

NORTHERN TERRITORY OF AUSTRALIA

DARWIN PORT CORPORATION ACT

As in force at 9 June 2015

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 9 June 2015

DARWIN PORT CORPORATION ACT

An Act to provide for the establishment of the Darwin Port Corporation for the control and management of the Port of Darwin, and for related purposes

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Darwin Port Corporation Act*.

2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Repeal

- (1) Section 7 of the *Marine Ordinance 1911* of the State of South Australia in its application to the Territory is repealed.
- (2) The Acts specified in Schedule 2 are repealed.

4 Act to bind Crown

This Act binds the Crown in right of the Territory.

5 Interpretation

- (1) In this Act:

approved means approved by the Port Corporation.

Board means the Advisory Board established by section 27A.

Chairperson means the Chairperson of the Board appointed under section 27D.

dangerous goods means goods listed as dangerous goods in the International Maritime Dangerous Goods Code, published by the International Maritime Organization, London, in 1965 or that Code as amended to the date, if any, specified under subsection (2) by the Minister.

employee has the same meaning as it has in the *Public Sector Employment and Management Act*.

harbourmaster means the person holding or occupying the office of harbourmaster mentioned in section 25.

land includes land and buildings on land.

licence means a licence or permit granted under this Act or a renewal of a licence or permit.

licensed pilot has the same meaning as in the *Marine Act*.

master has the same meaning as in the *Marine Act*.

member means a member of the Board, and includes the Chairperson.

oil means crude oil, fuel oil, heavy diesel oil or lubricating oil and includes a mixture containing oil.

owner, in relation to a vessel, includes an owner, part owner and charterer and an agent of any of them.

pilotage services means the service of providing pilots to conduct pilotage in relation to a vessel and related services.

place includes:

- (a) every structure and apparatus on, and everything and every vehicle resting on or moving over, land; and
- (b) everything resting on or lying under the bed or shores of waters within the Port; and
- (c) everything afloat (other than a vessel) if it is anchored or attached to the bed or shore of waters within the Port.

Port means the area of water and land constituting the Port of Darwin comprised within the boundaries declared under section 43A.

Port Corporation means the Darwin Port Corporation established by section 6.

port facilities means land, buildings, machinery and equipment for:

- (a) berthing, towing, mooring or docking or moving vessels on entering, using or leaving the Port; or
- (b) the loading or unloading of cargo, containers or goods; or
- (c) the embarking or disembarking of passengers; or
- (d) the lighterage, sorting, weighing, warehousing, storing or handling of goods or cargo; or
- (e) recreational, tourist and commercial purposes.

repealed Act means the Acts repealed by section 3.

Tribunal, see section 7(1) of the *Marine Act*.

undesirable substance means:

- (a) rubbish, gravel, earth, stone or wreck; or
- (b) flammable, corrosive or offensive substances (whether solid, liquid or gaseous) and includes dangerous goods; or
- (c) an article or thing or a substance (whether solid, liquid or gaseous) which is capable of constituting a hazard to navigation or of preventing or hindering the development of or proper use of the Port; or
- (d) oil; or
- (e) any other noxious or hazardous substance.

vessel has the same meaning as in the *Marine Act* and includes a seaplane.

- (2) For the definition of **dangerous goods** in subsection (1) the Minister may, by *Gazette* notice, specify a date.

Part 2 Darwin Port Corporation

Division 1 Establishment and constitution of Port Corporation

6 Darwin Port Corporation

- (1) There is established by this Act a Corporation by the name of the Darwin Port Corporation.

- (2) The Port Corporation:
- (a) is a body corporate with perpetual succession; and
 - (b) is to have a common seal; and
 - (c) is capable, in its corporate name, of acquiring, holding and disposing of real, leasehold and personal property and of suing and being sued.
- (2A) Without limiting subsection (2), the Port Corporation has power to do the following:
- (a) form or participate in the formation of a body corporate or unit trust;
 - (b) acquire interests in, and sell or otherwise dispose of interests in, bodies corporate, unit trusts and joint ventures;
 - (c) form or enter into a partnership, joint venture or other association with other entities.
- (3) All courts, judges and persons acting judicially must take judicial notice of the seal of the Port Corporation affixed to a document and must presume that it was duly affixed.
- (4) The Port Corporation is an Agency for the *Public Sector Employment and Management Act* and *Financial Management Act* and is subject to each of those Acts in its operations.
- (5) Subsection (4) applies whether or not the Port Corporation is nominated in an Administrative Arrangements Order as an Agency for either or both of the Acts.
- (6) The Port Corporation is constituted by the Chief Executive Officer appointed under the *Public Sector Employment and Management Act* for the Agency.

Division 2 Functions and powers of Port Corporation

15 Minister may give Port Corporation directions

- (1) In performing its functions, the Port Corporation is subject to the directions of the Minister.
- (2) The Minister may, in writing, direct the Port Corporation to act in a particular manner, including a non-commercial manner.

- (3) If the Minister directs the Port Corporation to act in a non-commercial manner, the direction must specify how the Corporation is to act.
- (4) Before the Minister issues a direction, he or she must consult with the Port Corporation and, if the opinion of the Corporation is that the direction is not in the Corporation's best interests, the Corporation must advise the Minister in writing of its objection and the reasons for the objection.
- (5) If, after receiving the Port Corporation's objection, the Minister confirms in writing the direction to the Corporation, the Corporation must comply with the direction.
- (6) The Minister must table in the Legislative Assembly a copy of a direction given under this section within 6 sitting days of the Assembly after giving the direction.

16 Functions of Port Corporation

- (1) Subject to section 15, the Port Corporation is responsible for:
 - (a) the regulation, improvement, management, operation and control of and the promotion of trade utilising the Port; and
 - (b) the movement of vessels in the Port; and
 - (c) the provision and maintenance of port facilities; and
 - (d) recreational and tourist activities within the Port; and
 - (e) other commercial activities (related to the business of the Port) within the Port.
- (2) Without limiting the generality of subsection (1), the functions of the Port Corporation are:
 - (a) within the Port to:
 - (i) control and deal with land vested in it; and
 - (ii) control and regulate the use of all waters; and
 - (iii) provide, erect, maintain, operate and control, alter by design, improve and extend the port facilities placed under its control by or under this Act and to acquire land or property for that purpose; and

- (iv) provide, maintain, operate and control services and facilities for the berthing, mooring, loading and unloading of vessels and for the storage of goods at, and transport of goods to and from, a place where they are to be loaded onto or unloaded from a vessel; and
- (v) provide, maintain, operate and control lighters and other craft for the loading or unloading of vessels; and
- (vi) provide pilotage services in accordance with Part 7, Division 4A of the *Marine Act* if the Port Corporation is the appointed pilotage services provider as defined in section 181A of that Act; and
- (vii) provide, maintain, operate and control services and facilities for the reception, handling, packing and unpacking and repairs of containers; and
- (viii) acquire, erect, maintain and operate warehouses, storehouses, bins and tanks for the reception and holding of fuel (either solid or liquid) or liquids and yards for the holding of animals; and
- (ix) provide, maintain, operate and control vessels and equipment necessary for the Port Corporation's management, control and servicing of the Port; and
- (x) provide, maintain, operate and control services and facilities for the employment of stevedores and other persons employed within the Port; and
- (xi) construct and maintain harbour works; and
- (xii) dredge and maintain channels and berthing places; and
- (xiii) build retaining walls for the purpose of reclaiming, and reclaim and obtain title to, land being part of the bed of the Port; and
- (xiv) act as the agent of an approved person for the installation of navigation aids and the prevention of pollution of waters by oil; and
- (xv) provide for the security of property and for the preservation and protection of property and maintain law and order; and
- (xvi) do all such other acts as will facilitate the use of the Port by shipping; and

- (xvii) develop and manage recreational and tourist facilities within the Port; and
 - (xviii) develop and manage other commercial facilities (related to the business of the Port) within the Port; and
 - (b) outside the Port to:
 - (i) control and deal with land vested in it; and
 - (ii) provide housing and accommodation for employees as it thinks fit; and
 - (iii) provide training facilities for employees; and
 - (iv) purchase or take land or otherwise acquire and construct buildings, for use by it; and
 - (c) both within and outside the Port – to manage, control and assist in the clean up of any pollution of waters by oil or other noxious or hazardous substances.
- (3) However, the regulations may:
- (a) prescribe particular activities (including particular types of business) for which, or circumstances in which, the Port Corporation may not perform any of the functions mentioned in subsections (1) and (2); and
 - (b) provide for transitional arrangements for provisions made under paragraph (a).

