

New South Wales.



ANNO QUINTO DECIMO

GEORGI VI REGIS.

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Act No. 11, 1951.

An Act to make provision for the continuance of certain ferry services on Sydney Harbour; to constitute a body corporate under the name of the Sydney Harbour Transport Board; to make provision for the purchase by that Board of certain of the assets of Sydney Ferries Limited; to authorise that Board to arrange for the conduct of ferry services on Sydney Harbour and to confer and impose upon it certain other powers, authorities, duties and functions; and for purposes connected therewith. [Assented to, 20th June, 1951.]

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*Sydney Harbour Transport.*

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**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title.     **1.** This Act may be cited as the "Sydney Harbour Transport Act, 1951".

Interpre-     **2.** In this Act unless the context or subject matter  
tation.     otherwise indicates or requires—

    "Board" means the Sydney Harbour Transport Board constituted under this Act.

    "Member" means member of the Board.

    "Prescribed" means prescribed by this Act or by the regulations made thereunder.

    "Sydney Ferries Limited" means the company incorporated under that name in New South Wales under and in accordance with the Companies Acts.

Division     **3.** This Act is divided into Parts as follows:—  
into Parts.

    PART I.—PRELIMINARY.

    PART II.—SYDNEY HARBOUR TRANSPORT BOARD.

        DIVISION 1—*Constitution.*

        DIVISION 2—*Powers and functions.*

    PART III.—FINANCE.

        DIVISION 1—*Borrowing powers.*

        DIVISION 2—*Accounts and audit.*

    PART IV.—GENERAL.



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*Sydney Harbour Transport.*

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PART II.

SYDNEY HARBOUR TRANSPORT BOARD.

DIVISION 1.—*Constitution.*

4. (1) There shall be a Sydney Harbour Transport Board which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this Act. Constitution of Board.

In the exercise and discharge of such powers, authorities, duties and functions, the Board shall be subject in all respects to the control and direction of the Minister.

(2) (a) The Board shall consist of three members who shall be the persons who for the time being respectively hold the offices of Director of Transport and Highways, President of the Maritime Services Board of New South Wales, and Under Secretary of the Treasury.

(b) A member of the Board may by writing under his hand appoint a person to act in his place at all meetings of the Board or at any particular meeting or class of meetings or at all meetings other than a particular meeting or class of meetings, and such person, while so acting, shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed by this Act upon the member by whom he was so appointed.

(c) Each member of the Board and each person appointed pursuant to paragraph (b) of this subsection shall be entitled to receive such travelling or other expenses as the Governor may determine.

(3) The Director of Transport and Highways shall be the chairman of the Board.

5. (1) The Board shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be capable of purchasing, holding, granting, demising, disposing of or otherwise Board to be body corporate—Proceedings of Board.



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*Sydney Harbour Transport.*

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otherwise dealing with real and personal property and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

(2) The corporate name of the Board shall be "The Sydney Harbour Transport Board".

(3) For the purposes of any Act the Board shall be deemed a statutory body representing the Crown.

(4) The common seal shall be kept in the custody of the chairman and shall not be affixed to any instrument except in pursuance of a resolution of the Board.

Any instrument executed in pursuance of any such resolution shall be attested by the signatures of any two members.

(5) (a) The procedure for the calling of meetings of the Board and for the conduct of business at such meetings shall be as determined by the Board.

(b) Two of the members shall form a quorum, and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Board and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Board.

A decision of a majority of the members present at a meeting of the Board shall be the decision of the Board.

(c) At any meeting of the Board the chairman shall preside. In the absence of the chairman, the President of the Maritime Services Board of New South Wales shall preside as chairman.

At any meeting of the Board the chairman or the member presiding as chairman (as the case may be) shall have a deliberative vote, and if the voting is equal, a casting vote.

(6) The Board shall cause full and accurate minutes to be kept of its proceedings at formal meetings, and submit to the Minister a copy of the minutes of each formal meeting within one week after the date on which each such formal meeting is held.

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*Sydney Harbour Transport.*

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(7) No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced, there was a vacancy in the office of a member.

(8) (a) No matter or thing done, and no contract entered into by the Board, and no matter or thing done by any member or by any other person whomsoever acting under the direction of the Board shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim, or demand whatsoever.

(b) Nothing in this subsection shall exempt any member from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Board, and which such member authorised or joined in authorising.

DIVISION 2.—*Powers and functions.*

**6.** (1) The Board shall, subject to this Act, take all such steps as it may deem necessary to provide for the continued operation of the ferry services which, immediately before the appointed day, were carried on by Sydney Ferries Limited. Powers and functions.

(2) The Board may acquire by purchase from Sydney Ferries Limited for the sum of twenty-five thousand pounds the ferries and other assets which that company agreed to sell on the thirteenth day of June one thousand nine hundred and fifty-one. The contract of purchase may be made on such terms and conditions as may be agreed upon.

The ferry services operated with the ferries and other assets so purchased are in this section hereinafter referred to as "the purchased ferry services".

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*Sydney Harbour Transport.*

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(3) The Board may, from time to time, enter into an arrangement with any person or body of persons corporate or unincorporate for the management and operation by that person or body of persons, upon such terms and conditions as may be agreed upon, of the purchased ferry services or of any ferry service established by the Board.

(4) Any such agreement made with respect to the purchased ferry services shall expressly provide for the transfer of the employees of Sydney Ferries Limited to the service of the person or body of persons undertaking the management and operation of the services, upon terms and conditions of employment not less favourable than those to which they were subject on the first day of June, one thousand nine hundred and fifty-one.

(5) The Board may, from time to time—

- (a) extend or alter or discontinue any of the purchased ferry services;
- (b) establish any new ferry service;
- (c) conduct any business arising out of or ancillary to the conduct and operation of ferry services and construct any works or acquire any works or property, real or personal, and maintain and operate the same for the purpose of conducting any such business;
- (d) acquire any land or interest in land and erect or adapt any buildings or installations thereon which may be necessary or convenient for or in connection with the conduct or operation of any of the ferry services or any such business;
- (e) acquire either absolutely or on lease any vessels, wharves, plant, machinery or equipment which may be necessary or convenient for or in connection



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*Sydney Harbour Transport.*

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connection with the conduct or operation of any of the ferry services or of any such business and dispose of the same when, in the opinion of the Board, they are no longer required for such purposes.

(6) The Board may, with the approval of the Governor—

- (a) sell and dispose of any land vested in the Board;
- (b) sell and dispose of all or any of the purchased ferry services, or all or any of the ferry services established by the Board.

**7.** (1) The Board may make and enter into contracts Contracts. or agreements with any person for the performance of such services or for the supply of vessels, plant, machinery or equipment required for or in connection with the exercise or discharge by the Board of its powers, authorities, duties and functions under this Act.

(2) All persons contracting with the Board shall be deemed for the purposes of the Constitution Act, 1902, to be public contractors.

(3) Any contract or agreement authorised by this or any other section of this Act shall be in the name of the Board and may be made as follows, that is to say—

with respect to any contract which if made between private persons would be by law required to be in writing and signed by the parties to be charged therewith or in writing and under seal the Board may make such contract in writing and under its common seal and in the same manner may vary or discharge the same;

with respect to any contract which if made between private persons would by law be valid although made by parol only and not reduced into writing the  
chairman



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*Sydney Harbour Transport.*

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chairman of the Board may make such contract by parol only without writing and in the same manner may vary or discharge the same.

Officers and  
servants.

8. (1) The Board may appoint and employ such officers and servants as may be necessary for carrying out the provisions of this Act.

(2) The Board may employ, in an advisory or consulting capacity, and so use the services of any person or persons not employed in the Public Service or in any of the departments into which the Ministry of Transport is divided under the Transport (Division of Functions) Act, 1932-1947, or in the Maritime Services Board of New South Wales, at such remuneration as may in any such case be fixed by the Board.

(3) For the purposes of this Act the Board with the approval of the Public Service Board or of the Minister administering any of the departments into which the Ministry of Transport is divided under the Transport (Division of Functions) Act, 1932-1947, or the Maritime Services Board of New South Wales may, on such terms as may be arranged, make use of the services of any officer or employee of any Government Department or of any of the departments into which the Ministry of Transport is so divided, or of the Maritime Services Board of New South Wales, as the case may be.



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*Sydney Harbour Transport.*

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PART III.

FINANCE.

