

HARBORS AND NAVIGABLE WATERS CONTROL BILL 1974.

EXPLANATORY MEMORANDUM.

This Bill proposes amendments to five Acts relating to the control of the ports and seas of Victoria in order to meet current requirements.

The Acts are—

the *Melbourne Harbor Trust Act* 1958 ;
 the *Geelong Harbor Trust Act* 1958 ;
 the *Portland Harbor Trust Act* 1958 ;
 the *Harbor Boards Act* 1958 ; and
 the *Marine Act* 1958.

The principal proposals deal with—

the conversion of certain measurements to metric units ;
 the determination and collection of port charges by port authorities ;
 the measurement of ship tonnage for the purpose of collecting port charges ;
 the exemption of certain vessels from the requirement to use licensed pilots.

The opportunity has also been taken to propose minor amendments required due to changed circumstances.

The following notes concerning individual clauses may make examination of the Bill easier :—

Clause 1.

This clause contains the usual citation provision.

Clause 2.

This clause makes provision enabling individual provisions of the Bill to be brought into operation on a day or the respective days to be fixed by proclamation or successive proclamations of the Governor in Council.

PART I.—CLAUSES 3–7.

Clause 3.

This clause provides that in this Part the *Melbourne Harbor Trust Act* 1958 is called the Principal Act.

Clause 4.

This clause deletes reference to an imperial measurement in section 76 (c).

Whilst it is the intention to convert imperial measurements to metric, where necessary, it is considered that in this instance the intent of the paragraph (that the rate charged for the sale of water to the Commissioners shall not exceed that charged to ordinary users of water) will appear sufficiently if the reference to a unit of measurement is deleted.

Clause 5.

This clause amends section 108 to fix the maximum wharfage charge which may be made by the Commissioners in terms of metric units.

The rates charged from time to time are the subject of regulations made by the Commissioners under the Act, which require the approval of the Governor in Council.

Clause 6.

The new section 109A proposed by this clause is designed to reinforce the powers given to the Commissioners by sections 107 and 109.

Section 109A (1) is intended to place beyond doubt the powers of the Commissioners to collect port charges on goods landed or discharged from or loaded into any vessel within the port irrespective of whether the goods are handled over the facilities of the Commissioners, private facilities, or to or from a vessel anchored off-shore in the waters of the port.

Section 109A (2) is intended to provide that the Commissioners may collect any of the appropriate charges normally levied against vessels coming into the port without necessarily having to relate them to the occupation of a berth. These charges are distinct from those referred to in section 109A (1).

In the event that vessels remain in the port and discharge cargo into barges at anchor, these provisions enable the Commissioners to levy appropriate charges on both cargo and vessels.

Clause 7.

Sub-clause (1) substitutes new sections for the existing sections 111 and 112, and removes the requirement that the Commissioners accept the rules of admeasurement of ship tonnage laid down by the *Merchant Shipping Act 1894* passed by the Imperial Parliament. The new sections empower the Commissioners to ascertain the tonnage of any ship in accordance with regulations made under the Melbourne Harbor Trust Act and require the representatives of the ship, upon request by the Commissioners, to produce relevant documents and afford all necessary facilities to enable measurement of the tonnage of the ship.

The rules laid down by the Merchant Shipping Act are now acknowledged to be outdated. They are particularly unsuitable in relation to vessels of modern design, especially those designed to carry large quantities of cargo on deck. They have already been modified in relation to the United Kingdom. It has been proposed that the British rules be eventually replaced by suitable international rules.

The amendments proposed in this and corresponding clauses of the Bill are intended to enable present injustices concerning the imposition of port charges in Victoria to be rectified while international rules are being settled.

Sub-clause (2) adds a complementary regulation-making power to section 136.

PART II.—CLAUSES 8–12.

Clause 8.

This clause provides that in this Part the *Geelong Harbor Trust Act 1958* is called **the Principal Act**.

Clause 9.

This clause repeals section 49.

The section was intended to ensure that a sufficient depth of water was maintained at the Cunningham or Railway Pier for colliers bringing coal to Geelong for the use of the Victorian Railways. That need has long since passed, as the Victorian Railways Board no longer requires coal to be discharged in Geelong and, in any event, the unloading of colliers was transferred to Corio Quay North in 1958.

