

Ports Legislation Amendment Bill 2013

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Western Australia

LEGISLATIVE ASSEMBLY

Ports Legislation Amendment Bill 2013

A Bill for

An Act to amend the —

- *Port Authorities Act 1999*; and
 - *Shipping and Pilotage Act 1967*,
- and other written laws, and for related purposes.**

The Parliament of Western Australia enacts as follows:

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14

Part 1 — Preliminary

1. Short title

This is the *Ports Legislation Amendment Act 2013*.

2. Commencement

(1) This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) the heading to Part 2 and sections 3, 4(3), 5(1), 7(1), 10, 28(1), 29, 30, 32 and 35 — on the day after assent day;
- (c) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

(2) The day fixed under subsection (1)(c) for the coming into operation of sections 4(4), 5(2), 28(2) and 36 cannot be earlier than the day on which section 31 comes into operation.

1 **Part 2 — *Port Authorities Act 1999* amended**

2 **3. Act amended**

3 This Part amends the *Port Authorities Act 1999*.

4 **4. Section 3 amended**

5 (1) In section 3(1) insert in alphabetical order:

6

7 ***port operations*** means —

8 (a) the carrying out of port activities or port works;
9 or

10 (b) the provision of port services; or

11 (c) the provision, management or operation of port
12 facilities;

13 ***port property***, in relation to a port authority, means —

14 (a) port facilities; or

15 (b) vested property; or

16 (c) other property held by the port authority;

17 ***port security*** means all matters relating to —

18 (a) the preservation and protection of —

19 (i) port property; or

20 (ii) any other vessel, vehicle or other
21 property within the port,

22 from damage, destruction or unlawful activity;

23 and

24 (b) the protection of people within the port from
25 injury or unlawful activity;

26 ***potential supplier*** means —

27 (a) a person who might become a supplier of port
28 services; or

s. 5

- 1 (b) a person who might become a supplier of port
2 services and, for that purpose, provide related
3 port facilities;
4
- 5 (2) In section 3(1) in the definition of *member of staff* delete
6 “section 16;” and insert:
7
- 8 section 16 or who becomes a member of staff by operation of
9 this Act;
10
- 11 (3) In section 3(1) in the definition of *port* delete “means the port
12 for which the port authority is established;” and insert:
13
- 14 means —
- 15 (a) the port that the port authority controls and
16 manages; or
- 17 (b) if the port authority controls and manages more
18 than one port — each of those ports;
- 19 (4) In section 3(1) in the definition of *port* after “Schedule 1” insert:
20
- 21 or placed under the control and management of a port authority
22 by regulations in accordance with Schedule 9
23
- 24 **5. Section 4 amended**
- 25 (1) Delete section 4(1) and insert:
26
- 27 (1) There are to be the port authorities named in column 2
28 of Schedule 1.
- 29 (2A) A port authority named in column 2 of an item in
30 Schedule 1 is to control and manage any port named in
31 column 3 of that item.

1 (2) Delete section 4(2A) as inserted by subsection (1) and insert:

2

3 (2A) A port authority named in column 2 of an item in
4 Schedule 1 is to control and manage —

5 (a) any port named in column 3 of that item; and

6 (b) any port placed under the control and
7 management of the port authority by
8 regulations in accordance with Schedule 9.

9

10 **6. Section 5 amended**

11 In section 5 delete “A port authority is not” and insert:

12

13 For the purposes of any law of the State, a port authority is to be
14 regarded as not being

15

16 Note: The heading to amended section 5 is to read:

17 **Port authorities not to be regarded as agents of Crown for**
18 **purposes of State laws**

19 **7. Section 7 amended**

20 (1) In section 7(1) delete “5” and insert:

21

22 not less than 5 or more than 7

23

24 (2) Delete section 7(4).

25 **8. Section 13 amended**

26 After section 13(4) insert:

27

28 (5) The port authority is to provide a committee with
29 such —

30 (a) administrative support; and

s. 9

1 (b) facilities,
2 as the committee may reasonably require for the
3 performance of its functions.
4

5 **9. Section 14A inserted**

6 At the end of Part 2 Division 2 insert:
7

8 **14A. Community consultation committees**

- 9 (1) In this section —
10 *consultation committee* means the committee
11 established as required by subsection (2).
- 12 (2) Without limiting section 13, a port authority must,
13 under that section, establish a committee for the port
14 for the purpose of promoting and facilitating
15 communication, information sharing and consultation
16 between the port authority and members of the public
17 who are or may be affected by port operations.
- 18 (3) A local government that has electors who are or may
19 be affected by port operations at the port is to be
20 represented on the consultation committee.
- 21 (4) Minutes of the proceedings of the consultation
22 committee are to be made available on the port
23 authority's website or in a prescribed manner.
- 24 (5) Subsection (2) does not apply if the regulations exempt
25 the port from the operation of this section.
26

1 **10. Section 27 amended**

2 In section 27(3) delete “subsection —” and insert:

3

4 section —

5

6 **11. Section 29A inserted**

7 After section 28 insert:

8

9 **29A. Operation of *Planning and Development Act 2005***
10 **section 136 modified**

11 A port authority does not have to obtain approval under
12 the *Planning and Development Act 2005* section 136 in
13 order to grant a lease or licence in respect of port land.
14

15 **12. Section 30 amended**

16 In section 30(1):

17 (a) delete paragraph (e) and insert:

18

19 (e) to be responsible for maintaining port property;
20 and

21 (fa) to be responsible for port security; and
22

23 (b) in paragraph (f) delete “activities” and insert:

24

25 operations
26

s. 13

1 **13. Section 31 amended**

2 In section 31(2) delete “activities.” and insert:

3

4 operations.

5

6 **14. Section 33 amended**

7 In section 33 delete “A” and insert:

8

9 Subject to section 34A, a

10

11 **15. Section 34A inserted**

12 After section 33 insert:

13

14 **34A. Duty to comply with State budgetary requirements**

15 (1) In this section —

16 *approved* means approved from time to time by the
17 Government for the port authority and communicated
18 in writing by the Treasurer to the port authority;

19 *Government* includes —

- 20 (a) Cabinet; and
21 (b) a committee of Cabinet; and
22 (c) a subcommittee of a committee of Cabinet; and
23 (d) the Treasurer.

24 (2) A port authority in performing its functions must —

- 25 (a) comply with approved requirements as to
26 capital works expenditure limits and associated
27 funding; and

- 1 (b) endeavour to achieve financial outcomes that
2 are consistent with forecasts contained in
3 approved income and cash flow statements and
4 approved statements of financial position.
- 5 (3) If there is any conflict or inconsistency between the
6 duty imposed by subsection (2) and the duty imposed
7 by section 33, the duty imposed by subsection (2)
8 prevails.
9

10 **16. Section 35 amended**

11 After section 35(8) insert:
12

- 13 (9A) Subject to the *Environmental Protection Act 1986*, port
14 operations may take place on any day and at any time.
15

16 **17. Section 51 amended**

17 In section 51(2)(a) after “effectiveness,” insert:
18

19 participation of potential suppliers,
20

21 **18. Section 57 amended**

22 (1) In section 57 delete “The” and insert:
23

24 (1) The
25

26 (2) At the end of section 57 insert:
27

28 (2) Without limiting section 34A, any agreement or
29 concurrence mentioned in subsection (1) has effect

s. 19

1 subject to the reservation that the port authority
2 must —
3 (a) comply with the requirements mentioned in
4 section 34A(2)(a); and
5 (b) endeavour to achieve the financial outcomes
6 mentioned in section 34A(2)(b),
7 whether or not they are consistent with the strategic
8 development plan or modified strategic development
9 plan, as the case may be.
10

11 **19. Section 60 amended**

12 After section 60(2)(j) insert:
13

14 (ka) proposed arrangements to facilitate the
15 participation of potential suppliers in the
16 provision of port services or, if no
17 arrangements are proposed, the reason and
18 justification for their absence; and
19

20 **20. Section 66 amended**

21 (1) In section 66 delete “The” and insert:
22

23 (1) The
24

25 (2) At the end of section 66 insert:
26

27 (2) Without limiting section 34A, any agreement or
28 concurrence mentioned in subsection (1) has effect
29 subject to the reservation that the port authority
30 must —

31 (a) comply with the requirements mentioned in
32 section 34A(2)(a); and

- 1 (b) endeavour to achieve the financial outcomes
2 mentioned in section 34A(2)(b),
3 whether or not they are consistent with the statement of
4 corporate intent or modified statement of corporate
5 intent, as the case may be.
6

7 **21. Section 84 amended**

- 8 (1) After section 84(1)(a)(i) insert:
9

- 10 (iiia) any interim dividend paid to the
11 Treasurer in relation to that financial
12 year in accordance with subsections (5)
13 to (8); and
14

- 15 (2) After section 84(1) insert:
16

- 17 (2A) In calculating a dividend under this section no account
18 is to be taken of a payment made to the port authority
19 by another person for application towards the capital
20 cost of providing port facilities if the Minister, with the
21 concurrence of the Treasurer, has declared the payment
22 to be an exempt payment for the purposes of this
23 section.