17 Powers of Port Corporation

- (1) Subject to section 15, the Port Corporation has power to do all things that by or under this Act it is required or permitted to do, or that are necessary or convenient to be done for or in connection with, or that are reasonably incidental to, the performance of its functions.
- (2) Without limiting the generality of subsection (1), the Port Corporation has power to:
 - (a) purchase or lease or otherwise acquire land and construct buildings for use in the performance of its functions; and
 - (b) dispose of land by way of sale, lease, licence or sub-lease; and

- (c) control the use of the foreshores in the Port subject to any right of tenancy or occupation granted by or under a law of the Territory; and
- (d) purchase, lease or take on hire plant, machinery, equipment or other things necessary for the performance of its functions and to sell, lease, hire or otherwise dispose of any plant, machinery, equipment or other things owned by it; and
- (e) appoint agents; and
- (f) impose dues and levy charges for or in respect of the Port on shipping using the Port or in respect of the use of a port facility provided or for an operation carried on by it or its agents in the Port; and
- (g) impose charges for or in respect of prescribed substances passing through the Port or any part thereof, regardless of whether there is any use of a port facility provided or any benefit is received from an operation carried on by it or its agents in the Port; and
- (ga) impose charges and fees for the conduct of activities in the Port, or the use of facilities of the Port Authority, for recreational, tourist and commercial purposes; and
- (h) enter into contracts and agreements for or in respect of the exercise of a power or the performance of a function by it; and
- (j) accept, hold and enforce undertakings, indemnities, bonds or securities protecting it against loss or damage; and
- (k) seize, remove, attach or dispose of a vessel, hulk or hull which is unsafe, sunk or stranded within the Port; and
- (m) construct in the Port such roadways, railways or tramways as are necessary or convenient for the performance of its functions; and
- (n) construct within the Port or on land under its control wharves, warehouses, tanks, bins, storehouses or port facilities; and
- (na) construct, within the Port, buildings or facilities for use in connection with recreational, tourist and commercial activities; and
- (p) issue a licence to a person, subject to such conditions as it thinks fit, for the carrying on of the business of a stevedore within the Port and it may make as a condition of the licence that the person, to whom a licence is issued, only impose a

reasonable charge for any services rendered not exceeding those charges determined from time to time by it; and

- (q) impose a fee for the issue of a licence to a stevedore and for the renewal of such a licence; and
- (r) authorise the setting apart of wharves, docks, sheds, warehouses or port facilities for the use of specified persons or vessels; and
- (s) establish and conduct business as a stevedore, warehouseman, carter or carrier; and
- (sa) manage, establish and conduct business in connection with recreational, tourist and commercial activities; and
- (t) appoint officers, who are employees, for the purposes of carrying out the powers and functions vested in it under this Act; and
- (u) regulate and control the driving and parking of vehicles within the Port or on its land; and
- (w) regulate and control the conduct and behaviour of persons within the Port or on its land and the conditions upon which persons may be admitted to or excluded from any part of the Port or its land; and
- (y) do anything incidental to any of its powers.

17A Port Corporation to take general commercial approach

- (1) Subject to this Act and within a budget approved by the Minister, the Port Corporation is to act in a commercial manner.
- (2) The Port Corporation, while acting generally in a commercial manner, must also have regard to government strategic objectives including trade development.
- (3) Despite subsection (1), changes to, or general variations from, the Port Corporation's pricing structure must be approved by the Minister.
- (4) However, individual variations from the pricing structure do not require the Minister's approval.

18 Delegation by Port Corporation

The Port Corporation may, by instrument under its seal, delegate to a person any of its powers and functions under this Act, other than this power of delegation.

20 Port Corporation excluded matter under Corporations Act 2001

The Port Corporation is declared to be an excluded matter for the purposes of section 5F of the Corporations Act 2001 in relation to the whole of the Corporations legislation to which Part 1.1A of that Act applies.

20A Port safety plan

- (1) The Port Corporation must, as soon as practicable after the commencement of this section, prepare a draft port safety plan for the Port and submit it for approval to the harbourmaster for the Port.
- (2) Within 60 days after receiving a draft port safety plan under subsection (1), the harbourmaster must:
 - (a) approve the plan by written notice given to the Port Corporation; or
 - (b) return the plan to the Port Corporation for amendment as directed by the harbourmaster.
- (3) The Port Corporation must, within 30 days after receiving a draft port safety plan under subsection (2)(b), resubmit the plan as directed to the harbourmaster for approval under subsection (1).
- (4) If the harbourmaster fails to act in accordance with subsection (2) within the period of 60 days mentioned in that subsection, the draft plan is taken to have been approved by the harbourmaster on the expiration of that period.
- (5) In this section:

port safety plan means a plan that:

- (a) identifies the nature and extent of the safety hazards and risks associated with the operation of the Port that are reasonably likely to cause death or serious injury to any person or loss of, or serious damage to, property; and
- (b) assesses the likely impact of those hazards and risks on the port and the surrounding area; and

- (c) specifies the measures and strategies to be implemented to eliminate or reduce those hazards or risks; and
- (d) describes the system that is in place for implementing those measures and strategies; and
- (e) sets out the processes proposed to involve tenants, licensees and service providers in the Port with the implementation of the plan; and
- (f) sets out the procedures proposed for implementing, reviewing and revising the plan.

Division 4 Harbourmaster

25 Appointment of harbourmaster

- (1) The Minister may, by written notice, appoint a Chief Executive Officer or public sector employee, to be the harbourmaster for the Port.
- (2) The Minister must be satisfied the person has appropriate qualifications and experience for the office of harbourmaster before making the appointment.
- (3) The appointed person holds office as the harbourmaster for 3 years or a lesser period specified in the appointment, unless the person vacates the office at an earlier time.
- (4) A person may be reappointed under subsection (1):
 - (a) before the appointment expires; and
 - (b) more than once.
- (5) A reappointment must be for not more than 3 years, as specified in the reappointment.

26 Functions and powers of harbourmaster

- (1) The harbourmaster has the following functions:
 - (a) making technical and safety standards for pilotage and the provision of pilotage services in relation to the Port as mentioned in section 26A;
 - (b) other functions conferred on the harbourmaster by this or another Act.

- (2) The harbourmaster has the powers necessary to perform the harbourmaster's functions.

26A Technical and safety standards for pilotage and provision of pilotage services

- (1) The harbourmaster must, by written notice, make technical and safety standards for pilotage and the provision of pilotage services in relation to the Port.
- (2) The harbourmaster must do so having regard to the Marine Orders made under the *Navigation Act 1912* (Cth) or *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* (Cth).
- (3) As soon as practicable after making technical and safety standards, the harbourmaster must:
- (a) notify the making of the standards by *Gazette* notice; and
 - (b) publish the standards on the Internet and in any other way decided by the harbourmaster.
- (4) A person must not contravene a standard made under subsection (1) when conducting pilotage or providing pilotage services in relation to the Port.

Maximum penalty: 50 penalty units.

26B Annual report of harbourmaster

- (1) Before the end of 3 months after a financial year, the harbourmaster must:
- (a) prepare an annual report about the performance of functions and exercise of powers by the harbourmaster during that year; and
 - (b) give the report to the Minister.
- (2) The Minister must table a copy of the report in the Legislative Assembly within 6 sitting days after the Minister receives the report.

26C Independent role of harbourmaster

- (1) This section applies if an employee of the Corporation holds office as the harbourmaster.

- (2) In performing the functions and exercising the powers of the harbourmaster, the harbourmaster:
- (a) is not subject to the direction of the Port Corporation, the Chief Executive Officer of the Port Corporation or any other person; and
 - (b) must act independently, impartially and in the public interest.

26D Vacating office of harbourmaster

The harbourmaster vacates the office of harbourmaster if:

- (a) the term of the harbourmaster's appointment expires; or
- (b) the appointment is terminated under section 26E; or
- (c) the harbourmaster resigns the office by written notice given to the Minister.