Clause 10.

This clause, which amends section 76 (2), has a similar purpose to clause 5.

Clause 11.

This clause, which substitutes a new section 79 for the existing section, has a similar purpose to clause 6.

Clause 12.

This clause, which substitutes new sections 80 and 81 for the existing sections and adds a complementary regulation-making power to section 99, has a similar purpose to clause 7.

PART III.—CLAUSES 13–15.

Clause 13.

This clause provides that in this Part the *Portland Harbor Trust Act* 1958 is called the Principal Act.

Clause 14.

This clause amends sections 26A and 26H by substitution of metric units for imperial measurements.

Clause 15.

This clause makes two amendments to section 45.

Paragraph (a) has a similar purpose to clause 5.

Paragraph (b) adds a regulation-making power to complement the new sections 77 and 78 of the Harbor Boards Act proposed by clause 20. These sections will be applied for the purposes of the Portland Harbor Trust Act by virtue of section 27 of that Act.

PART IV.—CLAUSES 16–20.

Clause 16.

This clause provides that in this Part the *Harbor Boards Act* 1958 is called the Principal Act.

Clause 17.

This clause, which amends section 73 (3), is similar in purpose to clause 4.

The section is applied for the purposes of the Portland Harbor Trust Act by virtue of section 26 of that Act.

Clause 18.

This clause, which amends section 75 (2), is similar in purpose to clause 5.

Clause 19.

This clause, which substitutes section 76A for the existing section 76 (2), is similar in purpose to clause 6.

The new section will be applied for the purposes of the Portland Harbor Trust Act by virtue of section 27 of that Act.

Clause 20.

This clause is similar in purpose to clause 7.

Sub-clause (1) substitutes new sections for the existing sections 77 and 78.

Sub-clause (2) adds a complementary regulation-making power to section 103.

The note concerning clause 15 refers to the application of the new sections 77 and 78 for the purposes of the Portland Harbor Trust Act.

PART V.—CLAUSES 21–26.

Clause 21.

This clause provides that in this Part the *Marine Act* 1958 is called the Principal Act.

Clause 22.

This clause substitutes metric units for certain imperial measurements.

Paragraph (a), which amends section 18 (1), is similar in purpose to clause 5.

Paragraph (b) amends section 22 by substituting the word “tonnes” for “tons”.

Paragraph (c) amends sections 109 and 110 by converting pounds to kilograms.

Clause 23.

This clause repeals the exemptions set out in the Fourth Schedule and makes the corresponding amendment of section 79.

The exemptions proposed to be repealed appear to result in a situation where the masters of certain classes of vessels (including fishing vessels), although required to take a pilot, are exempt from paying for the services of licensed pilots.

It is intended that any ship taking a pilot should pay for his services.

However, it is also proposed, by clause 26, that the powers available to the Board should be extended to enable masters of fishing vessels to be exempted from requirements of the Act (including the obligation to take a pilot).

The note concerning clause 24 discusses other proposals concerning the obligation to take a pilot.

Clause 24.

This clause re-enacts section 84, which concerns the obligation to take a pilot at ports.

The new section 84 (1) doubles the minimum and maximum penalties to which a master of a ship who is required to employ a licensed pilot and fails to do so will be liable. The current penalties were fixed in 1958.

The new section 84, (2) sets out a revised list of exemptions from the requirements of section 84 (1).

Paragraph (a) excludes ports for which no pilot is licensed.

Paragraph (b) exempts masters who hold a pilotage exemption certificate for the port in question.

Paragraph (c) exempts fishing vessels and pleasure craft the gross tonnage of which does not exceed 100 tons.

Clause 25.

This clause amends sections 109, 110 and 111 to take account of the re-enactment of the United Kingdom *Anchors and Chain Cables Act* 1899 by the United Kingdom *Anchors and Chain Cables Act* 1967.

Clause 26.

This clause, which amends section 261 (1), enables the Marine Board to exempt the master of any fishing vessel from all or any of the provisions of the Act or regulations thereunder, either permanently or temporarily and either conditionally or unconditionally.