- 24 (2B) A declaration under subsection (2A) can be made
25 before or after the payment is received by the port
26 authority.
27

- 28 (3) In section 84(3)(b) delete “is to” (1st occurrence) and insert:
29

30 may
31

s. 21

- 1 (4) Delete section 84(5) and insert:
2
- 3 (5) If the Minister considers that payment by a port
4 authority of an interim dividend in relation to a
5 financial year is justified, the Minister may give written
6 notice to the board of the port authority informing it
7 that an interim dividend is to be paid to the Treasurer.
- 8 (6) As soon as practicable after it receives a notice under
9 subsection (5) the board of a port authority is to make a
10 recommendation to the Minister as to the amount of the
11 interim dividend that the board recommends as
12 appropriate.
- 13 (7) The Minister, with the Treasurer's concurrence —
14 (a) may accept a recommendation under
15 subsection (6); or
16 (b) after consultation with the board, may direct
17 that the amount of the interim dividend is to be
18 some other amount.
- 19 (8) A port authority is to pay the interim dividend —
20 (a) as soon as practicable after the amount is fixed
21 under subsection (7); and
22 (b) in any case not later than the end of the
23 financial year to which the interim dividend
24 relates.
- 25 (9) The Minister must within 14 days after a direction is
26 given under subsection (3) or (7) cause a copy of it to
27 be laid before each House of Parliament or dealt with
28 in accordance with section 133.
29

1 **22. Section 87 amended**

2 Delete section 87(2) and insert:

3

4 (2) A port authority may also enter into a hedging
5 arrangement for the purpose of managing, limiting or
6 reducing perceived risks or anticipated costs in
7 connection with a transaction that involves capital
8 expenditure and is undertaken in, or based on, a foreign
9 currency as long as the port authority, with advice from
10 the Treasury Corporation —

11 (a) identifies, considers and takes steps to minimise
12 any foreign exchange risks before entering into
13 the hedging arrangement; and

14 (b) monitors any foreign exchange risks that may
15 result from entering into the hedging
16 arrangement.

17 (3) In this section —

18 *hedging arrangement* means an agreement or
19 arrangement described in subsection (1)(a) or (b);

20 *interest rate* includes coupon rate, discount rate and
21 yield;

22 *Treasury Corporation* means the Western Australian
23 Treasury Corporation established under the *Western*
24 *Australian Treasury Corporation Act 1986*.

25

26 **23. Section 96 amended**

27 In section 96(7):

28 (a) delete “Despite section 37,” and insert:

29

30 Subject to subsection (8),

31

s. 24

- 1 (b) in paragraph (a) delete “in accordance with the
2 regulations; and” and insert:
3
4 under section 37; and
5

6 **24. Section 100 amended**

7 Delete section 100(1) and insert:
8

- 9 (1) Neither the State nor the port authority is liable for any
10 loss or damage resulting from —
11 (a) an act or omission by a port authority, a
12 harbour master or a member of staff of a port
13 authority in connection with the provision of
14 pilotage services; or
15 (b) an act or omission by a person approved as a
16 pilot by a port authority in the conduct or
17 navigation of a vessel of which the person is the
18 pilot.
19

20 Note: The heading to amended section 100 is to read:

21 **Immunity from liability for negligent provision of pilotage services**

22 **25. Section 113 amended**

23 (1) At the beginning of section 113 insert:
24

- 25 (1A) In this section —
26 ***prescribed thing*** means —
27 (a) any floating object; or
28 (b) any material, product or substance (whether
29 solid, liquid or gas); or
30 (c) any vehicle, plant, machinery, equipment or
31 infrastructure.
32

- 1 (2) In section 113(1) delete paragraphs (b), (c) and (d) and insert:
2
- 3 (b) a prescribed thing; or
4 (c) any person employed in, on or in relation to, a
5 vessel, or its equipment or cargo, or a
6 prescribed thing.
7
- 8 (3) In section 113(2) delete “vessel, floating object or material” and
9 insert:
10
- 11 vessel or prescribed thing
12
- 13 (4) In section 113(3) delete “of the floating object or the material,”
14 and insert:
15
- 16 or control of the prescribed thing,
17
- 18 (5) In section 113(5) delete “vessel, floating object or material —”
19 and insert:
20
- 21 vessel or prescribed thing —
22
- 23 **26. Section 114EA inserted**
24 After section 114D insert:
25
- 26 **114EA. Immunity from liability for acts or omissions of**
27 **port users**
- 28 (1) A port authority is not liable for any loss or damage
29 resulting from an act or omission of a person who is, or
30 is acting on behalf of, a user of its port.

s. 27

1 (2) Subsection (1) does not affect any liability a port
2 authority might have for breach of contract.
3

4 **27. Section 133 amended**

5 In section 133(1)(a) delete “84(5)” and insert:
6

7 84(9)
8

9 **28. Section 138 replaced**

10 (1) Delete section 138 and insert:
11

12 **138. Government Agreements Act 1979 not affected**

13 The operation of the *Government Agreements Act 1979*
14 in relation to this Act is not limited or otherwise
15 affected by —

- 16 (a) Schedule 6 clause 1.3 or 2.3 or the mention of
17 particular agreements in those clauses; or
18 (b) the affecting provisions as defined in
19 Schedule 8 clause 45.
20

21 (2) In section 138 as inserted by subsection (1):

22 (a) in paragraph (b) delete “clause 45.” and insert:
23

24 clause 45; or
25

26 (b) after paragraph (b) insert:
27

28 (c) Schedule 9 or regulations referred to in
29 Schedule 9.
30

1 **29. Section 139A inserted**

2 At the end of Part 10 insert:

3

4 **139A. Transitional provisions**

5 Schedule 8 sets out transitional provisions.

6

7 **30. Schedule 1 replaced**

8 Delete Schedule 1 and insert:

9

10 **Schedule 1 — Port authorities and ports**

11

[s. 4]

Column 1	Column 2	Column 3
Item	Name of port authority	Port or ports
1	Fremantle Port Authority	Port of Fremantle
2	Albany Port Authority	Port of Albany
3	Bunbury Port Authority	Port of Bunbury
4	Esperance Port Authority	Port of Esperance
5	Geraldton Port Authority	Port of Geraldton
6	Dampier Port Authority	Port of Dampier
7	Port Hedland Port Authority	Port of Port Hedland
8	Broome Port Authority	Port of Broome

12

s. 31

- 1 **31. Schedule 1 amended**
2 (1) In Schedule 1:
3 (a) in item 3 column 2 delete “Bunbury Port Authority” and
4 insert:
5
6 Southern Ports Authority
7
8 (b) in item 3 column 3 above “Port of Bunbury” insert:
9
10 Port of Albany
11
12 (c) in item 3 column 3 below “Port of Bunbury” insert:
13
14 Port of Esperance
15
16 (d) delete items 2 and 4.
17 (2) In Schedule 1 item 5 column 2 delete “Geraldton Port Authority”
18 and insert:
19
20 Mid West Ports Authority
21
22 (3) In Schedule 1:
23 (a) delete item 6;
24 (b) in item 7 column 2 delete “Port Hedland Port Authority”
25 and insert:
26
27 Pilbara Ports Authority
28
29 (c) in item 7 column 3 above “Port of Port Hedland” insert:
30
31 Port of Ashburton
32 Port of Dampier
33

1 (4) In Schedule 1 item 8 column 2 delete “Broome Port Authority”
2 and insert:

3

4 Kimberley Ports Authority

5

6 **32. Schedule 2 amended**

7 Delete Schedule 2 clause 5(5)(a) and insert:

8

9 (a) a number of directors equal to at least half the
10 number of directors in office constitutes a quorum;
11 and

12

13 **33. Schedule 6 amended**

14 (1) In Schedule 6 clause 1.2 delete the definitions of:

15 *Company appointee*

16 *Joint Venturers appointee*

17 *Ministerial appointee*

18 (2) Delete Schedule 6 clauses 1.4 to 1.7.

19 (3) Delete Schedule 6 clauses 2.2 and 2.4 to 2.7.

20 **34. Schedule 6 further amended**

21 (1) In the heading to Schedule 6 delete “**particular port**
22 **authorities**” and insert:

23

24 **Pilbara Ports Authority**

25

s. 35

- 1 (2) In the heading to Schedule 6 Division 1 delete “**Dampier Port**
2 **Authority**” and insert:

3

4 **Port of Dampier**

5

- 6 (3) In Schedule 6 clause 1.1 delete “Dampier Port” and insert:

7

8 Pilbara Ports

9

- 10 (4) In the heading to Schedule 6 Division 2 delete “**Port Hedland**
11 **Port Authority**” and insert:

12

13 **Port of Port Hedland**

14

- 15 (5) In Schedule 6 clause 2.1 delete “Port Hedland Port” and insert:

16

17 Pilbara Ports

18

19 **35. Schedule 8 inserted**

20 After Schedule 7 insert:

21

22 **Schedule 8 — Transitional provisions**

23

[s. 139A]

24 **Division 1 — Provisions for *Ports Legislation Amendment***
25 ***Act 2013***

26 **Subdivision 1 — Preliminary**

27 **1. Terms used**

28 In this Division —

29 ***agreement*** includes a Government agreement;

1 **amending Act** means the *Ports Legislation Amendment*
2 *Act 2013*;

3 **asset** means any legal or equitable estate or interest (whether
4 present or future, whether vested or contingent and whether
5 personal or assignable) in real or personal property of any
6 description and includes any money, security, chose in
7 action or document;

8 **Government agreement** means an agreement referred to in
9 paragraph (a) of the definition of **Government agreement** in
10 the *Government Agreements Act 1979* section 2 and, if the
11 agreement has been varied, means the agreement as varied;

12 **liability** means any liability, duty or obligation whether
13 actual, contingent or prospective, liquidated or unliquidated,
14 or whether owed alone or jointly or jointly and severally
15 with any other person;

16 **right** means any right, power, privilege or immunity
17 whether actual, prospective or contingent.