26E Suspension or termination of office of harbourmaster

- (1) The Minister may suspend the appointment of the harbourmaster if the Minister reasonably believes it is necessary to do so pending a decision to terminate the appointment under this section.
- (2) The Minister may terminate the appointment of the harbourmaster on the grounds of inability, inefficiency, misbehaviour, physical or mental incapacity or absence otherwise than on leave granted by the Minister.
- (3) The Minister must terminate the appointment of the harbourmaster if:
 - (a) the harbourmaster:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of a law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with creditors or makes an assignment of the person's remuneration for their benefit; or
 - (b) is found guilty by a court in the Territory of an offence punishable by imprisonment for 12 months or more; or
 - (c) is found guilty by a court outside the Territory of an offence which, if committed against a law of the Territory, would be an offence punishable by imprisonment for 12 months or more.

- (4) A suspension or termination under subsection (1), (2) or (3) must be by written notice given to the person whose appointment is suspended or terminated.

26F Acting harbourmaster

- (1) The Minister may, by written notice, appoint a Chief Executive Officer or public sector employee to act in the office of the harbourmaster:
- (a) during a vacancy in the office (whether or not an appointment has previously been made to the office); or
 - (b) during a period or all periods when the harbourmaster is unable to perform the functions of the office.
- (2) The Minister must be satisfied the person has appropriate qualifications and experience to act in the office of harbourmaster before making the appointment.
- (3) A person appointed under subsection (1)(a) must not act continuously for more than 12 months in the office of the harbourmaster.

26G Delegation by harbourmaster

The harbourmaster may delegate to a person any of his or her powers and functions (other than the power and function relating to making technical and safety standards) under this Act or another Act.

Part 2A Advisory Board

Division 1 Establishment and membership of Board

27 Application

Sections 27C, 27E, 27F and 27G do not apply in relation to the person who constitutes the Port Corporation.

27A Establishment of Advisory Board

- (1) There is an Advisory Board consisting of not more than 7 members.
- (2) The person who constitutes the Port Corporation is a member of the Board.

27B Function of Board

- (1) The function of the Board is to advise the Port Corporation on its activities and the manner in which it carries out its activities.
- (2) The Port Corporation may refer a matter relating to its activities to the Board and the Board must advise the Port Corporation on the matter.
- (3) In considering its advice to the Port Corporation, the Board must take a generally commercial approach but must also have regard to government strategic objectives including trade development.

27C Appointment of members

The Minister must, in writing, appoint as members of the Board persons who hold suitable qualifications or have suitable knowledge or experience.

27D Chairperson

- (1) Subject to subsection (2), the Minister must appoint a member to be the Chairperson of the Board.
- (2) The Minister must not appoint a member who is a Chief Executive Officer, or a public sector employee, to be the Chairperson.

27E Term of office of members

A member holds office for:

- (a) 3 years; or
 - (b) a lesser period specified in the instrument of appointment;
- and is eligible for re-appointment.

27F Vacation of office

A member vacates office as a member if:

- (a) his or her term of office expires; or
- (b) the member resigns office by writing and given to the Minister.

27G Termination of appointment of member

- (1) The Minister may terminate the appointment of a member on the grounds of inability, inefficiency, misbehaviour or physical or mental incapacity.

- (2) The Minister must terminate the appointment of a member if:
 - (a) the member is absent, except on leave granted by the Chairperson, from 3 consecutive meetings of the Board; or
 - (b) the member knowingly contravenes section 27J.
- (3) A member's appointment terminates on either of the following occurring:
 - (a) the member becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of the member's remuneration for their benefit;
 - (b) the member is found guilty by a court in the Territory of an offence punishable by imprisonment for 12 months or more or is found guilty by a court outside the Territory of an offence which, if committed against a law in force in the Territory, would be an offence punishable by imprisonment for 12 months or more.
- (4) The termination of an appointment under subsection (1) or (2) must be in writing and a copy must be given to the member.

27H Leave of absence

The Chairperson may grant a member leave of absence.

27J Disclosure of interests by members

- (1) If a member has a direct or indirect interest in a matter being considered, or about to be considered, by the Board, the member must disclose the nature of the interest to a meeting of the Board as soon as practicable after the relevant facts come to his or her knowledge.
- (2) The disclosure must be recorded in the Board's minutes.
- (3) Subject to a resolution of the Board to the contrary, a member who has made a disclosure under subsection (1):
 - (a) must not, while he or she has the interest, take part in any deliberation or decision of the Board relating to the matter; and
 - (b) must be disregarded for the purpose of constituting the quorum of the Board for the purpose of any deliberation or decision of the Board relating to the matter.

- (4) The resolution of the Board to the contrary must be deliberated and voted on in the absence of the member.

Division 2 Procedures of Board

27K Meetings

- (1) The members of the Board must meet as often as is necessary to perform its functions.
- (2) The Minister may, in writing, direct the Board to meet.
- (3) The Chairperson must make the arrangements that enable the members to meet.

27L Presiding and quorum at meetings

- (1) The Chairperson or, in the absence of the Chairperson, the member elected by the members present from among their number must preside at a meeting of the Board.
- (2) At a meeting of the Board, 2 members constitute a quorum.

27M General procedures

- (1) Unless otherwise prescribed, the procedures of the Board are as determined by the Board.
- (2) The Board must keep a record of all its meetings and other proceedings.

Division 3 Other matters

27N Protection from liability

- (1) This section applies to a person who:
 - (a) constitutes or formerly constituted the Port Corporation; or
 - (b) is or was a member of the Board.
- (2) The person is not civilly or criminally liable for an act done, or omitted to be done, by the person in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act.
- (3) In addition, the person is not civilly or criminally liable for an act done, or omitted to be done, by the Port Corporation in the exercise or purported exercise, or the performance or purported performance of a function, under this Act.

- (4) Subsections (2) and (3) do not affect any liability the Territory would, apart from those subsections, have for the act or omission.

27P Validity of action of Port Corporation

An action of, or decision taken by, the Port Corporation is not invalidated by reason only of a defect in the appointment of a person to be the Corporation or a defect in the appointment of a member of the Board.

Part 2B Property, finance and reports

28 Acquisition of estates in fee simple in Crown land

- (1) The Port Corporation may be granted an estate in fee simple in Crown land, or a lease of Crown land, under the *Crown Lands Act*.
- (2) If the Port Corporation is granted land in accordance with subsection (1), the Minister must give notice of the grant by *Gazette* notice.

28A Money of Port Corporation

- (1) The money of the Port Corporation consists of:
- (a) money received in performing its functions and exercising its powers; and
 - (b) money received as grants; and
 - (c) any other money that from time to time becomes available for use by the Corporation.
- (2) The money of the Port Corporation must be applied only for the purposes of the Corporation.

28B Proper accounts to be kept etc.

The Port Corporation must ensure:

- (a) proper accounts and records of the transactions and affairs of the Corporation are kept; and
- (b) there are adequate controls over the incurring of liabilities of the Corporation; and
- (c) all payments out of the money of the Corporation are correctly made and properly authorised; and

- (d) adequate control is maintained over the property of, or in the custody, control and management of, the Corporation.

28C Port Corporation to report to Minister regarding financial position

- (1) If the Port Corporation considers a matter is affecting, or is likely to affect, its operations in a way that hinders, prevents or otherwise adversely affects to a significant degree the performance of its functions or its financial position, the Corporation must, as soon as practicable after becoming aware of the matter, inform the Minister in writing of:
 - (a) the matter; and
 - (b) the reasons why it considers the matter is affecting, or will affect, that performance or financial position; and
 - (c) the effect the matter is having, or the likely effect the matter will have, on that performance or financial position.
- (2) The Port Corporation must, in writing, report to the Minister for each financial year or other reporting period determined by the Minister about its financial performance during that period and its expected financial performance during the next 2 reporting periods.
- (3) The report must:
 - (a) specify the financial performance targets of the Port Corporation for the reporting period, identify the targets the Corporation achieved and the targets it exceeded and identify the targets it did not achieve and specify the reasons why it did not achieve them; and
 - (b) detail the financial performance objectives of the Corporation for the next 2 reporting periods and include details of:
 - (i) the projected nature and scope of its activities for those periods, including material contracts and terms and conditions of any lease or sale or purchase of real property; and
 - (ii) its financial projections for those periods; and
 - (iii) the likely financial risks for the Corporation and its strategies to minimise the risks; and
 - (c) contain any other information the Minister requires.

- (4) The Port Corporation must give the report to the Minister within 3 months after the end of the reporting period it refers to.

