

NORTHERN TERRITORY OF AUSTRALIA
DARWIN PORT AUTHORITY AMENDMENT ACT 1993

No. 15 of 1993

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SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

No. 15 of 1993

AN ACT

to amend the *Darwin Port Authority Act*

[Assented to 16 June 1993]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Darwin Port Authority Amendment Act 1993*.

2. PRINCIPAL ACT

The *Darwin Port Authority Act* is in this Act referred to as the Principal Act.

3. COMMENCEMENT

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

4. INTERPRETATION

Section 5 of the Principal Act is amended -

(a) by omitting the definition of "Chairman" and substituting the following:

"'Chief Executive Officer' means the Chief Executive Officer appointed under section 8(1) and includes the person appointed under section 9 to act as Chief Executive Officer, while the person is so acting;

'Council' means the Darwin Port Authority Advisory Council established under section 19A;" and

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(b) by omitting the definition of "member" and substituting the following:

"'member' means a member of the Council, and includes the Chief Executive Officer;";

(c) by omitting the definition of "Port" and substituting the following:

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

(d) in the definition of "port facilities" -

(i) by omitting from paragraph (c) "passengers; or" and substituting "passengers;";

(ii) by omitting from paragraph (d) "or cargo;" and substituting "or cargo; or"; and

(iii) by adding at the end the following:

"(e) recreational, tourist and commercial purposes;".

5. REPEAL AND SUBSTITUTION

Sections 7 to 13 inclusive of the Principal Act are repealed and the following substituted:

"7. CONSTITUTION OF PORT AUTHORITY

"(1) The Port Authority shall be constituted by the Chief Executive Officer.

"(2) The establishment of the Port Authority is not affected by reason only of there being a vacancy in the office of the Chief Executive Officer.

"8. CHIEF EXECUTIVE OFFICER

"(1) The Minister shall appoint a person to be the Chief Executive Officer.

"(2) The Minister may at any time terminate the appointment of the Chief Executive Officer.

"(3) Subject to this section, the Chief Executive Officer holds office on such terms and conditions as the Administrator determines.

"9. ACTING APPOINTMENT

"(1) The Minister may, in writing, appoint a person to act as the Chief Executive Officer during a period, or during all periods, when the Chief Executive Officer is

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absent from duty or from the Territory or during a vacancy in the office.

"(2) The Minister may at any time terminate an appointment made under subsection (1).

"(3) The validity of a decision of the Port Authority shall not be questioned in any proceedings on a ground arising from the fact that the occasion for the appointment of a person purporting to be appointed under this section had not arisen or that an appointment under this section had ceased to have effect.

"10. DELEGATION BY CHIEF EXECUTIVE OFFICER

"(1) The Chief Executive Officer may, by instrument in writing, delegate to a person any of his or her powers and functions under this Act, other than this power of delegation.

"(2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Chief Executive Officer.

"(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Chief Executive Officer."

6. FUNCTIONS OF PORT AUTHORITY

Section 16 of the Principal Act is amended -

(a) by omitting from subsection (1) paragraphs (b) and (c) and substituting the following:

"(b) the movement of vessels in the Port;

(c) the provision and maintenance of port facilities; and

(d) recreational, tourist and commercial activities in the Port."; and

(b) in subsection (2)(a) -

(i) by omitting from subparagraph (xv) "order; and" and substituting "order;"; and

(ii) by adding at the end the following:

"(xvii) develop and manage recreational, tourist and commercial facilities in the Port; and".

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7. POWERS OF PORT AUTHORITY

Section 17(2) of the Principal Act is amended -

(a) by inserting after paragraph (g) the following:

"(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;"

(b) by inserting after paragraph (n) the following:

"(na) construct, within the Port, buildings or facilities for use in connection with recreational, tourist and commercial activities;" and

(c) by inserting after paragraph (s) the following:

"(sa) manage, establish and conduct business in connection with recreational, tourist and commercial activities;"

8. REPEAL AND SUBSTITUTION

The Principal Act is amended by omitting Division 3 of Part II and substituting the following:

"Division 3 - Darwin Port Advisory Council

"19A. DARWIN PORT ADVISORY COUNCIL

"(1) There shall be a council to be known as the Darwin Port Advisory Council.