18 **Subdivision 2 — Provisions for the Southern Ports Authority**

19 **2. Terms used**

20 In this Subdivision —

21 **continuing authority** means the Bunbury Port Authority;

22 **merger** means —

23 (a) the actions effected by the coming into operation of
24 section 31(1) of the amending Act; and

25 (b) the merging of the Albany Port Authority and the
26 Esperance Port Authority into the SPA under
27 clause 3(1);

28 **merger time** means the time at which section 31(1) of the
29 amending Act comes into operation;

30 **merging authority** means the Albany Port Authority or the
31 Esperance Port Authority;

32 **new board** means the board of directors established under
33 clause 4(3);

- 1 **SPA** means the continuing authority as renamed as the
2 Southern Ports Authority by operation of section 31(1)(a) of
3 the amending Act;
4 **transitional regulations** has the meaning given in
5 clause 15(1).
- 6 **3. Merger of Albany Port Authority and Esperance Port**
7 **Authority into Southern Ports Authority**
- 8 (1) At the merger time the Albany Port Authority and the
9 Esperance Port Authority cease to be port authorities under
10 this Act and merge into the SPA.
- 11 (2) From the merger time the SPA is a continuation of each of
12 the merging authorities.
- 13 **4. Directors and former directors**
- 14 (1) Immediately before the merger time a person then holding
15 office as a director of a merging authority or the continuing
16 authority ceases to hold that office.
- 17 (2) From the merger time —
- 18 (a) a former director of a merging authority is to be
19 taken to be a former director of the SPA for the
20 purposes of the *Statutory Corporations (Liability of*
21 *Directors) Act 1996*; and
- 22 (b) a former director of the continuing authority is a
23 former director of the SPA for the purposes of the
24 *Statutory Corporations (Liability of Directors)*
25 *Act 1996*.
- 26 (3) The board of directors of the SPA may be established by the
27 appointment of directors before the merger time.
- 28 (4) For the purposes of Schedule 2 clause 1 the term of office of
29 a director appointed under subclause (3) does not begin until
30 the merger time.
- 31 (5) Nothing in this Schedule prevents a person who is a director
32 of an existing port authority from being appointed under
33 subclause (3).

- 1 **5. Powers of new board in anticipation of merger**
- 2 (1) The new board may —
- 3 (a) perform the functions of the board of directors of a
- 4 port authority for the purpose of providing for,
- 5 implementing or facilitating the merger; and
- 6 (b) do anything that is prescribed by transitional
- 7 regulations and anything else that may be necessary
- 8 or expedient to provide for, implement or facilitate
- 9 the merger.
- 10 (2) The matters that the new board can deal with in performing
- 11 its functions under subclause (1)(a) include, but are not
- 12 limited to, matters set out in clause 48.
- 13 (3) For the purposes of subclause (1) the new board may incur
- 14 costs for which the continuing authority is liable.
- 15 **6. CEOs and members of staff**
- 16 (1) Immediately before the merger time a person then holding
- 17 office as the CEO of the continuing authority or a merging
- 18 authority ceases to hold that office.
- 19 (2) At the merger time, a person who was —
- 20 (a) the CEO of the continuing authority; or
- 21 (b) the CEO or a member of staff of a merging
- 22 authority,
- 23 immediately before the merger time becomes a member of
- 24 staff of the SPA.
- 25 (3) The operation of subclause (1) or (2) does not constitute a
- 26 retrenchment or redundancy.
- 27 (4) Before the merger time the continuing authority or a
- 28 merging authority may, by negotiation with its CEO or a
- 29 member of its staff and in consultation with the new
- 30 board —
- 31 (a) terminate the contract of employment of the CEO or
- 32 member of staff; or

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- 1 (b) arrange for and accept the resignation of the CEO or
2 member of staff.
- 3 (5) The powers of the new board under clause 5 include the
4 power to appoint a person as the CEO of the SPA before the
5 merger time.
- 6 (6) Until the merger time a person appointed under
7 subclause (5) may, as CEO of the SPA, perform any
8 function of a CEO of a port authority for the purpose of
9 providing for, implementing or facilitating the merger.
- 10 **7. Preservation of rights**
- 11 (1) Except as otherwise agreed by the relevant CEO or member
12 of staff, the operation of clause 6(1) or (2) does not —
- 13 (a) affect his or her remuneration; or
14 (b) affect his or her existing or accruing rights in
15 respect of annual leave, long service leave, sick
16 leave or any other leave; or
17 (c) affect any rights under a superannuation scheme; or
18 (d) interrupt the continuity of his or her service.
- 19 (2) For the purposes of subclause (1)(d), the service of a CEO
20 or member of staff with a merging authority is to be taken to
21 have been with the SPA.
- 22 (3) If a person who is the CEO or a member of staff of the
23 continuing authority or a merging authority is appointed
24 under clause 6(5), the appointment does not —
- 25 (a) affect his or her existing or accruing rights in
26 respect of annual leave, long service leave, sick
27 leave or any other leave; or
28 (b) affect any rights under a superannuation scheme; or
29 (c) interrupt the continuity of his or her service,
- 30 and, if the person was the CEO or a member of staff of a
31 merging authority, his or her service with the merging
32 authority is to be taken, for the purposes of paragraph (c), to
33 have been with the SPA.

- 1 (4) Nothing in clause 6 or this clause prevents the exercise by
2 the SPA of its powers in relation to the management of
3 members of staff.
- 4 **8. Devolution of assets, liabilities, proceedings, remedies**
5 **and immunities**
- 6 (1) At the merger time —
- 7 (a) the assets and rights of a merging authority that
8 were immediately before that time vested in or the
9 property of the merging authority vest in or become
10 the property of the SPA by force of this clause; and
- 11 (b) the liabilities of a merging authority immediately
12 before that time become, by force of this clause, the
13 liabilities of the SPA.
- 14 (2) For the purposes of section 26, property referred to in
15 section 25(2)(a) that becomes the property of the SPA by
16 force of subclause (1)(a) continues to be regarded as
17 property referred to in section 25(2)(a).
- 18 (3) In determining the net profits of the SPA for the purposes of
19 section 84, assets that become the property of the SPA by
20 force of subclause (1)(a) are not to be regarded as income.
- 21 (4) From the merger time, any proceedings or remedy that,
22 immediately before that time, might have been brought or
23 continued by or available against or to a merging authority
24 may be brought or continued by, and are or is available
25 against or to, the SPA.
- 26 (5) Where a merging authority had the benefit of any immunity
27 in respect of an act, matter or thing done or omitted before
28 the merger time, that immunity continues in that respect for
29 the benefit of the SPA.
- 30 (6) As soon as is practicable after the merger time, all papers,
31 documents, minutes, books of account and other records
32 (however compiled, recorded or stored) relating to the
33 operations of a merging authority are to be delivered to
34 the SPA.

- 1 **9. Completion of things commenced**
- 2 Anything commenced to be done by a merging authority
- 3 before the merger time may be continued by the SPA.
- 4 **10. Continuing effect of things done**
- 5 (1) In this clause —
- 6 *relevant act* means an act, matter or thing done or omitted to
- 7 be done before the merger time by, to or in respect of a
- 8 merging authority.
- 9 (2) To the extent that a relevant act has force or significance at
- 10 the merger time it is to be taken, from the merger time, to
- 11 have been done or omitted by, to or in respect of the SPA so
- 12 far as the act, matter or thing is relevant to the SPA.
- 13 (3) This clause does not affect the operation of any other
- 14 provision of this Schedule.
- 15 **11. Agreements, instruments and documents**
- 16 (1) In this clause —
- 17 *former name* means “Bunbury Port Authority”;
- 18 *new name* means “Southern Ports Authority”;
- 19 *subsisting*, in relation to an agreement, instrument or
- 20 document, means subsisting immediately before the merger
- 21 time.
- 22 (2) A subsisting agreement, instrument or document that
- 23 contains a reference to the SPA by its former name has
- 24 effect from the merger time as if that reference were
- 25 amended to be a reference to the SPA by its new name.
- 26 (3) Subclause (2) does not apply to an agreement or instrument
- 27 to which the continuing authority was a party.
- 28 (4) If the continuing authority was a party to a subsisting
- 29 agreement or instrument then, from the merger time —
- 30 (a) the SPA is a party to the agreement or instrument
- 31 under its new name; and

- 1 (b) the agreement or instrument has effect as if a
2 reference in it to the SPA by its former name were
3 amended to be a reference to the SPA by its new
4 name.
- 5 (5) A subsisting agreement, instrument or document that
6 contains a reference to a merging authority has effect from
7 the merger time as if that reference were amended to be or
8 include a reference to the SPA.
- 9 (6) Subclause (5) does not apply to an agreement or instrument
10 to which a merging authority was a party.
- 11 (7) A subsisting agreement or instrument to which a merging
12 authority was a party has effect from the merger time as
13 if —
- 14 (a) the SPA were substituted for the merging authority
15 as a party to the agreement or instrument; and
- 16 (b) a reference to the merging authority in the
17 agreement or instrument were amended to be a
18 reference to the SPA.
- 19 (8) Subclause (2), (4)(b), (5) or (7)(b) does not apply to a
20 reference if —
- 21 (a) transitional regulations provide otherwise; or
- 22 (b) that application would be inappropriate in the
23 context in which the reference occurs.
- 24 **12. Port authorities to implement or facilitate merger and**
25 **share costs**
- 26 (1) A port authority is to do anything that is prescribed by
27 transitional regulations and anything else that may be
28 necessary or expedient to provide for, implement or
29 facilitate the merger.
- 30 (2) Subclause (1) applies —
- 31 (a) before the merger time — to the merging authorities
32 and the continuing authority; and
- 33 (b) after the merger time — to the SPA.