28D Provision of financial information to Treasurer

- (1) The Treasurer may at any time request the Port Corporation to provide the Treasurer with the information the Treasurer considers will enable him or her to accurately assess its financial affairs.
- (2) The Port Corporation must comply with the Treasurer's request.

28E Annual report of Port Corporation

- (1) After the end of each financial year, the Port Corporation must prepare a report on the administration of this Act and the operations of the Corporation during the financial year.
- (2) The report must include details of any directions given to the Port Corporation under section 15 during the financial year.
- (3) The Port Corporation must give a copy of the report to the Minister:
 - (a) within 5 months immediately following the end of the financial year; or
 - (b) if the Minister has specified another period – within that period.
- (4) The Minister must table a copy of the report in the Legislative Assembly within 6 sitting days of the Assembly after receiving the report.

Part 3 Control and management of Port

Division 1 Control and management of Port

29 Directions by harbourmaster

- (1) The harbourmaster may give directions for regulating any of the following:
 - (a) the time and manner (including the taking on of a licensed pilot) in which a vessel must enter into, depart from or lie in the Port;

- (b) the manner and position in which, and the times at which, cargo may be loaded onto or unloaded from a vessel, or ballast, water or fuel may be taken in or delivered from a vessel, or passengers may be taken in or landed from a vessel within the Port;
 - (c) the positioning, mooring, unmooring, placing or anchoring of a vessel and the removing of a vessel from one place to another within the Port.
- (2) The master of a vessel must comply with a direction under subsection (1).

Maximum penalty: 100 penalty units.

30 Removal etc. of vessel for failure to comply with direction

- (1) Where the master of a vessel fails to comply with a direction of the harbourmaster given under section 29(1)(c), the harbourmaster may cause the vessel to be positioned, moored, unmoored, placed, anchored or removed accordingly.
- (2) In addition to a penalty for an offence of failing to comply with the directions of the harbourmaster, the owner or master of a vessel which the harbourmaster has caused to be positioned, moored, unmoored, placed, anchored or removed under subsection (1) is liable to pay all expenses incurred in the positioning, mooring, unmooring, placing, anchoring or removal of the vessel.
- (3) An amount which an owner or master is liable to pay under subsection (2) may be recovered as a debt due and payable to the Port Corporation.
- (4) A person must not hinder or obstruct, or aid or abet a person to hinder or obstruct, the harbourmaster, or a person lawfully assisting the harbourmaster, in causing a vessel to be positioned, moored, unmoored, placed, anchored or removed under subsection (1).

Maximum penalty: If the offender is a natural person –
100 penalty units.

If the offender is a body corporate –
500 penalty units.

31 Vessel carrying flammable cargo etc.

- (1) Where a vessel requiring entry into the Port has on board as cargo:
 - (a) flammable liquid in a quantity not less than 500 tonnes; or

- (b) an explosive or other substance considered for the purposes of this section by the Chief Executive Officer to be a hazard or danger to the Port;

the Chief Executive Officer may require the owner of the vessel to:

- (c) give to him or her such security by way of bond, indemnity, guarantee or otherwise, or any combination of those methods, as he or she determines; or
- (d) have or obtain from an insurer, approved by him or her for the purposes of this section, a policy of insurance;

in respect of the whole of any loss or damage that may occur from the loading, unloading, handling or storage of the cargo in the Port.

- (2) The Chief Executive Officer may refuse or restrict entry into the Port of a vessel in respect of which the owner has refused or failed to give a security or to have an insurance as required under subsection (1), or refuse or restrict the loading, unloading, handling or storage of cargo on, from or in that vessel in the Port.

32 Vessel, hulk or hull likely to cause damage etc.

- (1) Where, in the opinion of the Chief Executive Officer, a vessel, hulk or hull within the Port is in such a condition that it is unsafe, or likely to cause damage to, endanger or obstruct the passage, navigation or use of, the Port by a vessel, the Chief Executive Officer may, by notice in writing, direct the owner, master or occupier of the vessel, hulk or hull to remove, repair and make safe or destroy it and that person must, within 7 days after the notice is served on him or her or such longer time as the Chief Executive Officer, in writing, allows, comply with the direction.
- (2) Where the owner, master or occupier on whom a notice under subsection (1) has been served fails to comply with the direction within the time allowed for his or her so doing, the Chief Executive Officer may authorise a person to board, with or without workmen, vehicles, plant, equipment or materials, a vessel, hulk or hull and carry out the work required to comply with the direction (other than the destruction of the vessel, hulk or hull).
- (3) For the purposes of subsection (2), where the Chief Executive Officer does not know the name or address of the owner of the vessel, hulk or hull a notice is sufficiently given if it is addressed to the owner of the vessel, hulk or hull without specifying the name of any person and, in the absence of identification of the vessel, hulk or hull, if it describes the vessel, hulk or hull by such general description as the Chief Executive Officer thinks fit.

- (4) A notice is sufficiently given in circumstances referred to in subsection (3) if it is published in a newspaper circulating in Darwin.
- (5) The costs incurred by the Chief Executive Officer or authorised person in carrying out an action under subsection (2) may be recovered from the owner, master or occupier as a debt due and payable to the Port Corporation.
- (6) An owner, master or occupier who contravenes a direction under subsection (1) is guilty of an offence.

Maximum penalty: If the offender is a natural person –
200 penalty units and 2 penalty units for
each day the offence continues.

If the offender is a body corporate –
1 000 penalty units and 10 penalty units for
each day the offence continues.

- (7) A person must not hinder or obstruct or aid or abet a person to hinder or obstruct, the Chief Executive Officer or a person authorised under subsection (2), or a person lawfully assisting him or her, in carrying out an action under that subsection.

Maximum penalty: If the offender is a natural person –
500 penalty units.

If the offender is a body corporate –
1 000 penalty units.

33 Removal of vessel from Port

- (1) Where the Minister is satisfied that a vessel is, because of its condition, a threat or danger to the Port or persons within or in the vicinity of the Port, he or she may, by notice in writing, direct the owner or master to remove the vessel or cause it to be removed from the Port and may specify the time within which the direction is to be complied with.
- (2) An owner or master who contravenes a direction under subsection (1) is guilty of an offence.

Maximum penalty: If the offender is a natural person –
200 penalty units and 2 penalty units for
each day the offence continues.

If the offender is a body corporate –
1 000 penalty units and 10 penalty units for
each day the offence continues.

34 Offence to cause damage to Port

- (1) Subject to subsection (4), a person who:
- (a) puts an undesirable substance into or on a part of the Port; or
 - (b) allows an undesirable substance to fall or flow into or on the Port;

is guilty of an offence.

Maximum penalty: If the offender is a natural person –
100 penalty units and 1 penalty unit for
each day the offence continues.

If the offender is a body corporate –
500 penalty units and 5 penalty units for
each day the offence continues.

- (2) Subject to subsection (4), where an undesirable substance is put, falls or flows into or on a part of the Port from a vessel, a place or apparatus used for transferring an undesirable substance from or to a vessel (whether to or from a place or to or from another vessel) and the undesirable substance is put, falls or flows into or on the Port from:

- (a) a vessel – the owner and the master of the vessel are each;
or
- (b) a place – the occupier of the place is; or
- (c) an apparatus – the person in charge of the apparatus is;

guilty of an offence.

Maximum penalty: If the offender is a natural person –
100 penalty units and 1 penalty unit for
each day the offence continues.

If the offender is a body corporate –
500 penalty units and 5 penalty units for
each day the offence continues.

- (3) For the purposes of this section and sections 35 and 36 **occupier** means:
- (a) the person exercising by his or her servants or agents or otherwise a right of occupation of a place; or

- (b) where the place has no occupier, the owner of the place but, if the place is a vehicle, does not include the occupier of the land on or over which the vehicle stands or moves.
- (4) This section does not apply to or in relation to anything done by or with the consent of the Port Corporation in the proper management, improvement or use of the Port.