DIVISION 1.—*Borrowing powers.*

9. (1) For the temporary accommodation of the Board it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Board's funds to such extent as may from time to time be approved by the Governor.

Temporary accommodation.  
cf. Act No. 50, 1924, sec. 71.

(2) The Treasurer may advance such moneys to the Board as the Governor may approve upon such terms and conditions as to repayment and interest as may be agreed upon.

(3) The Board may subject to the conditions and upon the terms prescribed receive money on deposit at short call or on fixed deposit.

10. The Board may from time to time with the approval of the Governor borrow money for—

Purposes for which money may be borrowed.  
*Ibid.*  
sec. 72.

(a) any purpose of or connected with the exercise or discharge by the Board of its powers authorities duties and functions under this Act;

(b) the renewal of loans; and

(c) the discharge or partial discharge of any indebtedness to the Treasurer or to any bank.

11. Loans to the Board shall be deemed to be secured upon the income of the Board from whatever source arising.

Security for loans.  
*Ibid.*  
sec. 74.

12. (1) There shall be a reserve for loan repayment in every fund of the Board in respect to which any renewal or other loan or any part thereof has been raised by the Board.

Reserves for repayment.  
*Ibid.*  
sec. 75.

(2) The Board shall during each year transfer to the reserve for loan repayment from the moneys of the appropriate fund a sum not less than the Board in its application for approval of the loan intimated that it proposed to set apart as aforesaid.

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*Sydney Harbour Transport.*

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(3) Where any land or property of any kind which has been provided out of loan moneys is sold before the loan has been wholly repaid the net proceeds of the sale shall be added to the reserve for loan repayment in the appropriate fund or paid directly to the lender or used for the provision or purchase of other land or property chargeable upon the fund to which the proceeds belong.

(4) Moneys held as reserve for loan repayment may be invested in Government securities of the Commonwealth of Australia or of the State of New South Wales, or in debentures or inscribed stock in any loan of the Board, or in any securities guaranteed by the Government of the said State, or in debentures or securities issued by the Sydney County Council or the Sydney City Council, or in such other securities as the Governor may approve or as may be prescribed in each case at their current market price. Any interest or profits realised on such investments shall be added to and form part of the reserve for loan repayment. All moneys paid into the reserve for loan repayment in any fund may be applied in or towards repayment of any renewal or other loan raised in respect of the same fund, but except where otherwise provided may not be applied for any other purpose.

(5) Where the Board decides to cancel debentures and inscribed stock of the Board purchased from the reserve for repayment of the loan for which they were issued, then, in addition to the sums otherwise payable to the reserve for loan repayment in respect of that loan, the Board shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to such reserve, pay to such reserve interest at the rate of four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(6) If after a loan raised in respect of any fund has been repaid, there remains in the reserve for repayment of that loan any balance, such balance may be transferred to the current account of that fund.

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*Sydney Harbour Transport.*

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(7) The reserve for loan repayment shall not be subject to seizure in satisfaction of any debt other than for loans primarily charged on the income of the fund in which the reserve is provided.

**13.** (1) For securing repayment of the principal and interest on any money borrowed, the Board may issue debentures or inscribed stock as prescribed by the regulations. Debentures,  
etc.  
cf. Act No.  
50, 1924,  
sec. 76.

(2) Every such debenture and every coupon originally annexed to the debenture and whether separated therefrom or not shall be transferable by simple delivery.

(3) Inscribed stock shall be transferable in the books of the Board in accordance with the regulations.

(4) Debentures or inscribed stock issued under this Act shall both as regards the issue and transfer thereof for full consideration in money or money's worth be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920-1949, contained in the Second Schedule to that Act.

(5) The holder of a coupon originally annexed to a debenture and whether separated therefrom or not shall be entitled to receive payment from the Board of the interest mentioned in the coupon upon the presentation of the same on or after the date when and at the place where the interest is payable.

(6) The due repayment of the debentures and stock and the interest thereon shall be a charge upon the income and revenue of the Board and is hereby guaranteed by the Government. Any liability arising from such guarantee shall be payable out of moneys provided by Parliament. Such charge shall not prejudice or affect the power of the Board to sell or convey any property vested in it free of any such charge.

**14.** (1) Any trustee unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust moneys in his hands in stock inscribed by the Board, Trustees.  
*Ibid.*  
sec. 78. and



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*Sydney Harbour Transport.*

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and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925, or any Act amending or replacing that Act.

(2) Any debenture issued or stock inscribed by the Board shall be a lawful investment for any moneys which any company, council, or body corporate incorporated by any Act of the Parliament of New South Wales is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys.

(3) No notice of any trust expressed, implied, or constructive, shall be received by the Board or by any servant of the Board in relation to any debenture or coupon issued or stock inscribed by the Board.

Lost debentures.  
cf. Act No.  
50, 1924,  
sec. 79.

**15.** (1) If any debenture issued by the Board is lost or destroyed or defaced before the same has been paid, the Board may, subject to the provisions of this section, issue a new debenture in lieu thereof.

(2) The new debenture with interest coupon annexed shall bear the same date, number, principal sum, and rate of interest as the lost, destroyed, or defaced debenture.

(3) When the debenture is lost or destroyed the new debenture shall not be issued unless and until—

- (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture, or of some person approved by the judge, that the same has been lost or destroyed before it has been paid off;
- (b) such advertisement as the judge may direct has been published;
- (c) six months have elapsed since the publication of the last of the advertisements; and
- (d) sufficient security has been given to the Board to indemnify it against any double payment if the missing debenture be at any time thereafter presented for payment.

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*Sydney Harbour Transport.*

(4) When the debenture is defaced the new debenture shall not be issued unless and until the defaced debenture is lodged with the Board for cancellation.

(5) The provisions of this section shall, *mutatis mutandis*, extend to the case of a lost, destroyed, or defaced coupon.

**16.** (1) If for six months default is made by the Board in making any payment, whether of principal or interest, to the holder of any debenture, or coupon, issued or stock inscribed by the Board, the holder thereof may apply to the Supreme Court in its equitable jurisdiction, in accordance with rules of court, for the appointment of a receiver of the income of the Board. *Receivers.*  
*cf. Act*  
*No. 50,*  
*1924,*  
*sec. 80.*

(2) A receiver may be appointed in respect of the income of the Board either generally or as regards specified income.

(3) The Court may make such orders and give such directions as it may deem proper for and with respect to—

- (a) the appointment of a receiver;
- (b) the removal of a receiver;
- (c) the appointment of a receiver in place of a receiver previously appointed.

(4) The receiver shall be deemed to be an officer of the Court, and shall act under its directions.

**17.** (1) A receiver shall have power to collect all income payable to the Board which he has by order of the Court been so authorised to collect and for the purposes of this subsection the receiver shall be deemed to be the Board, and may exercise all the powers of the Board. *Powers and*  
*duties of*  
*receivers.*  
*Ibid.*  
*sec. 81.*

(2) The receiver shall discharge such duties of the Board or of any servants of the Board as may be prescribed.



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*Sydney Harbour Transport.*

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Commission  
to receiver.  
cf. Act No.  
50, 1924,  
sec. 82.

**18.** The receiver shall be entitled to such commission or remuneration for his services as the Court may order, and the commission or remuneration shall be payable out of the income for and in respect of which he has been appointed receiver.

Application  
of money  
received.  
*Ibid.* sec. 83.

**19.** The receiver shall, subject to any order of the Court, pay and apply all moneys received by him in the following order, that is to say—

- (a) firstly, in payment of the costs, charges, and expenses of collection, and of his commission or remuneration;
- (b) secondly, in the payment of the amount due and payable to the holder of the debenture or inscribed stock or coupon, as the case may be;
- (c) thirdly, in payment of all the residue of the moneys to the Board.

Protection  
of investors.  
*Ibid.*  
sec. 85.

**20.** (1) A person advancing money to the Board shall not be bound to inquire into the application of the money advanced, or be in any way responsible for the non-application or misapplication thereof.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Board shall, in favour of a lender and of any holder of a security given by the Board, be conclusive evidence that all conditions precedent to the borrowing have been complied with.

Debentures  
and bonds to  
rank *pari*  
*passu*.  
*Ibid.*  
sec. 85A.

**21.** All debentures, bonds, or other securities which are secured upon the income and revenue of the Board shall rank *pari passu* without any preference one above another by reason of priority of date or otherwise.

Penalty for  
illegal  
borrowing.  
Act No. 50,  
1924,  
sec. 86.