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- 1 (3) The function conferred by subclause (1) is in addition to any
2 other function that a port authority has.
- 3 (4) The following amounts payable before the merger time are
4 to be paid out of the funds of the continuing authority —
- 5 (a) any remuneration or allowances payable to a
6 director appointed under clause 4(3);
- 7 (b) any remuneration payable to a person appointed
8 under clause 6(5);
- 9 (c) the costs of the appointment process under
10 clause 6(5);
- 11 (d) any other costs incurred by the new board under
12 clause 5.
- 13 (5) Each of the merging authorities is to make a contribution to
14 the continuing authority of one-third (or such other
15 proportion as is agreed) of the amounts paid by the
16 continuing authority in respect of —
- 17 (a) remuneration or costs mentioned in subclause (4)(a)
18 to (c); and
- 19 (b) costs mentioned in subclause (4)(d) to the extent
20 that they were reasonably incurred.
- 21 (6) Any dispute as to —
- 22 (a) a contribution to be made under subclause (5); or
23 (b) the relevance or amount of a cost mentioned in
24 subclause (4)(d),
- 25 may be referred to the Minister whose determination on the
26 matter is final and the continuing authority and merging
27 authorities are to have regard and give effect to the
28 determination.

29 **13. Financial reporting**

- 30 (1) In this clause —
- 31 *former directors* of a merging authority means the persons
32 holding office as directors of the merging authority
33 immediately before the merger time;

- 1 **reporting board**, in relation to a merging authority, means
2 the reporting board constituted for the merging authority
3 under subclause (2);
- 4 **reporting provisions** means sections 68 and 69, Schedule 5
5 Division 3 Subdivision 1 and Schedule 5 clauses 34 and 35.
- 6 (2) A reporting board is constituted by force of this clause to
7 perform the duties set out in this clause in respect of a
8 merging authority.
- 9 (3) The constitution of a reporting board under subclause (2)
10 has effect for a period of 3 months commencing at the
11 merger time but that period may be extended by the Minister
12 if the Minister considers that the extension is needed in
13 order to enable the reporting board to perform its duties
14 under this clause.
- 15 (4) If the merger time coincides with the end of a financial year
16 of a merging authority, the reporting board for the merging
17 authority is to comply with the reporting provisions in
18 respect of the merging authority for that financial year.
- 19 (5) If the merger time is after the end of a financial year of a
20 merging authority (the **last financial year**), the reporting
21 board for the merging authority is to —
- 22 (a) comply with the reporting provisions in respect of
23 the merging authority to the extent that those
24 provisions have not been complied with for the last
25 financial year; and
- 26 (b) comply with the reporting provisions in respect of
27 the merging authority for the period starting from
28 the end of the last financial year and ending at the
29 merger time as if that period were a financial year.
- 30 (6) A reporting board must comply with any written directions
31 given to it by the Minister as to the performance of its duties
32 under this clause.

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- 1 (7) In order to enable a reporting board to perform its duties
2 under this clause the reporting provisions apply with —
3 (a) any modifications prescribed by transitional
4 regulations; or
5 (b) any other appropriate modifications.
- 6 (8) For the purposes of this clause, a reporting board —
7 (a) is entitled to be provided with reasonable assistance
8 and facilities and to have full and free access at all
9 reasonable times to all accounts, and any other
10 information, documents and records, that the
11 reporting board considers necessary for those
12 purposes; and
13 (b) may make copies of, or take extracts from, any of
14 those accounts, documents or records or make a
15 record of any of that information.
- 16 (9) A person who has possession of any accounts, information,
17 documents or records of the kind referred to in
18 subclause (8)(a) must at any reasonable time, on the request
19 of the reporting board, produce any of those accounts,
20 documents or records, or any of that information, specified
21 in the request.
22 Penalty: a fine of \$10 000.
- 23 (10) Subject to subclauses (11) to (13), the provisions of this Act
24 that apply to the board of directors of a port authority and
25 those directors (other than sections 7(1) and 8 and
26 Schedule 2 clause 1(1), (3) and (4)) apply, with any
27 modifications that may be necessary or appropriate, to a
28 reporting board and its members.
- 29 (11) The former directors of a merging authority are to hold
30 office as members of the reporting board of the merging
31 authority for as long as the reporting board remains
32 constituted under subclause (2).
- 33 (12) If the office of a member of a reporting board becomes
34 vacant the Minister may appoint a replacement member to
35 hold office for as long as the reporting board remains
36 constituted under subclause (2).

- 1 (13) Any remuneration or allowances payable to a member of a
2 reporting board are to be paid from the funds of the SPA.
- 3 (14) A member of a reporting board is to be taken to be a director
4 of the SPA for the purposes of the *Statutory Corporations*
5 *(Liability of Directors) Act 1996*.
- 6 **14. Dividends**
- 7 (1) In this clause —
8 *dividend function* means a function of a port authority or its
9 board under section 84.
- 10 (2) If immediately before the merger time a dividend function
11 has yet to be performed by a merging authority or its board,
12 the SPA or its board is to perform the function after the
13 merger time as if the SPA were the merging authority.
- 14 (3) If the merger time coincides with the end of a financial year
15 of a merging authority, the SPA or its board is to perform
16 the dividend functions in relation to that financial year as if
17 the SPA were the merging authority.
- 18 (4) Any amount that has to be paid to the Treasurer in
19 accordance with subclause (2) or (3) is to be paid from the
20 funds of the SPA.
- 21 **15. Transitional regulations**
- 22 (1) Regulations (*transitional regulations*) may prescribe —
23 (a) things to be done by a port authority, or the new
24 board, to provide for, implement or facilitate the
25 merger; and
26 (b) anything necessary or expedient to be prescribed for
27 providing for a matter or issue of a transitional
28 nature that arises in relation to the merger.
- 29 (2) Transitional regulations may provide that specific provisions
30 of any written law —
31 (a) do not apply to or in relation to any matter; or
32 (b) apply with specific modifications to or in relation to
33 any matter.

- 1 (3) If transitional regulations provide that a state of affairs
2 specified or described in the regulations is to be taken to
3 have existed, or not to have existed, at and from a time that
4 is earlier than the day on which the regulations are published
5 in the *Gazette* but not earlier than the merger time, the
6 regulations have effect according to their terms.

7 **Subdivision 3 — Provisions for the Mid West Ports Authority**

8 **16. Terms used**

9 In this Subdivision, unless the contrary intention appears —
10 *MWPA* means the port authority as renamed as the Mid
11 West Ports Authority by operation of section 31(2) of the
12 amending Act;

13 *new board* means the board of directors established under
14 clause 17(3);

15 *port authority* means the Geraldton Port Authority;

16 *renaming* means the action effected by the coming into
17 operation of section 31(2) of the amending Act;

18 *renaming time* means the time at which section 31(2) of the
19 amending Act comes into operation;

20 *transitional regulations* has the meaning given in
21 clause 22(1).

22 **17. Directors and former directors**

23 (1) Immediately before the renaming time a person then holding
24 office as a director of the port authority ceases to hold that
25 office.

26 (2) From the renaming time a former director of the port
27 authority is a former director of the MWPA for the purposes
28 of the *Statutory Corporations (Liability of Directors)*
29 *Act 1996*.

30 (3) The board of directors of the MWPA may be established by
31 the appointment of directors before the renaming time.

- 1 (4) For the purposes of Schedule 2 clause 1, the term of office
2 of a director appointed under subclause (3) does not begin
3 until the renaming time.
- 4 (5) Nothing in this Schedule prevents a person who is a director
5 of an existing port authority from being appointed under
6 subclause (3).
- 7 **18. Powers of new board in anticipation of renaming**
- 8 (1) The new board may —
- 9 (a) perform the functions of the board of directors of a
10 port authority for the purpose of providing for,
11 implementing or facilitating the renaming; and
- 12 (b) do anything that is prescribed by transitional
13 regulations and anything else that may be necessary
14 or expedient to provide for, implement or facilitate
15 the renaming.
- 16 (2) The matters that the new board can deal with in performing
17 its functions under subclause (1)(a) include, but are not
18 limited to, matters set out in clause 48 to the extent that they
19 are relevant to the renaming.
- 20 (3) For the purposes of subclause (1) the new board may incur
21 costs for which the port authority is liable.
- 22 **19. CEO and staff**
- 23 (1) Immediately before the renaming time a person then holding
24 office as the CEO of the port authority ceases to hold that
25 office.
- 26 (2) At the renaming time, a person who was the CEO of the port
27 authority immediately before the renaming time becomes a
28 member of staff of the MWPA.
- 29 (3) The operation of subclause (1) or (2) does not constitute a
30 retrenchment or redundancy.

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- 1 (4) Before the renaming time the port authority may, by
2 negotiation with its CEO or a member of its staff and in
3 consultation with the new board —
- 4 (a) terminate the contract of employment of the CEO or
5 member of staff; or
- 6 (b) arrange for and accept the resignation of the CEO or
7 member of staff.
- 8 (5) The powers of the new board under clause 18 include the
9 power to appoint a person as the CEO of the MWPA before
10 the renaming time.
- 11 (6) Until the renaming time a person appointed under
12 subclause (5) may, as CEO of the MWPA, perform any
13 function of a CEO of a port authority for the purpose of
14 providing for, implementing or facilitating the renaming.
- 15 (7) If a person who is the CEO or a member of staff of the port
16 authority is appointed under subclause (5) the appointment
17 does not —
- 18 (a) affect his or her existing or accruing rights in
19 respect of annual leave, long service leave, sick
20 leave or any other leave; or
- 21 (b) affect any rights under a superannuation scheme; or
22 (c) interrupt the continuity of his or her service.