35 Special defences

- (1) Where the owner, master or another person concerned with a vessel is charged with an offence against section 34, it is a defence to prove that:
 - (a) putting the undesirable substance, or allowing the undesirable substance to fall or flow, into or on the Port was necessary for the purpose of securing the safety of the vessel or of preventing damage to the vessel or cargo or of saving life, and was reasonable in the circumstances; or
 - (b) the undesirable substance fell or flowed from the vessel in consequence of damage to the vessel or cargo, and that all reasonable steps were taken after the occurrence of the damage for stopping or reducing the escape of the undesirable substance; or
 - (c) the undesirable substance fell or flowed from the vessel in consequence of leakage or loss which could not have been foreseen and avoided, and that all reasonable steps were taken to locate the leakage or loss and stop or reduce the leakage or loss of the undesirable substance.
- (2) Where the occupier of a place or the person in charge of apparatus is charged with an offence against section 34, it is a defence to prove that the undesirable substance fell or flowed into the Port in consequence of an accident which could not have been foreseen and avoided, and that all reasonable steps were taken to locate the leakage or source of escape of the undesirable substance and stop or reduce it.

36 Recovery of costs and expenses of removal etc. of undesirable substance

- (1) Where an undesirable substance is put, falls or flows into or on the Port, the Port Corporation may take such action as it thinks fit to remove, disperse, destroy or mitigate the damage caused by, the undesirable substance.

- (2) The Port Corporation may recover as a debt due and payable to it, and notwithstanding that proceedings for an offence against section 34 have not been taken, the costs incurred by it in taking action under subsection (1) from the person who put the undesirable substance, or allowed the undesirable substance to fall or flow, into or on the Port, or from the owner or master of the vessel, the occupier of the place on land, or the person in charge of the apparatus, from which the undesirable substance was put or fell or flowed into or on the Port and if there is more than one such person, from any of them jointly or severally.
- (3) Where an undesirable substance has been removed under subsection (1), the Port Corporation may, if it thinks fit, sell the undesirable substance or any part of it and out of the proceeds of sale recover the costs incurred by it in taking action under that subsection, together with the costs and expenses of the sale, but:
- (a) nothing in this subsection prevents the destruction, dispersal or disposal (otherwise than by sale) of the whole or any part of the undesirable substance in any manner by the Port Corporation as it thinks fit; and
 - (b) before selling the undesirable substance, the Port Corporation must in writing demand payment by the person or, if more than one, one of the persons from whom they are recoverable under this section, of the costs incurred by it in taking action under subsection (1), and the undesirable substance must not be sold until the expiration of 14 days after the demand is made; and
 - (c) where, before the expiration of the time referred to in paragraph (b), the costs of removal are repaid in full to the Port Corporation and a person produces to the Port Corporation reasonable evidence of ownership of the undesirable substance, the undesirable substance must be released by the Port Corporation to that person; and
 - (d) where the undesirable substance is sold under this subsection, the part, if any, of the net proceeds of sale remaining after the costs incurred in taking action under subsection (1) and the costs and expenses of the sale have been paid and recovered by the Port Corporation under this subsection:
 - (i) must be held by the Port Corporation in a trust fund for 12 months and during that time may be paid by it to a person who produces reasonable evidence of ownership of the undesirable substance at the time of the sale; and

- (ii) if not so paid during that time, must be paid to and become part of the revenue of the Port Corporation.
- (4) The rights conferred on the Port Corporation by this section must be in addition to and not in derogation of or in substitution for any other rights which the Port Authority is entitled to exercise or pursue.

37 Chief Executive Officer may declare certain wharfs etc. to be set apart

- (1) The Chief Executive Officer may, by instrument in writing, declare that a port facility be set apart for:
 - (a) the use of a specified vessel; or
 - (b) the use of vessels engaged in a specified trade or trades; or
 - (c) the use of vessels of a specified class or description; or
 - (d) the use of a specified person or a person carrying on a specified business or trade for or in connection with:
 - (i) the berthing of vessels; or
 - (ii) the reception, storage or handling of goods; or
 - (iii) the performance or provision of services with respect to vessels or the reception, storage or handling of goods; or
 - (e) any other use which the Chief Executive Officer thinks fit.
- (2) A declaration under subsection (1) must include, where applicable:
 - (a) the period of use; and
 - (b) the terms and conditions of use; and
 - (c) the rent to be paid or other payment in respect of that use; and
 - (d) any limitations or restrictions to which that use is subject.

Division 2 Issue of licences

38 Application for licence

- (1) A person may apply to the Port Corporation for a licence for the purposes of the carrying on of a business of a stevedore within the Port.
- (2) An application under subsection (1) must be in an approved form.
- (3) The Port Corporation must consider an application made under subsection (1) and may grant or refuse to grant a licence, subject to such conditions, including as to its duration, as it thinks fit and endorses on the licence.
- (4) In considering an application under subsection (1), the Port Corporation must have regard to:
 - (a) whether the applicant is a suitable person to hold the licence; and
 - (b) the applicant's experience, skill and ability to provide services in relation to the business of a stevedore in a port; and
 - (c) the standard of the applicant's equipment; and
 - (d) other matters that relate to ensuring the safety of anyone connected with the provision of the services.
- (5) In considering whether an applicant is a suitable person for subsection (4)(a), the Port Corporation must have regard to the following matters:
 - (a) whether the applicant has ever been:
 - (i) found guilty of an offence against a law of the Territory, or the Commonwealth, a State or another Territory, that is punishable by imprisonment for more than 12 months; or
 - (ii) a director of, or involved in the management of, a company that was found guilty of such an offence;
 - (b) whether in the 10 years before making the application:
 - (i) the applicant has been found guilty of an offence against a law of the Territory, or the Commonwealth, a State or another Territory; or

- (ii) the applicant has been a director of, or involved in the management of, a company that was found guilty of such an offence;
 - (c) whether the applicant has been a director of, or involved in the management of, a company that was wound up in the 2 years before making the application or is in the process of being wound up;
 - (d) whether the applicant is an individual who has become bankrupt or applied to take the benefit of a law for the relief of bankrupt or insolvent debtors;
 - (e) whether the applicant is a company that is under administration, in the process of being wound up or has executed a deed of company arrangement that is in force.
- (6) The Port Corporation must, as soon as practicable after deciding an application under subsection (1), give written notice of the decision to the applicant, specifying:
 - (a) the reasons for the decision; and
 - (b) for a decision to refuse the application – that the applicant may appeal to the Tribunal against the decision.
- (7) The applicant may, within 28 days after receiving the notice, appeal to the Tribunal against the decision as mentioned in subsection (6)(b).

Note for subsection (7)

Section 11(2) of the Marine Act provides for the hearing and determination of the appeal by the Tribunal.

39 Suspension or cancellation of licence and variation or imposition of licence conditions

- (1) The Minister may, if in his or her opinion it is necessary or desirable in the public interest so to do, direct the Port Corporation to suspend, cancel, vary or impose a condition on, a licence in accordance with subsection (2).
- (2) The Port Corporation, on receiving a direction from the Minister under subsection (1) must, by 6 months notice served on the licensee:
 - (a) suspend the licence; or
 - (b) cancel the licence; or

- (c) vary a condition to which the licence is subject; or
 - (d) impose in respect of the licence a condition in accordance with the direction.
- (3) A notice under subsection (2) must:
- (a) set out the reasons for the action specified in the notice; and
 - (b) if the licence is to be cancelled, require the surrender of the licence document on the expiration of the 6 months period of the notice.
- (4) Where a notice under subsection (2) has been served on a licensee and, within the period of the notice, the term of the licence would, but for this subsection, expire, the licence remains in force until the expiration of the period of the notice unless it is sooner cancelled under subsection (5).
- (5) In addition, if the licensee contravenes a licence condition, the Port Corporation may take one or more of the following actions as it considers appropriate:
- (a) suspend the licence for a specified period;
 - (b) cancel the licence;
 - (c) vary a condition to which the licence is subject;
 - (d) impose a condition for the licence.
- (6) If the Port Corporation decides to take an action under subsection (5) in relation to a licence held by a person, it must give written notice of its decision to the person:
- (a) specifying the reasons for the decision; and
 - (b) specifying that the person may appeal to the Tribunal against the decision; and
 - (c) if the licence is to be cancelled – requiring the person to surrender the licence document to the Port Corporation within the period specified in the notice.
- (7) The licensee may, within 28 days after receiving the notice, appeal to the Tribunal against the decision as mentioned in subsection (6)(b).

Note for subsection (7)

Section 11(2) of the Marine Act provides for the hearing and determination of the appeal by the Tribunal.

40 Penalty for carrying on business etc. while unlicensed

- (1) A person must not carry on a business of a stevedore within the Port unless he or she holds a licence to do so which has not been suspended.

Maximum penalty: If the offender is a natural person –
500 penalty units and 5 penalty units for
each day the offence continues.

