harbour-master, or any officer appointed by a board or trust for that purpose, may detain any vessel in respect of which any fee, due, or charge is owing to such board or trust, until payment thereof.”:

Power of
harbour-
master to
detain
vessels.

Section 94.

XIX. As to Section Ninety-four—

(a) By deleting the word “both” in the fifth line and the word “and” in the sixth line; and by inserting after the word “outward” in the sixth line the words “and within a port”:

(b) By adding at the end of Paragraph III. the words “The rate may be charged either on the gross, or net, registered tonnage.”:

Section 108.

XX. By adding at the end of Section One hundred and eight the following new paragraph:—

“III. In the case of such small vessels as may be prescribed trading within such waters as the board from time to time may determine, the load-line and deck-line may be such as are prescribed by the board”:

Section 117.

XXI. By adding at the end of Paragraph (3) of Section One hundred and seventeen, the words “or until the reason for such detention has ceased to exist”:

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- XXII. By deleting the words "to sailing vessels of less than fifteen tons, or" in the fifth and sixth lines of Section One hundred and twenty-eight: Section 128. A.D. 1930.
- XXIII. By adding at the end of Section One hundred and thirty the following new subsections:— Section 130.
 " (3) The board, if it is satisfied that the resurvey of a steamship at any time would occasion unreasonable or unnecessary expense or inconvenience to the owner, and that no danger to the ship or her crew, passengers, or cargo will be caused by an extension of time for the resurvey, may extend the time for the resurvey for any period not exceeding one month.
 (4) The board may authorise the master warden or secretary to exercise the powers contained in this section."
- XXIV. By deleting the first two lines of Subsection (3) of Section One hundred and thirty-nine and substituting therefor the words "The owner and the person in charge of any unlicensed launch plying for hire shall be guilty of an offence. Penalty: Ten Pounds." Section 139.
- XXV. As to Section One hundred and forty-four— Section 144.
 (a) By inserting the figure "(1)" immediately before the word "Each" in the first line:
 (b) By deleting the words "but with the right to the officer affected to ask for a court of inquiry" in the eleventh and twelfth lines:
 (c) By adding at the end thereof the following new subsection:—
 " (2) There shall be a right of appeal to a court of survey in respect of the cancellation or suspension of any certificate under this section."
- XXVI. As to Section One hundred and forty-nine— Section 149.
 (a) By deleting the words "the court, or" in the second line of Paragraph VIII.; and by deleting the word "and" in the third line of that paragraph and substituting therefor the words "on the advice of":
 (b) By expunging Paragraph IX. and substituting therefor the following paragraph:—
 "IX. The decision of the president shall be the decision of the court, and shall be given in writing:"

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(c) By inserting after Paragraph IX. the following new paragraph:—

“IXa. The court may make such order as it thinks fit respecting the costs and expenses of any proceedings, and any costs and expenses awarded against any party to the proceedings may be recovered by the party in whose favour the order is made in any court of competent jurisdiction, or may be recovered from any party in the manner provided for the recovery of costs by the Justices Procedure Act, 1919:”:

Section 153. XXVII. By adding at the end of Section One hundred and fifty-three the following new subsection:—

“ (3) The master of every vessel arriving at any port shall give to the board or trust the prescribed particulars of the vessel and her crew, passengers, cargo, and voyage.

Penalty: Ten Pounds.”:

Section 158. XXVIII. As to Section One hundred and fifty-eight—

(a) By inserting in the place of Paragraph I. the following paragraph:—

“ I. Wilful removal of, or interference with, any light, beacon, buoy, or mark used in navigation, and under the care of a board or trust.

Penalty: One hundred Pounds or imprisonment for twelve months:”:

(b) By inserting after the word “ any ” in the first line of Paragraph III. the words “ life-saving ” and by inserting after the word “ appliance ” in the same line the words “ or any appliance ”:

(c) By expunging Paragraph VI. and substituting therefor the following paragraph:—

“ VI. Failure to comply with any order or direction of a harbour-master made or given under this Act.

Penalty: One hundred Pounds.”:

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- XXIX. By inserting after the word "all" in the third line of Section One hundred and sixty-three the words "fees, dues, charges, and": Section 163. A.D. 1930.
- XXX. By inserting after Section One hundred and sixty-six the following new section:— New
Section
166a
Notice of
action.
- "166a—No action shall lie in respect of any act or omission of any person acting under, and in pursuance of, this Act, or any Act enabling a board or trust to do any work, until notice in writing has been served on the board, trust, warden, member, officer, servant, or person against whom the action is brought, stating the cause of action and the name and place of abode of the intended plaintiff and of his solicitor or agent, and the provisions of the Act 63 *Victoriæ* No. 36 shall apply to any such action": and
- XXXI. By adding at the end of Schedule (5) the words Schedule.
- "The maximum rates under this schedule may be computed on the gross registered tonnage."