23 **20. Agreements, instruments and documents**

- 24 (1) In this clause —
25 *former name* means “Geraldton Port Authority”;
26 *new name* means “Mid West Ports Authority”.
- 27 (2) A subsisting agreement, instrument or document that
28 contains a reference to the MWPA by its former name has
29 effect from the renaming time as if that reference were
30 amended to be a reference to the MWPA by its new name.
- 31 (3) Subclause (2) does not apply to an agreement or instrument
32 to which the port authority was a party.

- 1 (4) If the port authority was a party to a subsisting agreement or
2 instrument then, from the renaming time —
- 3 (a) the MWPA is a party to the agreement or
4 instrument under its new name; and
- 5 (b) the agreement or instrument has effect as if a
6 reference in it to the MWPA by its former name
7 were amended to be a reference to the MWPA by its
8 new name.
- 9 (5) Subclause (2) or (4)(b) does not apply to a reference if —
- 10 (a) transitional regulations provide otherwise; or
- 11 (b) that application would be inappropriate in the
12 context in which the reference occurs.

13 **21. Port authority to implement or facilitate renaming**

- 14 (1) Anything that is prescribed by transitional regulations, and
15 anything else that may be necessary or expedient to provide
16 for, implement or facilitate the renaming, is to be done —
- 17 (a) before the renaming time — by the port authority;
18 and
- 19 (b) after the renaming time — by the MWPA.
- 20 (2) The function conferred by subclause (1) is in addition to any
21 other function that a port authority has.
- 22 (3) The following amounts payable before the renaming time
23 are to be paid out of the funds of the port authority —
- 24 (a) any remuneration or allowances payable to a
25 director appointed under clause 17(3);
- 26 (b) any remuneration payable to a person appointed
27 under clause 19(5);
- 28 (c) the costs of the appointment process under
29 clause 19(5);
- 30 (d) any other costs incurred by the new board under
31 clause 18.

- 1 **22. Transitional regulations**
- 2 (1) Regulations (*transitional regulations*) may prescribe —
- 3 (a) things to be done by the port authority, the new
- 4 board or the MWPA to provide for, implement or
- 5 facilitate the renaming; and
- 6 (b) anything necessary or expedient to be prescribed for
- 7 providing for a matter or issue of a transitional
- 8 nature that arises in relation to the renaming.
- 9 (2) Transitional regulations may provide that specific provisions
- 10 of any written law —
- 11 (a) do not apply to or in relation to any matter; or
- 12 (b) apply with specific modifications to or in relation to
- 13 any matter.
- 14 (3) If transitional regulations provide that a state of affairs
- 15 specified or described in the regulations is to be taken to
- 16 have existed, or not to have existed, at and from a time that
- 17 is earlier than the day on which the regulations are published
- 18 in the *Gazette* but not earlier than the renaming time, the
- 19 regulations have effect according to their terms.

20 **Subdivision 4 — Provisions for the Pilbara Ports Authority**

21 **23. Terms used**

22 In this Subdivision —

23 *continuing authority* means the Port Hedland Port

24 Authority;

25 *merger* means —

26 (a) the actions effected by the coming into operation of

27 section 31(3) of the amending Act; and

28 (b) the merging of the Dampier Port Authority into the

29 PPA under clause 24(1);

30 *merger time* means the time at which section 31(3) of the

31 amending Act comes into operation;

32 *merging authority* means the Dampier Port Authority;

1 **new board** means the board of directors established under
2 clause 25(3);

3 **PPA** means the continuing authority as renamed as the
4 Pilbara Ports Authority by operation of section 31(3)(b) of
5 the amending Act;

6 **transitional regulations** has the meaning given in
7 clause 36(1).

8 **24. Merger of Dampier Port Authority into Pilbara Ports**
9 **Authority**

10 (1) At the merger time the Dampier Port Authority ceases to be
11 a port authority under this Act and merges into the PPA.

12 (2) From the merger time the PPA is a continuation of the
13 merging authority.

14 **25. Directors and former directors**

15 (1) Immediately before the merger time a person then holding
16 office as a director of the merging authority or the
17 continuing authority ceases to hold that office.

18 (2) From the merger time —

19 (a) a former director of the merging authority is to be
20 taken to be a former director of the PPA for the
21 purposes of the *Statutory Corporations (Liability of*
22 *Directors) Act 1996*; and

23 (b) a former director of the continuing authority is a
24 former director of the PPA for the purposes of the
25 *Statutory Corporations (Liability of Directors)*
26 *Act 1996*.

27 (3) The board of directors of the PPA may be established by the
28 appointment of directors before the merger time.

29 (4) For the purposes of Schedule 2 clause 1, the term of office
30 of a director appointed under subclause (3) does not begin
31 until the merger time.

- 1 (5) Nothing in this Schedule prevents a person who is a director
2 of an existing port authority from being appointed under
3 subclause (3).
- 4 **26. Powers of new board in anticipation of merger**
- 5 (1) The new board may —
- 6 (a) perform the functions of the board of directors of a
7 port authority for the purpose of providing for,
8 implementing or facilitating the merger; and
- 9 (b) do anything that is prescribed by transitional
10 regulations and anything else that may be necessary
11 or expedient to provide for, implement or facilitate
12 the merger.
- 13 (2) The matters that the new board can deal with in performing
14 its functions under subclause (1)(a) include, but are not
15 limited to, matters set out in clause 48.
- 16 (3) For the purposes of subclause (1) the new board may incur
17 costs for which the continuing authority is liable.
- 18 **27. CEOs and members of staff**
- 19 (1) Immediately before the merger time a person then holding
20 office as the CEO of the continuing authority or the merging
21 authority ceases to hold that office.
- 22 (2) At the merger time, a person who was —
- 23 (a) the CEO of the continuing authority; or
24 (b) the CEO or a member of staff of the merging
25 authority,
- 26 immediately before the merger time becomes a member of
27 staff of the PPA.
- 28 (3) The operation of subclause (1) or (2) does not constitute a
29 retrenchment or redundancy.
- 30 (4) Before the merger time the continuing authority or the
31 merging authority may, by negotiation with its CEO or a

- 1 member of its staff and in consultation with the new
2 board —
- 3 (a) terminate the contract of employment of the CEO or
4 member of staff; or
- 5 (b) arrange for and accept the resignation of the CEO or
6 member of staff.
- 7 (5) The powers of the new board under clause 26 include the
8 power to appoint a person as the CEO of the PPA before the
9 merger time.
- 10 (6) Until the merger time a person appointed under
11 subclause (5) may, as CEO of the PPA, perform any
12 function of a CEO of a port authority for the purpose of
13 providing for, implementing or facilitating the merger.
- 14 **28. Preservation of rights**
- 15 (1) Except as otherwise agreed by the relevant CEO or member
16 of staff, the operation of clause 27(1) or (2) does not —
- 17 (a) affect his or her remuneration; or
18 (b) affect his or her existing or accruing rights in
19 respect of annual leave, long service leave, sick
20 leave or any other leave; or
21 (c) affect any rights under a superannuation scheme; or
22 (d) interrupt the continuity of his or her service.
- 23 (2) For the purposes of subclause (1)(d), the service of a CEO
24 or member of staff with the merging authority is to be taken
25 to have been with the PPA.
- 26 (3) If a person who is the CEO or a member of staff of the
27 continuing authority or the merging authority is appointed
28 under clause 27(5), the appointment does not —
- 29 (a) affect his or her existing or accruing rights in
30 respect of annual leave, long service leave, sick
31 leave or any other leave; or
32 (b) affect any rights under a superannuation scheme; or

- 1 (c) interrupt the continuity of his or her service,
2 and, if the person was the CEO or a member of staff of the
3 merging authority, his or her service with the merging
4 authority is to be taken, for the purposes of paragraph (c), to
5 have been with the PPA.
- 6 (4) Nothing in clause 27 or this clause prevents the exercise by
7 the PPA of its powers in relation to the management of
8 members of staff.
- 9 **29. Devolution of assets, liabilities, proceedings, remedies**
10 **and immunities**
- 11 (1) At the merger time —
- 12 (a) the assets and rights of the merging authority that
13 were immediately before that time vested in or the
14 property of the merging authority vest in or become
15 the property of the PPA by force of this clause; and
- 16 (b) the liabilities of the merging authority immediately
17 before that time become, by force of this clause, the
18 liabilities of the PPA.
- 19 (2) For the purposes of section 26, property referred to in
20 section 25(2)(a) that becomes the property of the PPA by
21 force of subclause (1)(a) continues to be regarded as
22 property referred to in section 25(2)(a).
- 23 (3) In determining the net profits of the PPA for the purposes of
24 section 84, assets that become the property of the PPA by
25 force of subclause (1)(a) are not to be regarded as income.
- 26 (4) From the merger time, any proceedings or remedy that,
27 immediately before that time, might have been brought or
28 continued by or available against or to the merging authority
29 may be brought or continued by, and are or is available
30 against or to, the PPA.
- 31 (5) Where the merging authority had the benefit of any
32 immunity in respect of an act, matter or thing done or
33 omitted before the merger time, that immunity continues in
34 that respect for the benefit of the PPA.

1 (6) As soon as is practicable after the merger time, all papers,
2 documents, minutes, books of account and other records
3 (however compiled, recorded or stored) relating to the
4 operations of the merging authority are to be delivered to
5 the PPA.

6 **30. Completion of things commenced**

7 Anything commenced to be done by the merging authority
8 before the merger time may be continued by the PPA.

9 **31. Continuing effect of things done**

10 (1) In this clause —

11 *relevant act* means an act, matter or thing done or omitted to
12 be done before the merger time by, to or in respect of the
13 merging authority.