**22.** If the Board borrows any money without having first obtained the approval of the Governor, each member of the Board holding office who has knowingly and wilfully or for personal benefit or advantage, consented to the borrowing shall be liable to a penalty of five hundred pounds.

The action to recover the penalty shall not be taken without the written consent of the Attorney-General.

DIVISION



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*Sydney Harbour Transport.*

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DIVISION 2.—*Accounts and audit.*

**23.** (1) The Board shall cause books to be provided and kept, and true and regular accounts to be entered therein in respect of each fund established by it so as to show—

Accounts generally.  
cf. Act No.  
50, 1924,  
sec. 109.

- (a) the assets, liabilities, income and expenditure in respect of the fund; and
- (b) the sources of income and purposes of expenditure in respect of the fund.

(2) The accounts of the Board shall be kept as prescribed.

**24.** The expenditure of each fund shall, subject to any provisions made by or under this Act, be charged against income and capital as nearly as may be in accordance with commercial principles.

Charging expenditure generally.  
*Ibid.*  
sec. 110.

**25.** (1) The Board shall cause to be prepared an annual statement of accounts and a balance-sheet, each of which shall be in a form approved by the Auditor-General, and shall also cause to be prepared an annual report of its operations.

Annual statements.  
*Ibid.*  
sec. 111.

(2) The Board shall furnish to the Minister a copy of such statement, balance-sheet and report.

(3) The report shall be laid before both Houses of Parliament.

**26.** (1) The statement of accounts and balance-sheet so prepared shall be audited and reported upon by the Auditor-General who shall have in respect to the accounts of the Board all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of the public accounts, as well as all powers conferred by this Act.

Audit.  
*Ibid.*  
sec. 112.

(2) The Auditor-General shall report to the Board and the Minister—

(a) whether or not in his opinion—

- (i) due provision has been made for the repayment of loans; and

(ii).



*Sydney Harbour Transport.*

- (ii) the value of assets has (so far as he can judge) been in all cases fairly stated; and
  - (iii) due diligence and care have been shown in the collection and banking of income; and
  - (iv) the expenditure incurred has been duly authorised, vouched, and supervised; and
  - (v) proper account has been kept of plant, stores, and materials; and
  - (vi) any of the moneys or other property of the Board have been misappropriated or improperly or irregularly dealt with; and
- (b) as to any other matters which in his judgment call for special notice or which are prescribed by the regulations.

(3) Towards defraying the cost and expenses of the audit by the Auditor-General the Board shall at such periods as the Minister may direct pay to the Treasurer for credit of the Consolidated Revenue Fund, the amount involved as certified by the Auditor-General.

## PART IV.

## GENERAL.

Judicial  
notice of  
seal of  
the Board.  
cf. Act No.  
13, 1946,  
sec. 29.

**27.** All courts and persons having by law or consent of parties authority to hear receive and examine evidence—

- (a) shall take judicial notice of the seal of the Board affixed to any documents; and
- (b) shall until the contrary be proved presume that such seal was properly affixed thereto.

Service of  
notice of  
proceed-  
ings on  
the Board.  
*Ibid.*  
sec. 30.

**28.** Any notice, summons, writ or other proceeding required to be served on the Board may be served by being left at the office of the Board or, in the case of a notice, by post.



*Sydney Harbour Transport.*

**29.** Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Board may be sufficiently authenticated without the seal of the Board if signed by the chairman of the Board.

Documents.  
How authenticated.  
cf. Act No.  
13, 1946,  
sec. 31.

**30.** Any penalty imposed by the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions.

Recovery  
of penalty.  
*Ibid.*  
sec. 33.

**31.** (1) Any charge fee or money due to the Board under the provisions of this Act or any regulation may be recovered as a debt in a court of competent jurisdiction.

Recovery  
of charges,  
etc.  
cf. Act.  
No. 20,  
1938,  
sec. 128.

(2) Proceedings for the recovery of any charge fee or money so due to the Board shall be deemed to be for the recovery of a debt or liquidated demand within the meaning of—

- (a) section twenty-four of the Common Law Procedure Act, 1899;
- (b) section sixty-four of the District Courts Act, 1912-1949;
- (c) section twenty-five of the Small Debts Recovery Act, 1912-1933.

**32.** (1) In any legal proceedings by or against the Board no proof shall be required (until evidence is given to the contrary) of—

Proof of  
certain  
matters not  
required.  
cf. Act No.  
13, 1946,  
sec. 34.

- (a) the constitution of the Board;
- (b) any resolution of the Board;
- (c) the appointment of any member of the Board;
- (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Board;
- (e) the appointment of any person to act in the place of a member of the Board or of his authority so to act at any meeting of the Board.



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*Sydney Harbour Transport.*

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(2) Where in any legal proceedings by or against the Board it appears that any person acted in the place of a member of the Board at any meeting, it shall be presumed in the absence of proof to the contrary that he was duly appointed so to act, and that he was authorised so to act at that meeting.

Delegation.

**33.** (1) The Board may from time to time in relation to any particular matter or class of matters by writing, under its seal, delegate to any member or to any person or authority any of its powers, authorities, duties and functions, except this power of delegation.

(2) A delegate, when acting within the scope of any such delegation, shall be deemed to be the Board. But no delegation shall prevent the exercise or discharge by the Board of any power, authority, duty or function.

(3) The Board may by writing, under its seal, revoke any delegation made under this section.

(4) Where the exercise or discharge by the Board of any power, authority, duty or function is dependent upon the opinion or belief of the Board in relation to any matter, that power, authority, duty or function may be exercised or discharged by the delegate upon the opinion or belief of that delegate.

Notice of  
action.  
cf. Act No.  
41, 1919,  
s. 580.

**34.** (1) A writ or other process in respect of any damage or injury to person or property shall not be sued out or served upon the Board or any member, or any agent or servant of the Board or any person acting in his aid for anything done or intended to be done or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on the Board or member, agent, servant or person, as provided in this section.

(2) The notice shall state—

(a) the cause of action;

(b) the time and place at which the damage or injury was sustained; and

(c)



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*Sydney Harbour Transport.*

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(c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

(3) In the case of damage to property, any person who produces on demand his authority from the Board shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, the nature and extent of the damage, and the amount of money, if any, expended in repairing the same shall be given to him.

Representative of the Board to be permitted to inspect property injured.

(4) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action:

Provided that at any stage of the proceedings the court or any judge of the court in which the action is pending may, if the court or judge deems it to be just or reasonable in the circumstances so to do—

- (a) amend any defect in the notice on such terms and conditions, if any, as the court or judge may fix;
- (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

(5) Every such action shall be commenced within the period of twelve months next after the occurring of the cause of action. Such period is in this subsection referred to as the "prescribed period":

Provided that where an application is made to a judge of the Supreme Court in accordance with rules of court for an extension of the prescribed period the judge may, if he is satisfied that sufficient cause has been shown, or that having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the prescribed period for such further period and

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*Sydney Harbour Transport.*

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subject to such terms and conditions, if any, as may be set out in the order. Such applications for extension may be made either within the prescribed period or at any time within twelve months thereafter.

Any person who is dissatisfied with the decision of the judge on any such application may appeal to the Supreme Court and that court may on the appeal make any order which ought to have been made in the first instance.

Every such appeal shall be made in accordance with rules of court.

(6) The Board, or any member, agent, servant or person to whom any such notice of action is given as aforesaid, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice of action, and in case the same is not accepted may plead the tender in bar.

(7) The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

**Regulations.**

**35.** (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters which are by this Act required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations may impose a penalty not exceeding fifty pounds for any breach thereof.

(3) The regulations shall—

(a) be published in the Gazette;

(b) take effect from the date of publication or from a later date to be specified therein; and

(c)



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*Sydney Harbour Transport.*

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- (c) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session and if not, then within fourteen sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

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By Authority:

A. H. PETTIFER, Government Printer, Sydney, 1951.

[1s.]



Statute Law (England)

(1) In and before both House of Parliament within  
fourteen days after publication of the Statute  
in Session and if not then within fourteen  
sitting days after the commencement of the next  
Session.

(2) If either House of Parliament passes a  
resolution to which notice has been given at any time  
within fifteen sitting days after such regulations have  
been laid before such House disallowing any regulation  
or part thereof, such regulation or part shall thereupon  
cease to have effect.