If the offender is a body corporate –
2 500 penalty units and 25 penalty units for
each day the offence continues.

- (2) In any proceedings for an offence against subsection (1), an averment by the prosecutor in a complaint or information that a specified person was unlicensed at the time when the offence was committed is evidence of the fact so averred.

Division 3 Liability

41 Liability of Port Corporation etc. for loss or damage

The Port Corporation or an employee is not civilly or criminally liable for:

- (a) loss or damage arising out of an action or omission under this Part; or
(b) loss or damage arising out of an action or omission in the storage or handling of goods;

caused or permitted by it or him or her in the performance, in good faith, of its or his or her duties or powers under this Act, including its or his or her duties or powers as a bailee.

42 Liability of owner and master

The owner of a vessel is liable for loss or damage caused by a vessel within the Port with or without proof of negligence or intent, and the master is, with proof of negligence or intent, with the owner, jointly and severally so liable.

Part 4 Miscellaneous matters**43A Boundaries of Port**

The Minister may, from time to time, by *Gazette* notice, declare the boundaries of the area of water and land constituting the Port of Darwin.

44 Value of improvements etc.

The Port Corporation may, on the expiration or determination of a lease granted or taken to have been granted by it:

- (a) pay to the lessee the value, as determined by the Valuer-General, of any improvements lawfully erected by the lessee on the land comprised in the lease; or
- (b) pay to the lessee the cost of reclamation work lawfully carried out by the lessee for or in connection with the purpose of the lease; or
- (c) require the lessee to remove, at his or her own expense, any improvements erected on the land comprised in the lease.

45 Exemption from local government rates, charges and taxes

- (1) Subject to subsection (3), land vested in the Port Corporation is exempt from local government rates, charges and taxes.
- (2) Subsection (1) does not apply so as to exempt the Port Corporation from payment of charges for a commodity or service provided or supplied by a local government council whether the charge made be assessed on the value of land occupied by or vested in the Port Corporation or otherwise.
- (3) Where land vested in the Port Corporation is leased to a person, that land is not exempt from rates, charges or taxes under this section.
- (4) Where a law authorises the imposition or levy of a rate, charge or tax on the land referred to in subsection (3), that rate, charge or tax is payable by the lessee or tenant of the land and not by the Port Corporation.

46 Recovery of fees rates, dues, charges or rental for storage

- (1) A fee, rate, due or charge imposed or levied by or under this Act is a debt due and payable to the Port Corporation.

- (2) The Port Corporation has a lien on a vessel or goods in respect of which a fee, rate, due or charge or rental for storage is due and payable and the Port Corporation may seize, attach and detain the vessel or goods until the fee, rate, due, charge or rental for storage is fully paid.
- (3) Where a fee, rate, due or charge or rental for storage remains unpaid, the Port Corporation may, after the expiration of 3 months after the date of the seizure, attachment and detention referred to in subsection (2), sell the vessel or goods by public auction to recover the amount owing to it.
- (4) In proceedings for the recovery of a fee, rate, due, charge or rental, the production of a document certified in writing by the Chief Executive Officer showing what purports to be the amount owing and particulars of a fee, rate, due, charge or rental is prima facie evidence that the amount and particulars in respect of that fee, rate, due, charge or rental are correct.

47 Contravention of order or direction

A person who contravenes an order or direction given under this Act (including the by-laws) by an employee, being an order or direction for the contravention of which no other penalty is expressly provided by this Act or the by-laws, is guilty of an offence.

Maximum penalty: If the offender is a natural person –
 100 penalty units and 1 penalty unit for
 each day the offence continues.

 If the offender is a body corporate –
 500 penalty units and 5 penalty units for
 each day the offence continues.

48 By-laws

- (1) The Port Corporation may make by-laws, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed by by-laws or are necessary or convenient to be so prescribed, for the control, regulation and management of the Port and in particular for providing for or in relation to any or all of the following:
 - (a) the control, supervision and instruction of employees of, and the control of property vested in or belonging to, the Port Corporation;
 - (b) the security and facility of navigation in the Port;

- (c) the regulation, control and supervision of loading and unloading and of the use of machinery, equipment and appliances in loading and unloading and of the storage, and handling of goods and cargo, in the Port;
- (d) the mode of leasing and licensing under this Act;
- (e) the construction of wharves, docks, piers, jetties or embankments and of sheds, landing stages, slips, platforms, railways, tramways or hoisting sheers and engines;
- (f) the dredging, cleansing and scouring and the improvement of the bed and channel of the Port and the abating and removing of wrecks and impediments, obstructions and nuisances to navigation in the Port;
- (g) the supply and removal of ballast and water for shipping;
- (h) the improvement and management of facilities in the Port;
- (ha) the control, regulation, management and conduct of recreational, tourist and commercial activities and the use of facilities in the Port for those purposes;
- (k) prescribing substances for the purposes of section 17(2)(g) and the charges which may be imposed in respect of those substances;
- (m) carrying out and performing the functions and responsibilities of a pilotage authority;
- (n) the regulation and management of vessels, except where provided by the *Marine Act*, but including the anchoring, mooring and fastening and shifting;
- (p) the regulation and control of the use of lights and fire on board vessels within the Port;
- (q) the appointing of places for the loading or unloading and the manner of loading or unloading, handling and storage of dangerous goods;
- (r) the licensing of persons to establish and operate as, or carry on the business of, stevedores;
- (t) the sorting, stacking, storage or delivery of cargo;
- (u) the prevention of pollution;

- (w) the procedure and the manner in which tenders are to be invited and contracts made;
 - (y) the regulation (including the prohibition), management and control of vehicular traffic and pedestrians;
 - (z) the erection and form of traffic signs;
 - (za) the manner in which the length or tonnage of a vessel may be ascertained;
 - (zb) the regulation and control of the conduct and behaviour of persons within the Port and the conditions upon which persons may be admitted to or excluded from any part of the Port;
 - (zc) the payment and recovery of fees, rates, dues, rentals or charges imposed by this Act;
 - (zd) the imposition of a penalty for a contravention of the By-laws not exceeding:
 - (i) if the offender is a natural person – 200 penalty units and 2 penalty units for each day the offence continues; or
 - (ii) if the offender is a body corporate – 1 000 penalty units and 10 penalty units for each day the offence continues.
- (2) Where there is an inconsistency between a by-law made under this section, or continued under section 50(1) to apply, and a provision of or under the *Dangerous Goods Act*, the provision of or under the *Dangerous Goods Act*, to the extent of the inconsistency, ceases to apply.
- (3) The By-laws may incorporate or adopt by reference the provisions of a document, standard, rule, specification or method formulated, issued, prescribed or published by an authority or a body:
- (a) in whole or in part, or as amended by the By-laws; or
 - (b) as formulated, issued, prescribed or published at the time the By-laws are made or at any time before then; or
 - (c) as amended after the making of the By-laws, but only where the Minister has published in the *Gazette* a notice that the particular amendment is to be incorporated in the By-laws.

49 Regulations

- (1) The Administrator may make regulations under this Act.
- (2) The regulations may prescribe fees for this Act.

Part 5 Transitional matters for Darwin Port Authority Act 1983**50 Savings**

- (1) Notwithstanding the repeals effected by section 3, the By-laws made under the repealed Act and in force immediately before the commencement of this Act continue to apply to the same extent as if the repealed Act had continued in operation and may be amended or repealed as if they were by-laws made under this Act.
- (2) Where, immediately before the commencement of this Act, the Northern Territory Port Authority had a title to or an interest in an asset, or had a right, privilege, obligation or liability, contingent or otherwise, that title, interest, right, privilege, obligation or liability is transferred to the Port Authority.
- (3) Where, immediately before the commencement of this Act, an activity was being carried on by or in the name of the Northern Territory Port Authority, the Port Authority may, subject to this Act, continue to carry on that activity.
- (4) Where, immediately before the commencement of this Act, a person was:
 - (a) the Chairman;
 - (b) a member;
 - (c) the harbourmaster or assistant harbourmaster; or
 - (d) an authorised officer;

of the Northern Territory Port Authority he or she continues under this Act to be the Chairman, member, harbourmaster, assistant harbourmaster or authorized officer, as the case may be, as if appointed under this Act.

- (5) An action, prosecution or other proceeding begun under the *Ports Act* as then in force before the commencement of this Act may be continued as if this Act had never commenced, and an action, prosecution or other proceeding in respect of a thing done or omitted to be done under the *Ports Act* as then in force before the

commencement of this Act may be brought, taken and prosecuted in the same manner as if this Act had never commenced.