"(2) The Council shall consist of the Chief Executive Officer who shall be its Chairman, and not more than 5 other members appointed by the Minister.

"19B. PERIOD OF APPOINTMENT

"Subject to this Part, a member, other than the Chairman, holds office for such period, not exceeding 2 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

"19C. LEAVE OF ABSENCE

"The Minister may grant leave of absence to a member on such terms and conditions as the Minister thinks fit.

"19D. RESIGNATION OF MEMBERS

"A member may resign his or her office by writing signed by the member and delivered to the Minister.

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"19E. DISMISSAL OF MEMBERS

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

"(2) The Minister shall terminate the appointment of a member who -

- (a) is absent, except on leave granted under section 19C by the Minister, from 3 consecutive meetings of the Council; or
- (b) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit.

"19F. FUNCTIONS AND POWERS OF COUNCIL

"(1) The functions of the Council are -

- (a) to inquire into and report to the Minister on matters referred to it by the Minister;
- (b) to investigate and make recommendations to the Minister about a matter under this Act or relating to the administration of this Act;
- (c) to advise the Port Authority concerning the management and control of the Port; and
- (d) such other functions as are imposed on it by or under this or any other Act.

"(2) The Council has such powers as are necessary to enable it to carry out its functions or as are conferred on it by or under this or any other Act.

"19G. MEETINGS OF COUNCIL

"(1) The Chairman shall call such meetings of the Council as are necessary for the performance of its functions and the exercise of its powers.

"(2) The Minister may at any time direct the Chairman to call a meeting of the Council and the Chairman shall call a meeting accordingly.

"(3) The Chairman shall preside at all meetings of the Council.

"(4) At a meeting of the Council -

- (a) the Chairman and not less than 50% of the other members for the time being holding office constitute a quorum;

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- (b) questions arising shall be determined by a majority of the votes of the members present and voting and in the event of an equality of votes the Chairman shall have a casting vote as well as a deliberative vote; and
- (c) subject to this Act, the Council shall determine the procedure to be followed at or in connection with the meeting.

"(5) The Council shall keep records of its meetings."

9. NEW SECTION AND SAVING

(1) The Principal Act is amended by inserting after section 43 the following:

"43A. BOUNDARIES OF PORT

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

(2) Until the Minister first exercises his or her power under section 43A of the Principal Act as amended by this Act, the area constituting the Port of Darwin immediately before the commencement of this Act continues to be the Port of Darwin.

10. BY-LAWS

Section 48(1) of the Principal Act is amended -

(a) by inserting after paragraph (h) the following:

"(ha) the control, regulation, management and conduct of recreational, tourist and commercial activities and the use of facilities in the Port for those purposes;" and

(b) by omitting paragraph (j) and substituting the following:

"(j) the imposing and levying of fees, rates, dues or charges for -

- (i) services rendered by the Port Authority for entry into or anchoring in the Port;
- (ii) the use of the Port or port facilities; and
- (iii) the conduct of tourist, recreational and commercial development and activities connected with them;"

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11. REPEAL OF SCHEDULE 1

Schedule 1 to the Principal Act is repealed.

12. FURTHER AMENDMENTS

The Principal Act is further amended as provided in the Schedule.

SCHEDULE

Section 12

Provision	Amendment	
	omit	substitute
Section 5	"In this Act"	"(1) In this Act"
Section 16(2)(xiv)	"authorized person"	"approved person"
Sections 23(1) and (2), 25(1) and (2), 27(1) and (2), 28, 31(1) and (2), 32(1), (2), (3), (5) and (7), 37(1) and 46(4)	"Chairman" (wherever occurring)	"Chief Executive Officer"