By Authority

A. H. BARNARD, Government Printer, 1951











*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

H. ROBBINS,  
*Clerk of the Legislative Assembly.*  
*Legislative Assembly Chamber,*  
*Sydney, 14 June, 1951.*

## New South Wales.



ANNO QUINTO DECIMO

GEORGII VI REGIS.

\*\*\*\*\*

Act No. 11, 1951.

An Act to make provision for the continuance of certain ferry services on Sydney Harbour; to constitute a body corporate under the name of the Sydney Harbour Transport Board; to make provision for the purchase by that Board of certain of the assets of Sydney Ferries Limited; to authorise that Board to arrange for the conduct of ferry services on Sydney Harbour and to confer and impose upon it certain other powers, authorities, duties and functions; and for purposes connected therewith. [Assented to, 20th June, 1951.]

BE

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

G. BOOTH,  
*Chairman of Committees of the Legislative Assembly.*



*Sydney Harbour Transport.*

**BE** it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

## PART I.

## PRELIMINARY.

Short title. **1.** This Act may be cited as the "Sydney Harbour Transport Act, 1951".

Interpre- **2.** In this Act unless the context or subject matter tation. otherwise indicates or requires—

"Board" means the Sydney Harbour Transport Board constituted under this Act.

"Member" means member of the Board.

"Prescribed" means prescribed by this Act or by the regulations made thereunder.

"Sydney Ferries Limited" means the company incorporated under that name in New South Wales under and in accordance with the Companies Acts.

Division  
into Parts.

**3.** This Act is divided into Parts as follows:—

PART I.—PRELIMINARY.

PART II.—SYDNEY HARBOUR TRANSPORT BOARD.

DIVISION 1—*Constitution.*

DIVISION 2—*Powers and functions.*

PART III.—FINANCE.

DIVISION 1—*Borrowing powers.*

DIVISION 2—*Accounts and audit.*

PART IV.—GENERAL.

PART



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*Sydney Harbour Transport.*

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PART II.

SYDNEY HARBOUR TRANSPORT BOARD.

DIVISION 1.—*Constitution.*

4. (1) There shall be a Sydney Harbour Transport Board which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this Act. Constitution  
of Board.

In the exercise and discharge of such powers, authorities, duties and functions, the Board shall be subject in all respects to the control and direction of the Minister.

(2) (a) The Board shall consist of three members who shall be the persons who for the time being respectively hold the offices of Director of Transport and Highways, President of the Maritime Services Board of New South Wales, and Under Secretary of the Treasury.

(b) A member of the Board may by writing under his hand appoint a person to act in his place at all meetings of the Board or at any particular meeting or class of meetings or at all meetings other than a particular meeting or class of meetings, and such person, while so acting, shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed by this Act upon the member by whom he was so appointed.

(c) Each member of the Board and each person appointed pursuant to paragraph (b) of this subsection shall be entitled to receive such travelling or other expenses as the Governor may determine.

(3) The Director of Transport and Highways shall be the chairman of the Board.

5. (1) The Board shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be capable of purchasing, holding, granting, demising, disposing of or otherwise Board to  
be body  
corporate  
—Proceed-  
ings of  
Board,



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*Sydney Harbour Transport.*

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otherwise dealing with real and personal property and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

(2) The corporate name of the Board shall be "The Sydney Harbour Transport Board".

(3) For the purposes of any Act the Board shall be deemed a statutory body representing the Crown.

(4) The common seal shall be kept in the custody of the chairman and shall not be affixed to any instrument except in pursuance of a resolution of the Board.

Any instrument executed in pursuance of any such resolution shall be attested by the signatures of any two members.

(5) (a) The procedure for the calling of meetings of the Board and for the conduct of business at such meetings shall be as determined by the Board.

(b) Two of the members shall form a quorum, and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Board and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Board.

A decision of a majority of the members present at a meeting of the Board shall be the decision of the Board.

(c) At any meeting of the Board the chairman shall preside. In the absence of the chairman, the President of the Maritime Services Board of New South Wales shall preside as chairman.

At any meeting of the Board the chairman or the member presiding as chairman (as the case may be) shall have a deliberative vote, and if the voting is equal, a casting vote.

(6) The Board shall cause full and accurate minutes to be kept of its proceedings at formal meetings, and submit to the Minister a copy of the minutes of each formal meeting within one week after the date on which each such formal meeting is held.

(7)



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*Sydney Harbour Transport.*

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(7) No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced, there was a vacancy in the office of a member.

(8) (a) No matter or thing done, and no contract entered into by the Board, and no matter or thing done by any member or by any other person whomsoever acting under the direction of the Board shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim, or demand whatsoever.

(b) Nothing in this subsection shall exempt any member from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Board, and which such member authorised or joined in authorising.

DIVISION 2.—*Powers and functions.*

6. (1) The Board shall, subject to this Act, take all such steps as it may deem necessary to provide for the continued operation of the ferry services which, immediately before the appointed day, were carried on by Sydney Ferries Limited. Powers and functions.

(2) The Board may acquire by purchase from Sydney Ferries Limited for the sum of twenty-five thousand pounds the ferries and other assets which that company agreed to sell on the thirteenth day of June one thousand nine hundred and fifty-one. The contract of purchase may be made on such terms and conditions as may be agreed upon.

The ferry services operated with the ferries and other assets so purchased are in this section hereinafter referred to as "the purchased ferry services".

(3)



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*Sydney Harbour Transport.*

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(3) The Board may, from time to time, enter into an arrangement with any person or body of persons corporate or unincorporate for the management and operation by that person or body of persons, upon such terms and conditions as may be agreed upon, of the purchased ferry services or of any ferry service established by the Board.

(4) Any such agreement made with respect to the purchased ferry services shall expressly provide for the transfer of the employees of Sydney Ferries Limited to the service of the person or body of persons undertaking the management and operation of the services, upon terms and conditions of employment not less favourable than those to which they were subject on the first day of June, one thousand nine hundred and fifty-one.

(5) The Board may, from time to time—

- (a) extend or alter or discontinue any of the purchased ferry services;
- (b) establish any new ferry service;
- (c) conduct any business arising out of or ancillary to the conduct and operation of ferry services and construct any works or acquire any works or property, real or personal, and maintain and operate the same for the purpose of conducting any such business;
- (d) acquire any land or interest in land and erect or adapt any buildings or installations thereon which may be necessary or convenient for or in connection with the conduct or operation of any of the ferry services or any such business;
- (e) acquire either absolutely or on lease any vessels, wharves, plant, machinery or equipment which may be necessary or convenient for or in connection



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*Sydney Harbour Transport.*

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connection with the conduct or operation of any of the ferry services or of any such business and dispose of the same when, in the opinion of the Board, they are no longer required for such purposes.

(6) The Board may, with the approval of the Governor—

- (a) sell and dispose of any land vested in the Board;
- (b) sell and dispose of all or any of the purchased ferry services, or all or any of the ferry services established by the Board.

7. (1) The Board may make and enter into contracts ~~Contracts.~~ or agreements with any person for the performance of such services or for the supply of vessels, plant, machinery or equipment required for or in connection with the exercise or discharge by the Board of its powers, authorities, duties and functions under this Act.

(2) All persons contracting with the Board shall be deemed for the purposes of the Constitution Act, 1902, to be public contractors.

(3) Any contract or agreement authorised by this or any other section of this Act shall be in the name of the Board and may be made as follows, that is to say—

with respect to any contract which if made between private persons would be by law required to be in writing and signed by the parties to be charged therewith or in writing and under seal the Board may make such contract in writing and under its common seal and in the same manner may vary or discharge the same;

with respect to any contract which if made between private persons would by law be valid although made by parol only and not reduced into writing the  
chairman



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*Sydney Harbour Transport.*

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chairman of the Board may make such contract by  
parol only without writing and in the same manner  
may vary or discharge the same.

Officers and  
servants.

8. (1) The Board may appoint and employ such  
officers and servants as may be necessary for carrying  
out the provisions of this Act.

(2) The Board may employ, in an advisory or  
consulting capacity, and so use the services of any person  
or persons not employed in the Public Service or in any  
of the departments into which the Ministry of Transport  
is divided under the Transport (Division of Functions)  
Act, 1932-1947, or in the Maritime Services Board of New  
South Wales, at such remuneration as may in any such  
case be fixed by the Board.