14 (2) To the extent that a relevant act has force or significance at
15 the merger time it is to be taken, from the merger time, to
16 have been done or omitted by, to or in respect of the PPA so
17 far as the act, matter or thing is relevant to the PPA.

18 (3) This clause does not affect the operation of any other
19 provision of this Schedule.

20 **32. Agreements, instruments and documents**

21 (1) In this clause —

22 *former name* means “Port Hedland Port Authority”;

23 *new name* means “Pilbara Ports Authority”;

24 *subsisting*, in relation to an agreement, instrument or
25 document, means subsisting immediately before the merger
26 time.

27 (2) A subsisting agreement, instrument or document that
28 contains a reference to the PPA by its former name has
29 effect from the merger time as if that reference were
30 amended to be a reference to the PPA by its new name.

31 (3) Subclause (2) does not apply to an agreement or instrument
32 to which the continuing authority was a party.

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- 1 (4) If the continuing authority was a party to a subsisting
2 agreement or instrument then, from the merger time —
3 (a) the PPA is a party to the agreement or instrument
4 under its new name; and
5 (b) the agreement or instrument has effect as if a
6 reference in it to the PPA by its former name were
7 amended to be a reference to the PPA by its new
8 name.
- 9 (5) A subsisting agreement, instrument or document that
10 contains a reference to the merging authority has effect from
11 the merger time as if that reference were amended to be or
12 include a reference to the PPA.
- 13 (6) Subclause (5) does not apply to an agreement or instrument
14 to which the merging authority was a party.
- 15 (7) A subsisting agreement or instrument to which the merging
16 authority was a party has effect from the merger time as
17 if —
18 (a) the PPA were substituted for the merging authority
19 as a party to the agreement or instrument; and
20 (b) a reference to the merging authority in the
21 agreement or instrument were amended to be a
22 reference to the PPA.
- 23 (8) Subclause (2), (4)(b), (5) or (7)(b) does not apply to a
24 reference if —
25 (a) transitional regulations provide otherwise; or
26 (b) that application would be inappropriate in the
27 context in which the reference occurs.

28 **33. Port authorities to implement or facilitate merger and**
29 **share costs**

- 30 (1) A port authority is to do anything that is prescribed by
31 transitional regulations and anything else that may be
32 necessary or expedient to provide for, implement or
33 facilitate the merger.

- 1 (2) Subclause (1) applies —
- 2 (a) before the merger time — to the merging authority
- 3 and the continuing authority; and
- 4 (b) after the merger time — to the PPA.
- 5 (3) The function conferred by subclause (1) is in addition to any
- 6 other function that a port authority has.
- 7 (4) The following amounts payable before the merger time are
- 8 to be paid out of the funds of the continuing authority —
- 9 (a) any remuneration or allowances payable to a
- 10 director appointed under clause 25(3);
- 11 (b) any remuneration payable to a person appointed
- 12 under clause 27(5);
- 13 (c) the costs of the appointment process under
- 14 clause 27(5);
- 15 (d) any other costs incurred by the new board under
- 16 clause 26.
- 17 (5) The merging authority is to make a contribution to the
- 18 continuing authority of one-half (or such other proportion as
- 19 is agreed) of the amounts paid by the continuing authority in
- 20 respect of —
- 21 (a) remuneration or costs mentioned in subclause (4)(a)
- 22 to (c); and
- 23 (b) costs mentioned in subclause (4)(d) to the extent
- 24 that they were reasonably incurred.
- 25 (6) Any dispute as to —
- 26 (a) a contribution to be made under subclause (5); or
- 27 (b) the relevance or amount of a cost mentioned in
- 28 subclause (4)(d),
- 29 may be referred to the Minister whose determination on the
- 30 matter is final and the continuing authority and merging
- 31 authority are to have regard and give effect to the
- 32 determination.

- 1 **34. Financial reporting**
- 2 (1) In this clause —
- 3 *former directors* of the merging authority means the persons
- 4 holding office as directors of the merging authority
- 5 immediately before the merger time;
- 6 *reporting board* means the reporting board constituted for
- 7 the merging authority under subclause (2);
- 8 *reporting provisions* means sections 68 and 69, Schedule 5
- 9 Division 3 Subdivision 1 and Schedule 5 clauses 34 and 35.
- 10 (2) A reporting board is constituted by force of this clause to
- 11 perform the duties set out in this clause in respect of the
- 12 merging authority.
- 13 (3) The constitution of the reporting board under subclause (2)
- 14 has effect for a period of 3 months commencing at the
- 15 merger time but that period may be extended by the Minister
- 16 if the Minister considers that the extension is needed in
- 17 order to enable the reporting board to perform its duties
- 18 under this clause.
- 19 (4) If the merger time coincides with the end of a financial year
- 20 of the merging authority, the reporting board is to comply
- 21 with the reporting provisions in respect of the merging
- 22 authority for that financial year.
- 23 (5) If the merger time is after the end of a financial year of the
- 24 merging authority (the *last financial year*), the reporting
- 25 board is to —
- 26 (a) comply with the reporting provisions in respect of
- 27 the merging authority to the extent that those
- 28 provisions have not been complied with for the last
- 29 financial year; and
- 30 (b) comply with the reporting provisions in respect of
- 31 the merging authority for the period starting from
- 32 the end of the last financial year and ending at the
- 33 merger time as if that period were a financial year.

- 1 (6) The reporting board must comply with any written
2 directions given to it by the Minister as to the performance
3 of its duties under this clause.
- 4 (7) In order to enable the reporting board to perform its duties
5 under this clause the reporting provisions apply with —
6 (a) any modifications prescribed by transitional
7 regulations; or
8 (b) any other appropriate modifications.
- 9 (8) For the purposes of this clause, the reporting board —
10 (a) is entitled to be provided with reasonable assistance
11 and facilities and to have full and free access at all
12 reasonable times to all accounts, and any other
13 information, documents and records, that the
14 reporting board considers necessary for those
15 purposes; and
16 (b) may make copies of, or take extracts from, any of
17 those accounts, documents or records or make a
18 record of any of that information.
- 19 (9) A person who has possession of any accounts, information,
20 documents or records of the kind referred to in
21 subclause (8)(a) must at any reasonable time, on the request
22 of the reporting board, produce any of those accounts,
23 documents or records, or any of that information, specified
24 in the request.
25 Penalty: a fine of \$10 000.
- 26 (10) Subject to subclauses (11) to (13), the provisions of this Act
27 that apply to the board of directors of a port authority and
28 those directors (other than sections 7(1) and 8 and
29 Schedule 2 clause 1(1), (3) and (4)) apply, with any
30 modifications that may be necessary or appropriate, to the
31 reporting board and its members.
- 32 (11) The former directors of the merging authority are to hold
33 office as members of the reporting board for as long as the
34 reporting board remains constituted under subclause (2).

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- 1 (12) If the office of a member of the reporting board becomes
2 vacant the Minister may appoint a replacement member to
3 hold office for as long as the reporting board remains
4 constituted under subclause (2).
- 5 (13) Any remuneration or allowances payable to a member of the
6 reporting board are to be paid from the funds of the PPA.
- 7 (14) A member of the reporting board is to be taken to be a
8 director of the PPA for the purposes of the *Statutory*
9 *Corporations (Liability of Directors) Act 1996*.

10 **35. Dividends**

- 11 (1) In this clause —
12 *dividend function* means a function of a port authority or its
13 board under section 84.
- 14 (2) If immediately before the merger time a dividend function
15 has yet to be performed by the merging authority or its
16 board, the PPA or its board is to perform the function after
17 the merger time as if the PPA were the merging authority.
- 18 (3) If the merger time coincides with the end of a financial year
19 of the merging authority, the PPA or its board is to perform
20 the dividend functions in relation to that financial year as if
21 the PPA were the merging authority.
- 22 (4) Any amount that has to be paid to the Treasurer in
23 accordance with subclause (2) or (3) is to be paid from the
24 funds of the PPA.

25 **36. Transitional regulations**

- 26 (1) Regulations (*transitional regulations*) may prescribe —
27 (a) things to be done by a port authority, or the new
28 board, to provide for, implement or facilitate the
29 merger; and
30 (b) anything necessary or expedient to be prescribed for
31 providing for a matter or issue of a transitional
32 nature that arises in relation to the merger.

- 1 (2) Transitional regulations may provide that specific provisions
2 of any written law —
3 (a) do not apply to or in relation to any matter; or
4 (b) apply with specific modifications to or in relation to
5 any matter.
- 6 (3) If transitional regulations provide that a state of affairs
7 specified or described in the regulations is to be taken to
8 have existed, or not to have existed, at and from a time that
9 is earlier than the day on which the regulations are published
10 in the *Gazette* but not earlier than the merger time, the
11 regulations have effect according to their terms.

12 **Subdivision 5 — Provisions for the Kimberley Ports Authority**

13 **37. Terms used**

14 In this Subdivision —

15 **KPA** means the port authority as renamed as the Kimberley
16 Ports Authority by operation of section 31(4) of the
17 amending Act;

18 **new board** means the board of directors established under
19 clause 38(3);

20 **port authority** means the Broome Port Authority;

21 **renaming** means the action effected by the coming into
22 operation of section 31(4) of the amending Act;

23 **renaming time** means the time at which section 31(4) of the
24 amending Act comes into operation;

25 **transitional regulations** has the meaning given in
26 clause 43(1).

27 **38. Directors and former directors**

28 (1) Immediately before the renaming time a person then holding
29 office as a director of the port authority ceases to hold that
30 office.