- (6) Money that, if this Act had not come into operation, would be or become payable to the Northern Territory Port Authority is, or will become, as the case may be, payable to the Port Authority.
- (7) Where a transfer is effected by subsection (2), the Port Authority continues an action by virtue of subsection (5), or money is or becomes payable by virtue of subsection (6), this Act is sufficient authority in relation to that money or to the matter transferred or continued:
 - (a) for a person having control of a register to register the transfer; and
 - (b) for the Port Authority, in its own name, to take or continue an action, or to do any other thing that, if this Act had not commenced, the Northern Territory Port Authority could have taken, continued or done; and
 - (c) for a person or body to take or continue an action, or to do any other thing, in relation to the Port Authority, that, if this Act had not commenced, that person or body could have taken, continued or done in relation to the Northern Territory Port Authority.
- (8) Where, immediately before the commencement of this Act, a person had under the repealed Act, or the By-laws as then in force, a licence, or a certificate of registration in respect of a vessel, issued by the Northern Territory Port Authority, that person or vessel shall, on the commencement of this Act, be deemed to be licensed or registered, as the case may be, under this Act or the By-laws, and this Act, or the By-laws shall apply subject to the same terms and conditions, not inconsistent with this Act or the By-laws, as then applied to and in relation to the licence or certificate of registration as if the licence or certificate of registration were specified under this Act or the By-laws in the licence or certificate of registration.
- (9) In this section ***the Northern Territory Port Authority*** means the Northern Territory Port Authority established under the repealed Act.

Part 6 Transitional matters for Darwin Port Corporation Amendment Act 2005

51 Transitional – directors

- (1) If, immediately before the commencement of the *Darwin Port Corporation Amendment Act 2005*, a person was a director of the Port Corporation, the person is taken to have been appointed to be a member of the Board.
- (2) Subject to this Act, the appointment remains in force for the remainder of the term for which the person was appointed as a director.

Part 7 Transitional matters for Darwin Port Corporation Legislation Amendment Act 2011

52 Application of amendments

- (1) Section 38(4) to (7) as amended by the amending Act applies to an application for a licence made under that section on or after the commencement of the amending Act.
- (2) Subsection (1) does not prevent the Port Corporation taking into account a matter mentioned in section 38(5) that occurred before the commencement.
- (3) Section 39(5) to (7) as amended by the amending Act applies to a decision of the Port Corporation under that section made on or after the commencement of the amending Act.
- (4) This Act as in force immediately before the commencement continues to apply to an application for a licence mentioned in section 38 that was made, but not decided, before the commencement.
- (5) In this section:

amending Act means the *Darwin Port Corporation Legislation Amendment Act 2011*.

commencement means the commencement of the amending Act.

Schedule 2 Repealed Ordinances and Acts

section 3

Number and year	Short title
No. 47, 1962	<i>Ports Ordinance 1962</i>
No. 51, 1963	<i>Ports Ordinance 1963</i>
No. 1, 1968	<i>Ports Ordinance (No. 2) 1967</i>
No. 2, 1970	<i>Ports Ordinance 1969</i>
No. 52, 1971	<i>Ports Ordinance 1971</i>
No. 7, 1972	<i>Ports Ordinance 1972</i>
No. 12, 1973	<i>Ports Ordinance 1973</i>
No. 44, 1974	<i>Ports Ordinance 1974</i>
No. 45, 1974	<i>Ports Ordinance (No. 2) 1974</i>
No. 64, 1974	<i>Ports Ordinance (No. 3) 1974</i>
No. 25, 1975	<i>Ports Ordinance 1975</i>
No. 34, 1976	<i>Ports Ordinance 1976</i>
No. 50, 1978	<i>Ports Ordinance 1978</i>
No. 81, 1979	<i>Ports Act 1979</i>
No. 36, 1981	<i>Ports Amendment Act 1981</i>
No. 81, 1981	<i>Ports Amendment Act (No. 2) 1981</i>

ENDNOTES
1**KEY**

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2**LIST OF LEGISLATION*****Darwin Port Authority Act 1983 (Act No. 71, 1983)***

Assent date	28 November 1983
Commenced	1 January 1984 (<i>Gaz</i> S44, 30 December 1983)

Darwin Port Authority Amendment Act 1984 (Act No. 27, 1984)

Assent date	20 July 1984
Commenced	20 July 1984

Public Service and Statutory Authorities Amendment Act 1985 (Act No. 28, 1985)

Assent date	26 June 1985
Commenced	26 June 1985

Darwin Port Authority Amendment Act 1986 (Act No. 74, 1986)

Assent date	30 December 1986
Commenced	30 December 1986

Statute Law Revision Act (No. 2) 1987 (Act No. 59, 1987)

Assent date	31 December 1987
Commenced	31 December 1987

Darwin Port Authority Amendment Act 1993 (Act No. 15, 1993)

Assent date	16 June 1993
Commenced	8 July 1993 (<i>Gaz</i> S57, 8 July 1993)

Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)

Assent date	30 June 1993
Commenced	1 July 1993 (s 2, s 2 <i>Public Sector Employment and Management Act 1993</i> (Act No. 11, 1993) and <i>Gaz</i> S53, 29 June 1993)

Local Government (Consequential Amendments) Act 1993 (Act No. 84, 1993)

Assent date 31 December 1993
 Commenced 1 June 1994 (s 2, s 2 *Local Government Act 1993* (Act No. 83, 1993) and *Gaz S35*, 20 May 1994)

Financial Management (Consequential Amendments) Act 1995 (Act No. 5, 1995)

Assent date 21 March 1995
 Commenced 1 April 1995 (s 2, s 2 *Financial Management 1995* (Act No. 4, 1995) and *Gaz S13*, 31 March 1995)

Darwin Port Authority Amendment Act 1998 (Act No. 80, 1998)

Assent date 21 October 1998
 Commenced 20 September 1999 (*Gaz S37*, 1 September 1999)

Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)

Assent date 29 June 2001
 Commenced 15 July 2001 (s 2, s 2 *Corporations Act 2001* (Cth Act No. 50, 2001) and *Cth Gaz S285*, 13 July 2001)

Statute Law Revision Act 2003 (Act No. 12, 2003)

Assent date 18 March 2003
 Commenced 18 March 2003

Darwin Port Corporation Amendment Act 2005 (Act No. 15, 2005)

Assent date 17 March 2005
 Commenced 17 March 2005

Statute Law Revision Act 2009 (Act No. 25, 2009)

Assent date 1 September 2009
 Commenced 16 September 2009 (*Gaz G37*, 16 September 2009, p 3)

Darwin Port Corporation Legislation Amendment Act 2011 (Act No. 11, 2011)

Assent date 18 April 2011
 Commenced ss 5(3) and (4) and 9: 12 December 2011 (*Gaz S72*, 12 December 2011); rem: 4 July 2012 (*Gaz G27* 4 July 2012, p 5)

Statute Law (Miscellaneous Provisions) Act 2011 (Act No. 44, 2011)

Assent date 21 December 2011
 Commenced 27 January 2012 (*Gaz S3*, 27 January 2012) (rem: 4 July 2012, amdts to *Darwin Port Corporation Act* and *Marine Act* listed in the Sch to Act, *Gaz G27*, 4 July 2012, p 4)

Local Government Amendment Act 2013 (Act No. 28, 2013)

Assent date 8 November 2013
 Commenced 8 November 2013

Statute Law Revision Act 2014 (Act No. 38, 2014)

Assent date 13 November 2014
 Commenced 20113 November 20144

Ports Management Act 2015 (Act No. 11, 2015)

Assent date 22 May 2015
 Commenced pt 14, div 1: nc; pt 15, div 2: 1 July 2015; rem: 9 June 2015 (*Gaz S57*, 9 June 2015, p 2)

3**SAVINGS AND TRANSITIONAL PROVISIONS**

s 9(2) *Darwin Port Authority Amendment Act 1993* (Act No. 15, 1993)

s 15 *Darwin Port Authority Amendment Act 1998* (Act No. 80, 1998)