(3) For the purposes of this Act the Board  
with the approval of the Public Service Board or of the  
Minister administering any of the departments into which  
the Ministry of Transport is divided under the Transport  
(Division of Functions) Act, 1932-1947, or the Maritime  
Services Board of New South Wales may, on such terms  
as may be arranged, make use of the services of any  
officer or employee of any Government Department or  
of any of the departments into which the Ministry of  
Transport is so divided, or of the Maritime Services  
Board of New South Wales, as the case may be.



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*Sydney Harbour Transport.*

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PART III.

FINANCE.

DIVISION 1.—*Borrowing powers.*

**9.** (1) For the temporary accommodation of the Board it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Board's funds to such extent as may from time to time be approved by the Governor.

Temporary accommodation.  
cf. Act No. 50, 1924, sec. 71.

(2) The Treasurer may advance such moneys to the Board as the Governor may approve upon such terms and conditions as to repayment and interest as may be agreed upon.

(3) The Board may subject to the conditions and upon the terms prescribed receive money on deposit at short call or on fixed deposit.

**10.** The Board may from time to time with the approval of the Governor borrow money for—

Purposes for which money may be borrowed.  
*Ibid.* sec. 72.

- (a) any purpose of or connected with the exercise or discharge by the Board of its powers authorities duties and functions under this Act;
- (b) the renewal of loans; and
- (c) the discharge or partial discharge of any indebtedness to the Treasurer or to any bank.

**11.** Loans to the Board shall be deemed to be secured upon the income of the Board from whatever source arising.

Security for loans.  
*Ibid.* sec. 74.

**12.** (1) There shall be a reserve for loan repayment in every fund of the Board in respect to which any renewal or other loan or any part thereof has been raised by the Board.

Reserves for repayment.  
*Ibid.* sec. 75.

(2) The Board shall during each year transfer to the reserve for loan repayment from the moneys of the appropriate fund a sum not less than the Board in its application for approval of the loan intimated that it proposed to set apart as aforesaid.

(3)



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*Sydney Harbour Transport.*

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(3) Where any land or property of any kind which has been provided out of loan moneys is sold before the loan has been wholly repaid the net proceeds of the sale shall be added to the reserve for loan repayment in the appropriate fund or paid directly to the lender or used for the provision or purchase of other land or property chargeable upon the fund to which the proceeds belong.

(4) Moneys held as reserve for loan repayment may be invested in Government securities of the Commonwealth of Australia or of the State of New South Wales, or in debentures or inscribed stock in any loan of the Board, or in any securities guaranteed by the Government of the said State, or in debentures or securities issued by the Sydney County Council or the Sydney City Council, or in such other securities as the Governor may approve or as may be prescribed in each case at their current market price. Any interest or profits realised on such investments shall be added to and form part of the reserve for loan repayment. All moneys paid into the reserve for loan repayment in any fund may be applied in or towards repayment of any renewal or other loan raised in respect of the same fund, but except where otherwise provided may not be applied for any other purpose.

(5) Where the Board decides to cancel debentures and inscribed stock of the Board purchased from the reserve for repayment of the loan for which they were issued, then, in addition to the sums otherwise payable to the reserve for loan repayment in respect of that loan, the Board shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to such reserve, pay to such reserve interest at the rate of four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(6) If after a loan raised in respect of any fund has been repaid, there remains in the reserve for repayment of that loan any balance, such balance may be transferred to the current account of that fund.

(7)



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*Sydney Harbour Transport.*

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(7) The reserve for loan repayment shall not be subject to seizure in satisfaction of any debt other than for loans primarily charged on the income of the fund in which the reserve is provided.

**13.** (1) For securing repayment of the principal and interest on any money borrowed, the Board may issue debentures or inscribed stock as prescribed by the regulations.

Debentures,  
etc.  
cf. Act No.  
50, 1924,  
sec. 76.

(2) Every such debenture and every coupon originally annexed to the debenture and whether separated therefrom or not shall be transferable by simple delivery.

(3) Inscribed stock shall be transferable in the books of the Board in accordance with the regulations.

(4) Debentures or inscribed stock issued under this Act shall both as regards the issue and transfer thereof for full consideration in money or money's worth be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920-1949, contained in the Second Schedule to that Act.

(5) The holder of a coupon originally annexed to a debenture and whether separated therefrom or not shall be entitled to receive payment from the Board of the interest mentioned in the coupon upon the presentation of the same on or after the date when and at the place where the interest is payable.

(6) The due repayment of the debentures and stock and the interest thereon shall be a charge upon the income and revenue of the Board and is hereby guaranteed by the Government. Any liability arising from such guarantee shall be payable out of moneys provided by Parliament. Such charge shall not prejudice or affect the power of the Board to sell or convey any property vested in it free of any such charge.

**14.** (1) Any trustee unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust moneys in his hands in stock inscribed by the Board, and

Trustees.  
*Ibid.*  
sec. 78.



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*Sydney Harbour Transport.*

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and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925, or any Act amending or replacing that Act.

(2) Any debenture issued or stock inscribed by the Board shall be a lawful investment for any moneys which any company, council, or body corporate incorporated by any Act of the Parliament of New South Wales is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys.

(3) No notice of any trust expressed, implied, or constructive, shall be received by the Board or by any servant of the Board in relation to any debenture or coupon issued or stock inscribed by the Board.

Lost debentures.  
cf. Act No.  
50, 1924,  
sec. 79.

**15.** (1) If any debenture issued by the Board is lost or destroyed or defaced before the same has been paid, the Board may, subject to the provisions of this section, issue a new debenture in lieu thereof.

(2) The new debenture with interest coupon annexed shall bear the same date, number, principal sum, and rate of interest as the lost, destroyed, or defaced debenture.

(3) When the debenture is lost or destroyed the new debenture shall not be issued unless and until—

- (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture, or of some person approved by the judge, that the same has been lost or destroyed before it has been paid off;
- (b) such advertisement as the judge may direct has been published;
- (c) six months have elapsed since the publication of the last of the advertisements; and
- (d) sufficient security has been given to the Board to indemnify it against any double payment if the missing debenture be at any time thereafter presented for payment.

(4)



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*Sydney Harbour Transport.*

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(4) When the debenture is defaced the new debenture shall not be issued unless and until the defaced debenture is lodged with the Board for cancellation.

(5) The provisions of this section shall, *mutatis mutandis*, extend to the case of a lost, destroyed, or defaced coupon.

**16.** (1) If for six months default is made by the Board in making any payment, whether of principal or interest, to the holder of any debenture, or coupon, issued or stock inscribed by the Board, the holder thereof may apply to the Supreme Court in its equitable jurisdiction, in accordance with rules of court, for the appointment of a receiver of the income of the Board.

Receivers.  
cf. Act  
No. 50,  
1924,  
sec. 80.

(2) A receiver may be appointed in respect of the income of the Board either generally or as regards specified income.

(3) The Court may make such orders and give such directions as it may deem proper for and with respect to—

- (a) the appointment of a receiver;
- (b) the removal of a receiver;
- (c) the appointment of a receiver in place of a receiver previously appointed.

(4) The receiver shall be deemed to be an officer of the Court, and shall act under its directions.

**17.** (1) A receiver shall have power to collect all income payable to the Board which he has by order of the Court been so authorised to collect and for the purposes of this subsection the receiver shall be deemed to be the Board, and may exercise all the powers of the Board.

Powers and  
duties of  
receivers.  
*Ibid.*  
sec. 81.

(2) The receiver shall discharge such duties of the Board or of any servants of the Board as may be prescribed.

**18.**



*Sydney Harbour Transport.*

Commission  
to receiver.  
cf. Act No.  
50, 1924,  
sec. 82.

**18.** The receiver shall be entitled to such commission or remuneration for his services as the Court may order, and the commission or remuneration shall be payable out of the income for and in respect of which he has been appointed receiver.

Application  
of money  
received.  
*Ibid.* sec. 83.

**19.** The receiver shall, subject to any order of the Court, pay and apply all moneys received by him in the following order, that is to say—

- (a) firstly, in payment of the costs, charges, and expenses of collection, and of his commission or remuneration;
- (b) secondly, in the payment of the amount due and payable to the holder of the debenture or inscribed stock or coupon, as the case may be;
- (c) thirdly, in payment of all the residue of the moneys to the Board.

Protection  
of investors.  
*Ibid.*  
sec. 85.

**20.** (1) A person advancing money to the Board shall not be bound to inquire into the application of the money advanced, or be in any way responsible for the non-application or misapplication thereof.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Board shall, in favour of a lender and of any holder of a security given by the Board, be conclusive evidence that all conditions precedent to the borrowing have been complied with.