31 (2) From the renaming time a former director of the port
32 authority is a former director of the KPA for the purposes of
33 the *Statutory Corporations (Liability of Directors) Act 1996*.

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- 1 (3) The board of directors of the KPA may be established by the
2 appointment of directors before the renaming time.
- 3 (4) For the purposes of Schedule 2 clause 1 the term of office of
4 a director appointed under subclause (3) does not begin until
5 the renaming time.
- 6 (5) Nothing in this Schedule prevents a person who is a director
7 of an existing port authority from being appointed under
8 subclause (3).

9 **39. Powers of new board in anticipation of renaming**

- 10 (1) The new board may —
- 11 (a) perform the functions of the board of directors of a
12 port authority for the purpose of providing for,
13 implementing or facilitating the renaming; and
- 14 (b) do anything that is prescribed by transitional
15 regulations and anything else that may be necessary
16 or expedient to provide for, implement or facilitate
17 the renaming.
- 18 (2) The matters that the new board can deal with in performing
19 its functions under subclause (1)(a) include, but are not
20 limited to, matters set out in clause 48 to the extent that they
21 are relevant to the renaming.
- 22 (3) For the purposes of subclause (1) the new board may incur
23 costs for which the port authority is liable.

24 **40. CEO and staff**

- 25 (1) Immediately before the renaming time a person then holding
26 office as the CEO of the port authority ceases to hold that
27 office.
- 28 (2) At the renaming time, a person who was the CEO of the port
29 authority immediately before the renaming time becomes a
30 member of staff of the KPA.
- 31 (3) The operation of subclause (1) or (2) does not constitute a
32 retrenchment or redundancy.

- 1 (4) Before the renaming time the port authority may, by
2 negotiation with its CEO or a member of its staff and in
3 consultation with the new board —
- 4 (a) terminate the contract of employment of the CEO or
5 member of staff; or
- 6 (b) arrange for and accept the resignation of the CEO or
7 member of staff.
- 8 (5) The powers of the new board under clause 39 include the
9 power to appoint a person as the CEO of the KPA before the
10 renaming time.
- 11 (6) Until the renaming time a person appointed under
12 subclause (5) may, as CEO of the KPA, perform any
13 function of a CEO of a port authority for the purpose of
14 providing for, implementing or facilitating the renaming.
- 15 (7) If a person who is the CEO or a member of staff of the port
16 authority is appointed under subclause (5) the appointment
17 does not —
- 18 (a) affect his or her existing or accruing rights in
19 respect of annual leave, long service leave, sick
20 leave or any other leave; or
- 21 (b) affect any rights under a superannuation scheme; or
- 22 (c) interrupt the continuity of his or her service.

23 **41. Agreements, instruments and documents**

- 24 (1) In this clause —
- 25 *former name* means “Broome Port Authority”;
- 26 *new name* means “Kimberley Ports Authority”.
- 27 (2) A subsisting agreement, instrument or document that
28 contains a reference to the KPA by its former name has
29 effect from the renaming time as if that reference were
30 amended to be a reference to the KPA by its new name.
- 31 (3) Subclause (2) does not apply to an agreement or instrument
32 to which the port authority was a party.

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- 1 (4) If the port authority was a party to a subsisting agreement or
2 instrument then, from the renaming time —
3 (a) the KPA is a party to the agreement or instrument
4 under its new name; and
5 (b) the agreement or instrument has effect as if a
6 reference in it to the KPA by its former name were
7 amended to be a reference to the KPA by its new
8 name.
- 9 (5) Subclause (2) or (4)(b) does not apply to a reference if —
10 (a) transitional regulations provide otherwise; or
11 (b) that application would be inappropriate in the
12 context in which the reference occurs.

13 **42. Port authority to implement or facilitate renaming**

- 14 (1) Anything that is prescribed by transitional regulations, and
15 anything else that may be necessary or expedient to provide
16 for, implement or facilitate the renaming, is to be done —
17 (a) before the renaming time — by the port authority;
18 and
19 (b) after the renaming time — by the KPA.
- 20 (2) The function conferred by subclause (1) is in addition to any
21 other function that a port authority has.
- 22 (3) The following amounts payable before the renaming time
23 are to be paid out of the funds of the port authority —
24 (a) any remuneration or allowances payable to a
25 director appointed under clause 38(3);
26 (b) any remuneration payable to a person appointed
27 under clause 40(5);
28 (c) the costs of the appointment process under
29 clause 40(5);
30 (d) any other costs incurred by the new board under
31 clause 39.

- 1 **43. Transitional regulations**
- 2 (1) Regulations (*transitional regulations*) may prescribe —
- 3 (a) things to be done by the port authority, the new
- 4 board or the KPA to provide for, implement or
- 5 facilitate the renaming; and
- 6 (b) anything necessary or expedient to be prescribed for
- 7 providing for a matter or issue of a transitional
- 8 nature that arises in relation to the renaming.
- 9 (2) Transitional regulations may provide that specific provisions
- 10 of any written law —
- 11 (a) do not apply to or in relation to any matter; or
- 12 (b) apply with specific modifications to or in relation to
- 13 any matter.
- 14 (3) If transitional regulations provide that a state of affairs
- 15 specified or described in the regulations is to be taken to
- 16 have existed, or not to have existed, at and from a time that
- 17 is earlier than the day on which the regulations are published
- 18 in the *Gazette* but not earlier than the renaming time, the
- 19 regulations have effect according to their terms.

20 **Subdivision 6 — Provisions for certain directors**

- 21 **44. Certain directors to cease to hold office**
- 22 (1) In this clause —
- 23 *commencement* means the coming into operation of
- 24 section 33 of the amending Act.
- 25 (2) On commencement —
- 26 (a) the Company appointee and the Joint Venturers
- 27 appointee, as defined in Schedule 6 clause 1.2 as
- 28 enacted before commencement, cease to be
- 29 directors of the Dampier Port Authority; and
- 30 (b) the first lessee appointee and the second lessee
- 31 appointee, as defined in Schedule 6 clause 2.2 as
- 32 enacted before commencement, cease to be
- 33 directors of the Port Hedland Port Authority.

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Subdivision 7 — General provisions

45. Terms used

In this Subdivision —

affecting provisions means —

- (a) section 31 of the amending Act; and
- (b) this Division and transitional regulations;

new board has the meaning given in clause 2, 16, 23 or 37;

relevant officials means —

- (a) the Registrar of Titles under the *Transfer of Land Act 1893*; or
- (b) the Registrar of Deeds and Transfers under the *Registration of Deeds Act 1856*; or
- (c) the Minister administering the *Land Administration Act 1997*; or
- (d) any other person authorised by a written law to record and give effect to the registration of documents relating to transactions affecting any estate or interest in land or any other property;

State tax includes duty under the *Duties Act 2008* and any other tax under a written law;

transitional regulations has the meaning given in clause 15(1), 22(1), 36(1) or 43(1).

46. Exemption from State taxes

State tax is not payable in relation to —

- (a) anything that occurs by the operation of the affecting provisions; or
- (b) anything done (including a transaction entered into or an instrument or document of any kind made, executed, lodged or given) under this Division, or to give effect to the affecting provisions, or for a purpose connected with or arising out of giving effect to the affecting provisions.

1 **47. Registration of documents**

2 The relevant officials are to take notice of the affecting
3 provisions and are to record and register in the appropriate
4 manner the documents necessary to show the effect of the
5 affecting provisions.

6 **48. Matters that a new board can deal with**

7 The matters referred to in clauses 5(2), 18(2), 26(2)
8 and 39(2) are —

- 9 (a) staff issues including organisational structure,
10 reporting accountabilities and employee roles and
11 responsibilities;
- 12 (b) preparation for staff transfer including confirmation
13 of employee details and entitlements;
- 14 (c) recruitment of staff if necessary;
- 15 (d) identification and assessment of issues relating
16 to —
- 17 (i) port boundaries;
- 18 (ii) agreements affecting the port;
- 19 (iii) mining tenements over port areas;
- 20 (iv) contaminated sites;
- 21 (v) waters in the port reserved under the
22 *Conservation and Land Management*
23 *Act 1984* Part II Division 3;
- 24 (vi) native title issues;
- 25 (vii) operating and maintenance costs;
- 26 (viii) community service obligations;
- 27 (ix) leases, licences and permits;
- 28 (x) port fees and charges;
- 29 (xi) existing legal and commercial disputes and
30 contingent liabilities;
- 31 (xii) long term commitments,
32 and resolution of those issues so far as that is within
33 the new board's powers;

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- 1 (e) review, and if necessary modification, of the
2 existing port operating model;
- 3 (f) harmonisation of internal policies, standards,
4 procedures, processes and reporting requirements
5 on services and systems including —
- 6 (i) operating activities;
- 7 (ii) administrative functions;
- 8 (iii) pricing and marketing principles and
9 practices;
- 10 (iv) financial and accounting systems, including
11 the chart of accounts;
- 12 (v) human resource services;
- 13 (vi) information and communication activities;
- 14 (g) development of a draft strategic development plan,
15 a draft statement of corporate intent, a draft income
16 and cash flow statement and a draft statement of
17 financial position;
- 18 (h) development of any other plans that a port authority
19 is required to have under any written law;
- 20 (i) budgetary matters;
- 21 (j) matters relating to the transfer of assets and
22 liabilities including —
- 23 (i) asset and liability inventories;
- 24 (ii) valuation of assets and liabilities;
- 25 (iii) processes for transfer;
- 26 (k) employment or engagement of persons to provide
27 management, financial, legal or other services or
28 advice.

