



ANNO DECIMO NONO

ELIZABETHAE II REGINAE

A.D. 1970

No. 67 of 1970

An Act to amend the Harbors Act, 1936-1969.

[Assented to 17th December, 1970]

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

1. (1) This Act may be cited as the "Harbors Act Amendment Act, 1970". Short titles.

(2) The Harbors Act, 1936-1969, as amended by this Act, may be cited as the "Harbors Act, 1936-1970".

(3) The Harbors Act, 1936-1969, is hereinafter referred to as "the principal Act".

2. Section 43 of the principal Act is amended by striking out the definition of "vessel" and inserting in lieu thereof the following definition:— Amendment of principal Act, s. 43— Interpretation.

"vessel" means any kind of ship, boat or vessel used in navigation and includes—

(a) a hovercraft or other air cushion vehicle;

or

(b) any other vehicle supported or propelled by pneumatic force,

that traverses any navigable waters within or adjacent to the State:.

Amendment of
principal Act,
s. 89—

3. Section 89 of the principal Act is amended by inserting after subsection (1) the following subsection:—

Duty to take
in pilot.

(1a) A reference in this section to tonnage shall be construed as a reference to gross tonnage.

Amendment of
principal Act,
s. 90—
Duties upon
approaching
port.

4. Section 90 of the principal Act is amended by inserting after subsection (1) the following subsection:—

(1a) The master of any such ship within ten miles of a pilot boarding station, and intending to enter a port to which this Part applies, shall maintain an efficient system of radio communication or visual watch in order to receive any instructions that may be given by or on behalf of the person responsible for the management of the port or the pilot boarding station, and shall act in accordance with any such instructions.

Amendment of
principal Act,
s. 91—
Signals for
pilot.

5. Section 91 of the principal Act is amended—

(a) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) If the master of any ship requires the services of a pilot, the signals to be used or displayed shall be as follows:—

(a) in the daytime—the appropriate flag prescribed by the International Code, hoisted in a conspicuous position;

or

(b) at night—the appropriate signal prescribed by, and transmitted in accordance with, the International Code.;

and

(b) by inserting after subsection (2) the following subsection:—

(3) The master of a ship may, in lieu of the signals prescribed by subsection (1) of this section, request the services of a pilot by radio communication.

Amendment of
principal Act,
s. 112—
Revocation or
suspension of
pilot's licence.

6. Section 112 of the principal Act is amended by striking out the passage “or appointed”.

Amendment of
principal Act,
s. 124—
Responsibility
for injury to
wharves.

7. Section 124 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “except where the same is caused by the act or negligence of the Minister or an officer or servant of the Minister”;

and

(b) by inserting after subsection (1) the following subsections:—

(1a) In any proceedings brought by the Minister against the owner, or the agent of the owner, of any vessel, floating timber or material, it shall not be necessary for the Minister to establish—

(a) that the injury resulted from negligent or otherwise tortious conduct;

or

(b) any causal connection between the injury and an act or omission on the part of any person,

and, subject to subsection (1b) of this section, it shall not be a defence to any such proceedings that the injury is wholly or partially attributable to any factor independent of the control of the person against whom the proceedings are brought.

(1b) In any proceedings brought by the Minister under this section it shall be a defence to prove that the injury is wholly attributable to negligent or otherwise tortious conduct for which the Minister or an officer of the Department of Marine and Harbors is responsible and where it appears to the court that the injury is partially attributable to such conduct, for which the Minister or any such officer is responsible, the court shall make such allowance for that fact as it thinks just in the assessment of damages.

8. The following section is enacted and inserted in the principal Act immediately after section 146 thereof:—

146a. (1) The Governor may make regulations for controlling, restricting or prohibiting the parking of vehicles upon or in the vicinity of a wharf.

(2) In any proceedings for an offence against a regulation under this section it shall be presumed that a motor vehicle parked in contravention of the regulation was so parked by the registered owner of the motor vehicle unless the contrary is proved.

Enactment of
s. 146a of
principal Act—
Control of
parking on
wharves.

(3) Where it is alleged that an offence against a regulation under this section has been committed, the Minister may cause to be given to the person by whom the offence is alleged to have been committed a notice to the effect that he may expiate the offence by the payment to the Minister of a sum of two dollars within a time specified in the notice and if the offence is so expiated no proceedings shall be instituted in respect of the offence.

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

J. W. HARRISON, Governor.