Debentures  
and bonds to  
rank pari  
passu.  
*Ibid.*  
sec. 85A.

**21.** All debentures, bonds, or other securities which are secured upon the income and revenue of the Board shall rank pari passu without any preference one above another by reason of priority of date or otherwise.

Penalty for  
illegal  
borrowing.  
Act No. 50,  
1924,  
sec. 86.

**22.** If the Board borrows any money without having first obtained the approval of the Governor, each member of the Board holding office who has knowingly and wilfully or for personal benefit or advantage, consented to the borrowing shall be liable to a penalty of five hundred pounds.

The action to recover the penalty shall not be taken without the written consent of the Attorney-General.

**JWT**

DIVISION



*Sydney Harbour Transport.*

DIVISION 2.—*Accounts and audit.*

**23.** (1) The Board shall cause books to be provided and kept, and true and regular accounts to be entered therein in respect of each fund established by it so as to show—

Accounts generally.  
cf. Act No. 50, 1924, sec. 109.

- (a) the assets, liabilities, income and expenditure in respect of the fund; and
- (b) the sources of income and purposes of expenditure in respect of the fund.

(2) The accounts of the Board shall be kept as prescribed.

**24.** The expenditure of each fund shall, subject to any provisions made by or under this Act, be charged against income and capital as nearly as may be in accordance with commercial principles.

Charging expenditure generally.  
*Ibid.*  
sec. 110.

**25.** (1) The Board shall cause to be prepared an annual statement of accounts and a balance-sheet, each of which shall be in a form approved by the Auditor-General, and shall also cause to be prepared an annual report of its operations.

Annual statements.  
*Ibid.*  
sec. 111.

(2) The Board shall furnish to the Minister a copy of such statement, balance-sheet and report.

(3) The report shall be laid before both Houses of Parliament.

**26.** (1) The statement of accounts and balance-sheet so prepared shall be audited and reported upon by the Auditor-General who shall have in respect to the accounts of the Board all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of the public accounts, as well as all powers conferred by this Act.

Audit.  
*Ibid.*  
sec. 112.

(2) The Auditor-General shall report to the Board and the Minister—

(a) whether or not in his opinion—

- (i) due provision has been made for the repayment of loans; and

(ii)



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*Sydney Harbour Transport.*


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- (ii) the value of assets has (so far as he can judge) been in all cases fairly stated; and
  - (iii) due diligence and care have been shown in the collection and banking of income; and
  - (iv) the expenditure incurred has been duly authorised, vouched, and supervised; and
  - (v) proper account has been kept of plant, stores, and materials; and
  - (vi) any of the moneys or other property of the Board have been misappropriated or improperly or irregularly dealt with; and
- (b) as to any other matters which in his judgment call for special notice or which are prescribed by the regulations.

(3) Towards defraying the cost and expenses of the audit by the Auditor-General the Board shall at such periods as the Minister may direct pay to the Treasurer for credit of the Consolidated Revenue Fund, the amount involved as certified by the Auditor-General.

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## PART IV.

### GENERAL.

Judicial  
notice of  
seal of  
the Board.

cf. Act No.  
13, 1946,  
sec. 29.

**27.** All courts and persons having by law or consent of parties authority to hear receive and examine evidence—

- (a) shall take judicial notice of the seal of the Board affixed to any documents; and
- (b) shall until the contrary be proved presume that such seal was properly affixed thereto.

Service of  
notice of  
proceed-  
ings on  
the Board.  
*Ibid.*  
sec. 30.

**28.** Any notice, summons, writ or other proceeding required to be served on the Board may be served by being left at the office of the Board or, in the case of a notice, by post.

**29.**



*Sydney Harbour Transport.*

**29.** Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Board may be sufficiently authenticated without the seal of the Board if signed by the chairman of the Board.

Documents.  
How authenticated.  
cf. Act No.  
13, 1946,  
sec. 31.

**30.** Any penalty imposed by the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions.

Recovery  
of penalty.  
*Ibid.*  
sec. 33.

**31.** (1) Any charge fee or money due to the Board under the provisions of this Act or any regulation may be recovered as a debt in a court of competent jurisdiction.

Recovery  
of charges,  
etc.  
cf. Act.  
No. 20,  
1938,  
sec. 128.

(2) Proceedings for the recovery of any charge fee or money so due to the Board shall be deemed to be for the recovery of a debt or liquidated demand within the meaning of—

- (a) section twenty-four of the Common Law Procedure Act, 1899;
- (b) section sixty-four of the District Courts Act, 1912-1949;
- (c) section twenty-five of the Small Debts Recovery Act, 1912-1933.

**32.** (1) In any legal proceedings by or against the Board no proof shall be required (until evidence is given to the contrary) of—

Proof of  
certain  
matters not  
required.  
cf. Act No.  
13, 1946,  
sec. 34.

- (a) the constitution of the Board;
- (b) any resolution of the Board;
- (c) the appointment of any member of the Board;
- (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Board;
- (e) the appointment of any person to act in the place of a member of the Board or of his authority so to act at any meeting of the Board.

(2)



*Sydney Harbour Transport.*

(2) Where in any legal proceedings by or against the Board it appears that any person acted in the place of a member of the Board at any meeting, it shall be presumed in the absence of proof to the contrary that he was duly appointed so to act, and that he was authorised so to act at that meeting.

Delegation.

**33.** (1) The Board may from time to time in relation to any particular matter or class of matters by writing, under its seal, delegate to any member or to any person or authority any of its powers, authorities, duties and functions, except this power of delegation.

(2) A delegate, when acting within the scope of any such delegation, shall be deemed to be the Board. But no delegation shall prevent the exercise or discharge by the Board of any power, authority, duty or function.

(3) The Board may by writing, under its seal, revoke any delegation made under this section.

(4) Where the exercise or discharge by the Board of any power, authority, duty or function is dependent upon the opinion or belief of the Board in relation to any matter, that power, authority, duty or function may be exercised or discharged by the delegate upon the opinion or belief of that delegate.

Notice of  
action.

cf. Act No.  
41, 1919,  
s. 580.

**34.** (1) A writ or other process in respect of any damage or injury to person or property shall not be sued out or served upon the Board or any member, or any agent or servant of the Board or any person acting in his aid for anything done or intended to be done or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on the Board or member, agent, servant or person, as provided in this section.

(2) The notice shall state—

- (a) the cause of action;
- (b) the time and place at which the damage or injury was sustained; and

(c)



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*Sydney Harbour Transport.*

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- (c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

(3) In the case of damage to property, any person who produces on demand his authority from the Board shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, the nature and extent of the damage, and the amount of money, if any, expended in repairing the same shall be given to him.

Representative of the Board to be permitted to inspect property injured.

(4) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action:

Provided that at any stage of the proceedings the court or any judge of the court in which the action is pending may, if the court or judge deems it to be just or reasonable in the circumstances so to do—

- (a) amend any defect in the notice on such terms and conditions, if any, as the court or judge may fix;
- (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

(5) Every such action shall be commenced within the period of twelve months next after the occurring of the cause of action. Such period is in this subsection referred to as the "prescribed period":

Provided that where an application is made to a judge of the Supreme Court in accordance with rules of court for an extension of the prescribed period the judge may, if he is satisfied that sufficient cause has been shown, or that having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the prescribed period for such further period and subject



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*Sydney Harbour Transport.*

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subject to such terms and conditions, if any, as may be set out in the order. Such applications for extension may be made either within the prescribed period or at any time within twelve months thereafter.

Any person who is dissatisfied with the decision of the judge on any such application may appeal to the Supreme Court and that court may on the appeal make any order which ought to have been made in the first instance.

Every such appeal shall be made in accordance with rules of court.

(6) The Board, or any member, agent, servant or person to whom any such notice of action is given as aforesaid, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice of action, and in case the same is not accepted may plead the tender in bar.

(7) The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

**Regulations.** **35.** (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters which are by this Act required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations may impose a penalty not exceeding fifty pounds for any breach thereof.

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified therein; and
- (c)



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*Sydney Harbour Transport.*

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(c) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session and if not, then within fourteen sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

*In the name and on behalf of His Majesty I assent to this Act.*

J. NORTHCOTT,  
Governor.

*Government House,  
Sydney, 20th June, 1951.*



Subway Station, Toronto

(c) he laid before both Houses of Parliament within fourteen days after publication of the Bill in session and if not then within fourteen sitting days after the commencement of the next session.

