

WESTERN AUSTRALIA

FREMANTLE PORT AUTHORITY AMENDMENT ACT

No. 41 of 1986

AN ACT to amend the *Fremantle Port Authority Act 1902*.

[Assented to 1 August 1986.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title

1. This Act may be cited as the *Fremantle Port Authority Amendment Act 1986*.

Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Principal Act

3. In this Act the *Fremantle Port Authority Act 1902** is referred to as the principal Act.

[*Reprinted as approved 23 July 1973 and amended by Acts Nos. 12 and 22 of 1976, 78 of 1979, 78 of 1984 and 98 of 1985.]

Section 65 amended

4. Section 65 of the principal Act is amended in paragraph (52b) by inserting after subparagraph (va) the following—

“ (vb) unlawful seizure of or control of persons, vessels, vehicles or property; ”.

Section 66 amended

5. Section 66 of the principal Act is amended—

(a) by deleting “Every regulation” and substituting the following—

“ Regulations made under this Act ”;

(b) by deleting “and” after paragraph (1); and

(c) by deleting “breach.” in paragraph (2) and substituting the following—

“ breach; and

(3) may prescribe a modified penalty not exceeding \$500 for any offence, or class of offence, if dealt with under a section of this Act authorizing the service of an infringement notice and the payment of a modified penalty in relation to such an offence. ”.

Section 66B inserted

6. After section 66A of the principal Act the following section is inserted—

Infringement notices

“ 66B. (1) An authorized person who has reason to believe that a person has committed an offence against this Act in respect of which a modified penalty is prescribed, may serve, by personal delivery to the person or by posting to him at his address ascertained from him at or about the time that the offence is believed to have been committed, a notice in the prescribed form informing the person that if he does not wish to have a complaint of that offence heard and determined by a court he may pay to a designated officer, not being a designated officer who is the authorized person serving that notice, within a period of 21 days after the date of service of that notice, the amount of the modified penalty.

(2) An authorized person may—

- (a) if the identity of the alleged offender is not known and cannot immediately be ascertained, address the infringement notice concerned to, and serve it on, the owner of the vessel concerned within a period of 30 days after the date on which the alleged offence is believed to have been committed; or
- (b) if the identity of the alleged offender is not known and cannot immediately be ascertained and the identity of the owner of the vessel is not known and cannot be ascertained after reasonable inquiry, address the infringement notice concerned to the owner of that vessel, without naming him or stating his address, and serve that infringement notice by attaching it to that vessel or by leaving it in or on the vessel within the period referred to in paragraph (a).

(3) When, under subsection (2) an infringement notice is addressed to and served on the owner of a vessel within the period referred to in paragraph (a) of that subsection or addressed to the owner of a vessel and served by attaching it to the vessel or leaving it in or on the vessel within that period, then, unless within a period of 21 days after the date of service of the infringement notice—

- (a) the modified penalty concerned is paid;

or

(b) the owner of the vessel—

- (i) informs an authorized person of the identity and address of the person who was in charge of the vessel; or
- (ii) satisfies an authorized person that the vessel had been stolen or unlawfully taken, or was being unlawfully used,

at the time when the alleged offence is believed to have been committed,

the owner of the vessel is, in the absence of proof to the contrary, deemed to be the person who was in charge of the vessel at the time when the alleged offence is believed to have been committed.

(4) A person on whom an infringement notice is served—

- (a) may decline; or
- (b) if he fails to pay the modified penalty concerned within a period of 21 days after the date of that service, is deemed to have declined,

to be dealt with under the provisions of this section.

(5) An authorized person may, whether or not the modified penalty concerned has been paid, withdraw an infringement notice at any time within a period of 28 days after it is served by sending to the alleged offender a notice in the prescribed form signed by the authorized person and advising the alleged offender that the infringement notice has been withdrawn.

(6) The amount of any modified penalty paid pursuant to an infringement notice which has been withdrawn under subsection (5) shall be refunded.

(7) When a modified penalty has been paid pursuant to an infringement notice and the infringement notice has not been withdrawn under subsection (5), proceedings shall not be brought against any person in respect of the alleged offence specified in the infringement notice.

(8) A person, other than the owner or person in charge of a vessel in respect of which an alleged offence is believed to have been committed, shall not remove an infringement notice relating to the alleged offence attached to or left in or on that vessel by an authorized person.

Penalty: \$500.

(9) An infringement notice served under subsection (2) shall contain, *inter alia*, a short statement of the effect of subsection (3).

(10) The general manager may by notice published in the *Gazette* designate an officer or class of officer (not being an authorized person) of the Port Authority, to receive payment of the amounts of modified penalties.

(11) In this section, unless the context otherwise requires—

“alleged offence” means offence referred to in subsection (1);

“alleged offender” means person who is believed by the authorized person concerned to have committed an alleged offence;

“authorized person” means person authorized in writing for the purposes of this section by the general manager;

“designated officer” means person designated under subsection (10);

“general manager” means the person holding or acting in the office of general manager under section 19 (1) (a); and

“infringement notice” means the notice referred to in subsection (1).

(12) In subsection (3)—

“the person who was in charge of the vessel” includes the person who was the driver, master, possessor, skipper, owner or user of the vessel or the person causing, permitting or suffering the vessel to be navigated, as the case requires.

(13) Where an offence prescribed under subsection (1) is an offence connected with, related to, associated with, or committed by reference to, a vehicle the provisions of this section with such modifications as are necessary for that purpose apply to and in relation to the offence as though the term "vessel" includes a reference to a vehicle which in this context includes any object capable of being drawn or propelled on wheels or tracks. "

Section 70A amended

6. Section 70A of the principal Act is amended by inserting after "port" the following—

" and the movement of vessels in or about the port "

Various penalties increased

7. The principal Act is amended by deleting in the provisions referred to in column 1 of the Schedule to this section the penalties respectively set out in column 2 of the Schedule and substituting in each case the corresponding penalty set out in column 3 of the Schedule.

SCHEDULE

Column 1	Column 2	Column 3
		\$
Section 66 (1)	two hundred dollars	2 000
Section 71	one hundred dollars	10 000
Section 73	one hundred dollars	10 000
Section 75	forty dollars	2 000
Section 77	two hundred dollars	5 000
Section 78	one hundred dollars	10 000
Section 79	two hundred dollars	5 000
Section 80	forty dollars	5 000
Section 81	forty dollars	2 000
Section 82	two hundred dollars	5 000