4**LIST OF AMENDMENTS**

lt	amd No. 80, 1998, s14
pt 1 hdg	amd No. 11, 2011, s 11
s 1	sub No. 80, 1998, s 4
s 5	amd No. 15, 1993, ss 4 and 12; No. 28, 1993, s 3; No. 80, 1998, s 5; No. 15, 2005, s 3; No. 11, 2011, s 4
pt II hdg	amd No. 80, 1998, s 14; No. 11, 2011, s 11
pt II	
div 1 hdg	amd No. 80, 1998, s 14
s 6	amd No. 80, 1998, s 14; No. 15, 2005, s 4; No. 11, 2011, s 11; No. 11, 2015, s 165
s 7	sub No. 15, 1993, s 5; No. 80, 1998, s 6
	rep No. 15, 2005, s 5
s 7A	ins No. 80, 1998. s 6
	rep No. 15, 2005, s 5
s 7B	ins No. 80, 1998. s 6
	rep No. 15, 2005, s 5
s 7C	ins No. 80, 1998. s 6
	rep No. 15, 2005, s 5
s 7D	ins No. 80, 1998. s 6
	rep No. 15, 2005, s 5
s 7E	ins No. 80, 1998. s 6
	rep No. 15, 2005, s 5
s 7F	ins No. 80, 1998. s 6
	rep No. 15, 2005, s 5
s 7G	ins No. 80, 1998. s 6
	rep No. 15, 2005, s 5
s 7H	ins No. 80, 1998. s 6
	rep No. 15, 2005, s 5
pt II	
div 1A hdg	ins No. 80, 1998. s 6
	rep No. 15, 2005, s 5
s 8	amd No. 28, 1985, s 9
	sub No. 15, 1993, s 5
	amd No. 28, 1993, s 3; No. 80, 1998, s 7
	rep No. 15, 2005, s 5
s 9	sub No. 15, 1993, s 5
	amd No. 80, 1998, s 14
	rep No. 15, 2005, s 5
s 10	amd No. 28, 1985, s 9
	sub No. 15, 1993, s 5
	rep No. 15, 2005, s 5
ss 11 – 13	rep No. 15, 1993, s 5
s 14	rep No. 5, 1995, s 19
pt II	
div 2 hdg	amd No. 80, 1998, s 14
s 15	amd No. 80, 1998, s 8
	sub No. 15, 2005, s 6
s 16	amd No. 15, 1993, s 6; No. 80, 1998, ss 9 and 14; No. 15, 2005, s 7; No. 11, 2011, s 5; No. 44, 2011, s 27
s 17	amd No. 15, 1993, s 7; No. 80, 1998, s 14; No. 11, 2011, s 11

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s 17A	ins No. 80, 1998, s 10 amd No. 15, 2005, s 8
s 18	amd No. 80, 1998, s 14; No. 11, 2011, s 11
s 19	amd No. 80, 1998, s 14 rep No. 15, 2005, s 9
pt II	
div 3 hdg	rep No. 80, 1998, s 12
s 19A	ins No. 15, 1993, s 8 rep No. 80, 1998, s 12
s 19B	ins No. 15, 1993, s 8 rep No. 80, 1998, s 12
s 19C	ins No. 15, 1993, s 8 rep No. 80, 1998, s 12
s 19D	ins No. 15, 1993, s 8 rep No. 80, 1998, s 12
s 19E	ins No. 15, 1993, s 8 rep No. 80, 1998, s 12
s 19F	ins No. 15, 1993, s 8 rep No. 80, 1998, s 12
s 19G	ins No. 15, 1993, s 8 rep No. 80, 1998, s 12
s 20	rep No. 15, 1993, s 8 ins No. 80, 1998, s 11 sub No. 17, 2001, s 8
s 20A	ins No. 11, 2015, s 166
s 21	rep No. 15, 1993, s 8
pt II	
div 4 hdg	amd No. 80, 1998, s 14 sub No. 11, 2011, s 6
s 22	amd No. 28, 1985, s 9 rep No. 28, 1993, s 3
s 23	amd No. 15, 1993, s 12; No. 80, 1998, s 14 rep No. 15, 2005, s 9
s 24	amd No. 80, 1998, s 14 rep No. 15, 2005, s 9
s 25	amd No. 15, 1993, s 12; No. 80, 1998, s 14 sub No. 11, 2011, s 6
s 26	amd No. 80, 1998, s 14 sub No. 11, 2011, s 6
s 26A	ins No. 11, 2011, s 6 amd No. 38, 2014, s 2
ss 26B – 26G	ins No. 11, 2011, s 6
pt IIA hdg	ins No. 15, 2005, s 10 amd No. 11, 2011, s 11
pt IIA	
div 1 hdg	ins No. 15, 2005, s 10
s 27	amd No. 15, 1993, s 12 sub No. 15, 2005, s 10
ss 27A – 27C	ins No. 15, 2005, s 10
ss 27D – 27E	ins No. 15, 2005, s 10 amd No. 11, 2011, s 11
s 27F	ins No. 15, 2005, s 10
s 27G	ins No. 15, 2005, s 10 amd No. 11, 2011, s 11
ss 27H – 27J	ins No. 15, 2005, s 10
pt IIA	
div 2 hdg	ins No. 15, 2005, s 10
ss 27K – 27M	ins No. 15, 2005, s 10

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pt IIA	
div 3 hdg	ins No. 15, 2005, s 10
ss 27N – 27P	ins No. 15, 2005, s 10
pt IIB hdg	ins No. 15, 2005, s 10
	amd No. 11, 2011, s 11
s 28	amd No. 15, 1993, s 12; No. 80, 1998, s 14
	sub No. 15, 2005, s 10
	amd No. 11, 2011, s 11
ss 28A – 28C	ins No. 15, 2005, s 10
	amd No. 11, 2011, s 11
ss 28D – 28E	ins No. 15, 2005, s 10
pt III hdg	amd No. 11, 2011, s 11
s 29	sub No. 15, 2005, s 11
	amd No. 11, 2011, s 11
s 30	amd No. 80, 1998, s 14; No. 15, 2005, s 12; No. 11, 2011, s 11
s 31	amd No. 15, 1993, s 12; No. 80, 1998, s 14; No. 11, 2011, s 11
s 32	amd No. 15, 1993, s 12; No. 80, 1998, s 14; No. 15, 2005, s 13; No. 11, 2011, s 11
s 33	amd No. 80, 1998, s 14; No. 15, 2005, s 14; No. 11, 2011, s 11
s 34	amd No. 80, 1998, s 14; No. 15, 2005, s 15; No. 11, 2011, s 11
s 35	amd No. 11, 2011, s 11
s 36	amd No. 80, 1998, s 14; No. 11, 2011, s 11
s 37	amd No. 15, 1993, s 12; No. 11, 2011, s 11
s 38	amd No. 80, 1998, s 14; No. 11, 2011, s 7
s 39	amd No. 80, 1998, s 14; No. 11, 2011, s 8
s 40	amd No. 80, 1998, s 14; No. 15, 2005, s 16; No. 11, 2011, s 11
s 41	amd No. 80, 1998, s 14; No. 11, 2011, s 11
s 43	rep No. 80, 1998, s 14
pt IV hdg	amd No. 11, 2011, s 11
s 43A	ins No. 15, 1993, s 9
	amd No. 11, 2011, s 11
s 44	amd No. 80, 1998, s 14; No. 11, 2011, s 11
s 45	amd No. 84, 1993, s 6; No. 80, 1998, s 14; No. 25, 2009, s 10; No. 11, 2011, s 11; No. 28, 2013, s 61
s 46	amd No. 15, 1993, s 12; No. 80, 1998, s 14; No. 11, 2011, s 11
s 47	amd No. 15, 2005, s 17; No. 11, 2011, s 11
s 48	amd No. 15, 1993, s 10; No. 80, 1998, s 13; No. 12, 2003, s 18; No. 15, 2005, s 18; No. 11, 2011, s 11
s 49	sub No. 11, 2011, s 9
pt V hdg	ins No. 15, 2005, s 19
	amd No. 11, 2011, s 11
s 50	amd No. 80, 1998, s 14; No. 11, 2011, s 11
pt VI hdg	ins No. 15, 2005, s 20
	amd No. 11, 2011, s 11
s 51	ins No. 15, 2005, s 20
pt 7 hdg	ins No. 11, 2011, s 10
s 52	ins No. 11, 2011, s 10
sch 1	amd No. 27, 1984, s 2; No. 74, 1986, s 2; No. 59, 1987, s 5
	rep No. 15, 1993, s 11