(d) If either House of Parliament passes a resolution to which notice has been given at any time within fifteen sitting days after such resolution has been laid before each House disallowing any resolution or part thereof, such resolution or part shall thereupon cease to have effect.

In witness whereof I have hereunto set my hand and the seal of the House of Commons at Westminster this 15th day of June 1951.

L. NORTH

Government House  
Sydney, 20th June, 1951.







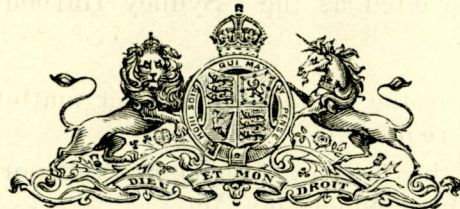




*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY,  
and, having this day passed, is now ready for presentation to the  
LEGISLATIVE COUNCIL for its concurrence.*

H. ROBBINS,  
*Clerk of the Legislative Assembly.*  
*Legislative Assembly Chamber,*  
*Sydney, 14 June, 1951, A.M.*

## New South Wales.



ANNO QUINTO DECIMO

GEORGII VI REGIS.

\*\*\*\*\*

Act No. , 1951.

An Act to make provision for the continuance of certain ferry services on Sydney Harbour; to constitute a body corporate under the name of the Sydney Harbour Transport Board; to make provision for the purchase by that Board of certain of the assets of Sydney Ferries Limited; to authorise that Board to arrange for the conduct of ferry services on Sydney Harbour and to confer and impose upon it certain other powers, authorities, duties and functions; and for purposes connected therewith.



*Sydney Harbour Transport.*

**B**E it enacted by the King's Most Excellent Majesty,  
by and with the advice and consent of the Legis-  
lative Council and Legislative Assembly of New South  
Wales in Parliament assembled, and by the authority of  
5 the same, as follows:—

PART I.

PRELIMINARY.

**1.** This Act may be cited as the “Sydney Harbour Short title.  
Transport Act, 1951”.

10 **2.** In this Act unless the context or subject matter otherwise indicates or requires— Interpretation.

“Board” means the Sydney Harbour Transport Board constituted under this Act.

“Member” means member of the Board.

15 “Prescribed” means prescribed by this Act or by the regulations made thereunder.

20 “Sydney Ferries Limited” means the company incorporated under that name in New South Wales under and in accordance with the Companies Acts.

**3.** This Act is divided into Parts as follows:—

Division into Parts.

PART I.—PRELIMINARY.

PART II.—SYDNEY HARBOUR TRANSPORT BOARD.

DIVISION 1—*Constitution.*

25 DIVISION 2—*Powers and functions.*

PART III.—FINANCE.

DIVISION 1—*Borrowing powers.*

DIVISION 2—*Accounts and audit.*

PART IV.—GENERAL.

PART



*Sydney Harbour Transport.*

PART II.

SYDNEY HARBOUR TRANSPORT BOARD.

DIVISION 1.—*Constitution.*

4. (1) There shall be a Sydney Harbour Transport Board which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this Act.

Constitution  
of Board.

In the exercise and discharge of such powers, authorities, duties and functions, the Board shall be subject in all respects to the control and direction of the Minister.

- (2) (a) The Board shall consist of three members who shall be the persons who for the time being respectively hold the offices of Director of Transport and Highways, President of the Maritime Services Board of New South Wales, and Under Secretary of the Treasury.

(b) A member of the Board may by writing under his hand appoint a person to act in his place at all meetings of the Board or at any particular meeting or class of meetings or at all meetings other than a particular meeting or class of meetings, and such person, while so acting, shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed by this Act upon the member by whom he was so appointed.

(c) Each member of the Board and each person appointed pursuant to paragraph (b) of this subsection shall be entitled to receive such travelling or other expenses as the Governor may determine.

- (3) The Director of Transport and Highways shall be the chairman of the Board.

5. (1) The Board shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be capable of purchasing, holding, granting, demising, disposing of or otherwise

Board to  
be body  
corporate  
—Proceed-  
ings of  
Board.



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*Sydney Harbour Transport.*

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otherwise dealing with real and personal property and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

(2) The corporate name of the Board shall be "The  
5 Sydney Harbour Transport Board".

(3) For the purposes of any Act the Board shall be deemed a statutory body representing the Crown.

(4) The common seal shall be kept in the custody of the chairman and shall not be affixed to any instrument  
10 except in pursuance of a resolution of the Board.

Any instrument executed in pursuance of any such resolution shall be attested by the signatures of any two members.

(5) (a) The procedure for the calling of meetings  
15 of the Board and for the conduct of business at such meetings shall be as determined by the Board.

(b) Two of the members shall form a quorum, and any duly convened meeting at which a quorum is present shall be competent to transact any business of the  
20 Board and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Board.

A decision of a majority of the members present at a meeting of the Board shall be the decision of the Board.

(c) At any meeting of the Board the chairman  
25 shall preside. In the absence of the chairman, the President of the Maritime Services Board of New South Wales shall preside as chairman.

At any meeting of the Board the chairman or the member presiding as chairman (as the case may be) shall  
30 have a deliberative vote, and if the voting is equal, a casting vote.

(6) The Board shall cause full and accurate minutes to be kept of its proceedings at formal meetings, and submit to the Minister a copy of the minutes of each  
40 formal meeting within one week after the date on which each such formal meeting is held.

(7)



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*Sydney Harbour Transport.*

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(7) No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced, there was a vacancy in the office of a 5 member.

(8) (a) No matter or thing done, and no contract entered into by the Board, and no matter or thing done by any member or by any other person whomsoever acting under the direction of the Board shall, if the matter 10 or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim, or demand whatsoever.

(b) Nothing in this subsection shall exempt 15 any member from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Board, and which such member authorised or joined in authorising.

DIVISION 2.—*Powers and functions.*

20 **6.** (1) The Board shall, subject to this Act, take all such steps as it may deem necessary to provide for the continued operation of the ferry services which, immediately before the appointed day, were carried on by Sydney Ferries Limited. Powers and functions.

25 (2) The Board may acquire by purchase from Sydney Ferries Limited for the sum of twenty-five thousand pounds the ferries and other assets which that company agreed to sell on the thirteenth day of June one thousand nine hundred and fifty-one. The contract 30 of purchase may be made on such terms and conditions as may be agreed upon.

The ferry services operated with the ferries and other assets so purchased are in this section hereinafter referred to as "the purchased ferry services".

(3)



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*Sydney Harbour Transport.*

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(3) The Board may, from time to time, enter into an arrangement with any person or body of persons corporate or unincorporate for the management and operation by that person or body of persons, upon such  
5 terms and conditions as may be agreed upon, of the purchased ferry services or of any ferry service established by the Board.

(4) Any such agreement made with respect to the purchased ferry services shall expressly provide for the  
10 transfer of the employees of Sydney Ferries Limited to the service of the person or body of persons undertaking the management and operation of the services, upon terms and conditions of employment not less favourable than those to which they were subject on the first day of  
15 June, one thousand nine hundred and fifty-one.

(5) The Board may, from time to time—

(a) extend or alter or discontinue any of the purchased ferry services;

(b) establish any new ferry service;

20 (c) conduct any business arising out of or ancillary to the conduct and operation of ferry services and construct any works or acquire any works or property, real or personal, and maintain and  
25 operate the same for the purpose of conducting any such business;

(d) acquire any land or interest in land and erect or adapt any buildings or installations thereon which may be necessary or convenient for or in  
30 connection with the conduct or operation of any of the ferry services or any such business;

(e) acquire either absolutely or on lease any vessels, wharves, plant, machinery or equipment which may be necessary or convenient for or in  
connection



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*Sydney Harbour Transport.*

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5 connection with the conduct or operation of any  
of the ferry services or of any such business and  
dispose of the same when, in the opinion of the  
Board, they are no longer required for such  
purposes.

(6) The Board may, with the approval of the  
Governor—

- (a) sell and dispose of any land vested in the  
Board;
- 10 (b) sell and dispose of all or any of the purchased  
ferry services, or all or any of the ferry services  
established by the Board.

7. (1) The Board may make and enter into contracts ~~Contracts,~~  
or agreements with any person for the performance of  
15 such services or for the supply of vessels, plant,  
machinery or equipment required for or in connection  
with the exercise or discharge by the Board of its powers,  
authorities, duties and functions under this Act.