29 **49. Operation of transitional regulations**

30 If transitional regulations contain a provision referred to in
31 clause 15(3), 22(3), 36(3) or 43(3), the provision does not
32 operate so as —

- 33 (a) to affect in a manner prejudicial to any person
34 (other than the State or an authority of the State) the

- 1 rights of that person existing before the day of
2 publication of those regulations; or
3 (b) to impose liabilities on any person (other than the
4 State or an authority of the State) in respect of
5 anything done or omitted to be done before the day
6 of publication of those regulations.

7 **50. Saving**

- 8 (1) The operation of any of the affecting provisions is not to be
9 regarded —
10 (a) as a breach of contract or confidence or otherwise
11 as a civil wrong; or
12 (b) as a breach of any contractual provision prohibiting,
13 restricting or regulating the assignment or transfer
14 of assets, rights or liabilities or the disclosure of
15 information; or
16 (c) as giving rise to any right to damages or
17 compensation; or
18 (d) as giving rise to any remedy by a party to an
19 instrument or as causing or permitting the
20 termination of any instrument, because of a change
21 in the beneficial or legal ownership of any asset,
22 right or liability; or
23 (e) as causing any contract or instrument to be void or
24 otherwise unenforceable; or
25 (f) as releasing or allowing the release of any surety.
26 (2) This Division and transitional regulations are additional to
27 any relevant provisions of the *Interpretation Act 1984*.

28 **51. Government agreements not affected**

- 29 (1) The affecting provisions do not prejudice or in any way
30 affect any right or obligation of a party to a Government
31 agreement.
32 (2) This clause does not limit or otherwise affect the operation
33 of Schedule 6 clauses 1.3 and 2.3.
34

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1 **36. Schedule 9 inserted**

2 After the last Schedule insert:

3

4 **Schedule 9 — Placing additional ports under a port**
5 **authority's control and management**

6

[s. 4(2A)(b)]

7 **1. Terms used**

8 In this Schedule —

9 **Government agreement** has the meaning given in
10 Schedule 8 clause 1;

11 **port** means a port other than a port named in regulations
12 referred to in the *Shipping and Pilotage Act 1967*
13 section 10(1a);

14 **port addition** means the placing of a port under the control
15 and management of a port authority by regulations referred
16 to in clause 2(1), whether or not those regulations have
17 come into operation.

18 **2. Regulations may place a port under the control and**
19 **management of a port authority**

20 (1) Regulations may place a port specified in the regulations
21 under the control and management of a port authority
22 specified in the regulations.

23 (2) Regulations may prescribe any matter that may be necessary
24 or expedient to provide for, implement or facilitate a port
25 addition.

26 **3. Port authority to implement or facilitate port addition**

27 (1) If a port addition places, or will place, a port under the
28 control and management of a port authority, the port
29 authority is to do anything that is prescribed by regulations
30 referred to in clause 2 and anything else that may be
31 necessary or expedient to provide for, implement or
32 facilitate the port addition.

1 (2) The function conferred on a port authority by subclause (1)
2 is in addition to any other function that it has.

3 **4. Government agreements not affected**

4 (1) The provisions of this Schedule or regulations referred to in
5 this Schedule do not prejudice or in any way affect any right
6 or obligation of a party to a Government agreement.

7 (2) This clause does not limit or otherwise affect the operation
8 of Schedule 6 clauses 1.3 and 2.3.
9

1 **Part 3 — *Shipping and Pilotage Act 1967* amended**

2 **37. Act amended**

3 This Part amends the *Shipping and Pilotage Act 1967*.

4 **38. Section 6 amended**

5 Delete section 6(4).

6 **39. Section 6A inserted**

7 After section 6 insert:

8

9 **6A. Extended application of sections 5 and 6**

10 (1) In this section —

11 *declared area* means a fishing boat harbour or mooring
12 control area.

13 (2) If the Department is the controlling authority of a
14 declared area the provisions of sections 5 and 6 apply
15 in relation to the declared area as if —

16 (a) a reference to a port were a reference to the
17 declared area; and

18 (b) a reference to a harbour master were a
19 reference to the CEO.

20 (3) If a body corporate is the controlling authority of a
21 declared area the provisions of sections 5 and 6 apply
22 in relation to the declared area as if —

23 (a) a reference to a port were a reference to the
24 declared area; and

25 (b) a reference to a harbour master (other than a
26 reference to which paragraph (c) or (e) applies)
27 were a reference to the body corporate; and

- 1 (c) the reference in section 6(1) to the opinion of a
2 harbour master were a reference to the opinion
3 of a delegate of the body corporate; and
4 (d) the reference in section 6(2) to the Crown were
5 a reference to the body corporate; and
6 (e) the reference in section 6(3) to the harbour
7 master being satisfied were a reference to a
8 delegate of the body corporate being satisfied.
9

10 **40. Section 7 amended**

11 Delete section 7(2).

12 **41. Section 8A inserted**

13 After section 7A insert:
14

15 **8A. Protection from liability for wrongdoing**

- 16 (1) An action in tort does not lie against a person for
17 anything the person has done, in good faith, in the
18 performance or purported performance of a function
19 under this Act.
20 (2) The Minister and the Crown are also relieved of any
21 liability that either of them might otherwise have had
22 for another person having done anything as described
23 in subsection (1).
24 (3) The protection given by this section applies even
25 though the thing done as described in subsection (1)
26 or (2) may have been capable of being done whether or
27 not this Act had been enacted.

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- 1 (4) The protection given by this section extends to
2 anything done by a person in good faith —
3 (a) under the authority of a harbour master, to
4 assist the harbour master to perform a function
5 under this Act; or
6 (b) in compliance with an order, direction or
7 requirement given or made by a harbour
8 master.
- 9 (5) In subsection (4), a reference to a harbour master
10 includes a reference to a controlling authority or
11 the CEO.
- 12 (6) In this section, a reference to the doing of anything
13 includes a reference to an omission to do anything.
14

15 **42. Section 11 amended**

- 16 (1) In section 11:
17 (a) in paragraph (a) delete “5 or 7;” and insert:
18
19 5, 6 or 7; or
20
21 (b) after paragraph (a) insert:
22
23 (ba) fails to comply with any order or direction of
24 the CEO or a controlling authority given or
25 made under the powers conferred by section 5
26 or 6 as applied by section 6A; or
27

1 **43. Section 11A amended**

2 (1) After section 11A(2) insert:

3

4 (3A) The CEO may delegate to any officer of the
5 Department or another person —

6 (a) any power or duty of the CEO under another
7 provision of this Act; or

8 (b) if the Department is the controlling authority of
9 a fishing boat harbour or mooring control area,
10 any power or duty of that controlling authority
11 under a provision of this Act.

12 (3B) The delegation must be in writing signed by the CEO.

13 (3C) If the controlling authority of a fishing boat harbour or
14 mooring control area is a body corporate, the
15 controlling authority may delegate any power or duty
16 of the controlling authority under another provision of
17 this Act to any of its officers or employees.

18 (3D) The delegation must be in writing executed by the
19 controlling authority.

20

21 (2) Delete section 11A(5) and insert:

22

23 (5) Nothing in this section limits the ability of the
24 Minister, the CEO or a controlling authority to perform
25 a function through an officer, employee or agent.

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Part 4 — Consequential amendments

44. Constitution Acts Amendment Act 1899 amended

(1) This section amends the *Constitution Acts Amendment Act 1899*.

(2) In Schedule V Part 3:

(a) delete the items relating to the Albany Port Authority, the Bunbury Port Authority and the Esperance Port Authority;

(b) before the item relating to the State Advisory Committee on Publications insert:

The Southern Ports Authority established under the *Port Authorities Act 1999*.

(3) In Schedule V Part 3:

(a) delete the item relating to the Geraldton Port Authority;

(b) before the item relating to the Mines Occupational Safety and Health Advisory Board insert:

The Mid West Ports Authority established under the *Port Authorities Act 1999*.

(4) In Schedule V Part 3:

(a) delete the items relating to the Dampier Port Authority and the Port Hedland Port Authority;

(b) before the item relating to the Plumbers Licensing Board insert:

The Pilbara Ports Authority established under the *Port Authorities Act 1999*.

- 1 (5) In Schedule V Part 3:
2 (a) delete the item relating to the Broome Port Authority;
3 (b) before the item relating to the Land Surveyors Licensing
4 Board insert:

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The Kimberley Ports Authority established under the *Port
Authorities Act 1999*.

9 **45. *Statutory Corporations (Liability of Directors)***
10 ***Act 1996 amended***

- 11 (1) This section amends the *Statutory Corporations (Liability of*
12 *Directors) Act 1996*.

- 13 (2) In Schedule 1:

- 14 (a) delete the items relating to Albany Port Authority,
15 Bunbury Port Authority and Esperance Port Authority;
16 (b) insert in alphabetical order:

17

Southern Ports Authority	a director of the Authority	<i>Port Authorities Act 1999</i>
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18

- 19 (3) In Schedule 1:

- 20 (a) delete the item relating to Geraldton Port Authority;
21 (b) insert in alphabetical order:

22

Mid West Ports Authority	a director of the Authority	<i>Port Authorities Act 1999</i>
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23

- 24 (4) In Schedule 1:

- 25 (a) delete the items relating to Dampier Port Authority and
26 Port Hedland Port Authority;

s. 45

1 (b) insert in alphabetical order:

2

Mid West Ports Authority	a director of the Authority	<i>Port Authorities Act 1999</i>
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4 (5) In Schedule 1:

5 (a) delete the item relating to Broome Port Authority;

6 (b) insert in alphabetical order:

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Kimberley Ports Authority	a director of the Authority	<i>Port Authorities Act 1999</i>
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