



ANNO DECIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1969

No. 73 of 1969

An Act to amend the Harbors Act, 1936-1968

[Assented to 11th December, 1969.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

Short titles.

1. (1) This Act may be cited as the "Harbors Act Amendment Act, 1969".

(2) The Harbors Act, 1936-1968, as amended by this Act, may be cited as the "Harbors Act, 1936-1969".

(3) The Harbors Act, 1936-1968, is hereinafter referred to as "the principal Act".

Enactment of s. 132a of principal Act—

Charge for use of declared port facilities.

2. The following section is enacted and inserted in the principal Act immediately after section 132 thereof :—

132a. (1) Where the Minister is satisfied that—

(a) port facilities have been provided or will be provided in South Australia primarily for facilitating the shipment of grain ;

and

(b) the use of those port facilities to facilitate the shipment of grain will result in a higher net return to the majority of the owners of the grain who delivered the grain, or caused the grain to be delivered, to licensed receivers than would be the case if those facilities were not so used,

the Minister may, by notice published in the *Gazette*, declare those port facilities to be declared port facilities for the purpose of this section and the Minister may, by notice published in a like manner vary or revoke such a declaration.

(2) The Minister may, with the approval of the Governor and in relation to any declared port facilities, by notice published in the *Gazette* fix a charge, not exceeding two and one-half cents a bushel of grain, for each bushel of grain in respect of the shipment of which the declared port facilities are used and, subject to subsection (3a) of this section, the Minister may with the approval of the Governor by notice published in a like manner vary or revoke a charge so fixed but no charge so varied shall exceed an amount calculated at the rate of two and one-half cents for each bushel of grain in respect of which the declared port facilities are used.

(3) The Minister shall in the month of September in each year review the charge fixed or as varied pursuant to subsection (2) of this section and for the purposes of that review the Minister shall have regard to a report from the Auditor-General stating—

- (a) the total amount of revenue derived from the use of the declared port facilities in respect of the shipment of grain in respect of which the charge is payable ;
 - (b) the total amount of revenue derived from the use of the declared port facilities in respect of the shipment of all other goods, including grain, in respect of which the charge is not payable ;
- and
- (c) the total of the expenses incurred in earning the revenue referred to in paragraphs (a) and (b) of this subsection,

and in varying the charge pursuant to subsection (2) of this section the Minister shall have regard to—

- (d) the relationship between the amount of revenue referred to in paragraph (a) and the amount of revenue referred to in paragraph (b) of this subsection ;
- and
- (e) the expenses referred to in paragraph (c) of this subsection,

and any such variation shall be expressed to have effect from the first day of October next following that month of September.

(4) Where grain is delivered to and accepted by any licensed receiver and any declared port facilities are used to facilitate the shipment of that grain the owner of the grain who delivered the grain, or caused the grain to be delivered, to the licensed receiver shall pay to the Minister the charge for the time being fixed pursuant to subsection (2) of this section notwithstanding that at the time the declared port facilities were so used the property in the grain shall have passed to the Board.

(5) The charge payable pursuant to subsection (4) of this section shall be in addition to any other dues, charges or rates that may be otherwise imposed for or in relation to the use of those declared port facilities.

(6) In addition to any other method of recovery of any charge provided for by or under this Act and notwithstanding anything in any other enactment, the Minister and the Board may enter into and carry out any arrangement for the payment by the Board, out of moneys payable by the Board to the owner of the grain referred to in subsection (4) of this section, of the amount of any charge payable by that owner pursuant to that subsection and the Minister and the Board may enter into and carry out any arrangement varying any such arrangement.

(7) Where the Board makes any payment to the Minister in pursuance of or intended pursuance of subsection (6) of this section the Board shall, to the extent of that payment, be discharged of its liability for the payment of moneys payable by the Board to the owner on whose behalf that payment was made and that owner shall, to the extent of that payment, be discharged of his liability to the Minister for the payment of any charge payable by that owner pursuant to subsection (4) of this section.

(8) The Minister shall indemnify and keep indemnified the Board—

(a) against all and any claims, demands or proceedings in respect of or arising out of any payment made in pursuance of or in the intended pursuance of subsection (6) of this section ;

and

(b) against the costs of defending any such claims, demands or proceedings.

(9) If any sum becomes payable to the Board by the Minister pursuant to an indemnity referred to in subsection (8) of this section the Treasurer shall pay that sum to the Board out of the general revenue of the State and this subsection, without other appropriation, shall be sufficient authority for such payment.

(10) In this section—

“declared port facilities” means port facilities for the time being declared pursuant to subsection (1) of this section to be declared port facilities :

“grain” means wheat or barley :

“licensed receiver”—

(a) in relation to grain that is wheat, means a licensed receiver as defined in the Wheat Industry Stabilization Act, 1968-1969, or in any Act enacted in substitution for that Act ;

and

(b) in relation to grain that is barley, means a licensed receiver as defined in the Barley Marketing Act, 1947-1967 :

“owner” in relation to grain, includes any person entitled to payment by the Board for that grain :

“the Board”—

(a) in relation to grain that is wheat, means the Australian Wheat Board, continued in existence by the *Wheat Industry Stabilization Act 1968* of the Commonwealth or that Act as amended or any Act enacted in substitution for that Act ;

and

(b) in relation to grain that is barley, means the Australian Barley Board constituted pursuant to the Barley Marketing Act, 1947-1967.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

J. W. HARRISON, Governor.