(2) All persons contracting with the Board shall be  
20 deemed for the purposes of the Constitution Act, 1902,  
to be public contractors.

(3) Any contract or agreement authorised by this  
or any other section of this Act shall be in the name of  
the Board and may be made as follows, that is to say—

25 with respect to any contract which if made between  
private persons would be by law required to be in  
writing and signed by the parties to be charged  
therewith or in writing and under seal the Board may  
make such contract in writing and under its  
30 common seal and in the same manner may vary or  
discharge the same;

with respect to any contract which if made between  
private persons would by law be valid although made  
by parol only and not reduced into writing the  
chairman



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*Sydney Harbour Transport.*

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chairman of the Board may make such contract by  
parol only without writing and in the same manner  
may vary or discharge the same.

5 S. (1) The Board may appoint and employ such <sup>Officers and</sup>  
officers and servants as may be necessary for carrying <sup>servants.</sup>  
out the provisions of this Act.

(2) The Board may employ, in an advisory or  
consulting capacity, and so use the services of any person  
or persons not employed in the Public Service or in any  
10 of the departments into which the Ministry of Transport  
is divided under the Transport (Division of Functions)  
Act, 1932-1947, or in the Maritime Services Board of New  
South Wales, at such remuneration as may in any such  
case be fixed by the Board.

15 (3) For the purposes of this Act the Board  
with the approval of the Public Service Board or of the  
Minister administering any of the departments into which  
the Ministry of Transport is divided under the Transport  
(Division of Functions) Act, 1932-1947, or the Maritime  
20 Services Board of New South Wales may, on such terms  
as may be arranged, make use of the services of any  
officer or employee of any Government Department or  
of any of the departments into which the Ministry of  
Transport is so divided, or of the Maritime Services  
25 Board of New South Wales, as the case may be.



*Sydney Harbour Transport.*

## PART III.

## FINANCE.

DIVISION 1.—*Borrowing powers.*

5 **9.** (1) For the temporary accommodation of the Board it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Board's funds to such extent as may from time to time be approved by the Governor.

Temporary  
accommoda-  
tion.  
cf. Act No.  
50, 1924,  
sec. 71.

10 (2) The Treasurer may advance such moneys to the Board as the Governor may approve upon such terms and conditions as to repayment and interest as may be agreed upon.

15 (3) The Board may subject to the conditions and upon the terms prescribed receive money on deposit at short call or on fixed deposit.

**10.** The Board may from time to time with the approval of the Governor borrow money for—

20 (a) any purpose of or connected with the exercise or discharge by the Board of its powers authorities duties and functions under this Act;

Purposes  
for which  
money may  
be  
borrowed.  
*Ibid.*  
sec. 72.

(b) the renewal of loans; and

(c) the discharge or partial discharge of any indebtedness to the Treasurer or to any bank.

25 **11.** Loans to the Board shall be deemed to be secured upon the income of the Board from whatever source arising.

Security  
for loans.  
*Ibid.*  
sec. 74.

30 **12.** (1) There shall be a reserve for loan repayment in every fund of the Board in respect to which any renewal or other loan or any part thereof has been raised by the Board.

Reserves  
for re-  
payment.  
*Ibid.*  
sec. 75.

(2) The Board shall during each year transfer to the reserve for loan repayment from the moneys of the appropriate fund a sum not less than the Board in its application for approval of the loan intimated that it proposed to set apart as aforesaid.

(3)



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*Sydney Harbour Transport.*

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(3) Where any land or property of any kind which has been provided out of loan moneys is sold before the loan has been wholly repaid the net proceeds of the sale shall be added to the reserve for loan repayment in  
5 the appropriate fund or paid directly to the lender or used for the provision or purchase of other land or property chargeable upon the fund to which the proceeds belong.

(4) Moneys held as reserve for loan repayment  
10 may be invested in Government securities of the Commonwealth of Australia or of the State of New South Wales, or in debentures or inscribed stock in any loan of the Board, or in any securities guaranteed by the Government of the said State, or in debentures or  
15 securities issued by the Sydney County Council or the Sydney City Council, or in such other securities as the Governor may approve or as may be prescribed in each case at their current market price. Any interest or profits realised on such investments shall be added to and form  
20 part of the reserve for loan repayment. All moneys paid into the reserve for loan repayment in any fund may be applied in or towards repayment of any renewal or other loan raised in respect of the same fund, but except where otherwise provided may not be applied for any other  
25 purpose.

(5) Where the Board decides to cancel debentures and inscribed stock of the Board purchased from the reserve for repayment of the loan for which they were issued, then, in addition to the sums otherwise payable  
30 to the reserve for loan repayment in respect of that loan, the Board shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to such reserve, pay to such reserve interest at the rate of four and one-half per centum per annum on  
35 the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(6) If after a loan raised in respect of any fund has been repaid, there remains in the reserve for repayment of that loan any balance, such balance may be  
40 transferred to the current account of that fund.

(7)



*Sydney Harbour Transport.*

(7) The reserve for loan repayment shall not be subject to seizure in satisfaction of any debt other than for loans primarily charged on the income of the fund in which the reserve is provided.

**5 13.** (1) For securing repayment of the principal and interest on any money borrowed, the Board may issue debentures or inscribed stock as prescribed by the regulations. Debentures,  
etc.  
cf. Act No.  
50, 1924,  
sec. 76.

(2) Every such debenture and every coupon **10** originally annexed to the debenture and whether separated therefrom or not shall be transferable by simple delivery.

(3) Inscribed stock shall be transferable in the books of the Board in accordance with the regulations.

**15** (4) Debentures or inscribed stock issued under this Act shall both as regards the issue and transfer thereof for full consideration in money or money's worth be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, **20** 1920-1949, contained in the Second Schedule to that Act.

(5) The holder of a coupon originally annexed to a debenture and whether separated therefrom or not shall be entitled to receive payment from the Board of the interest mentioned in the coupon upon the presentation **25** of the same on or after the date when and at the place where the interest is payable.

(6) The due repayment of the debentures and stock and the interest thereon shall be a charge upon the income and revenue of the Board and is hereby **30** guaranteed by the Government. Any liability arising from such guarantee shall be payable out of moneys provided by Parliament. Such charge shall not prejudice or affect the power of the Board to sell or convey any property vested in it free of any such charge.

**35 14.** (1) Any trustee unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust moneys in his hands in stock inscribed by the Board, Trustees.  
*Ibid.*  
sec. 78. and



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*Sydney Harbour Transport.*

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and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925, or any Act amending or replacing that Act.

(2) Any debenture issued or stock inscribed by the Board shall be a lawful investment for any moneys which any company, council, or body corporate incorporated by any Act of the Parliament of New South Wales is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys.

(3) No notice of any trust expressed, implied, or constructive, shall be received by the Board or by any servant of the Board in relation to any debenture or coupon issued or stock inscribed by the Board.

15 **15.** (1) If any debenture issued by the Board is lost or destroyed or defaced before the same has been paid, the Board may, subject to the provisions of this section, issue a new debenture in lieu thereof.

Lost debentures.  
cf. Act No. 50, 1924, sec. 79.

(2) The new debenture with interest coupon annexed shall bear the same date, number, principal sum, and rate of interest as the lost, destroyed, or defaced debenture.

(3) When the debenture is lost or destroyed the new debenture shall not be issued unless and until—

- 25 (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture, or of some person approved by the judge, that the same has been lost or destroyed before it has been paid off;
- 30 (b) such advertisement as the judge may direct has been published;
- (c) six months have elapsed since the publication of the last of the advertisements; and
- 35 (d) sufficient security has been given to the Board to indemnify it against any double payment if the missing debenture be at any time thereafter presented for payment.

(4)



*Sydney Harbour Transport.*

(4) When the debenture is defaced the new debenture shall not be issued unless and until the defaced debenture is lodged with the Board for cancellation.

(5) The provisions of this section shall, *mutatis mutandis*, extend to the case of a lost, destroyed, or defaced coupon.

**16.** (1) If for six months' default is made by the Board in making any payment, whether of principal or interest, to the holder of any debenture, or coupon, issued or stock inscribed by the Board, the holder thereof may apply to the Supreme Court in its equitable jurisdiction, in accordance with rules of court, for the appointment of a receiver of the income of the Board.

Receivers.  
cf. Act  
No. 50,  
1924,  
sec. 80.

(2) A receiver may be appointed in respect of the income of the Board either generally or as regards specified income.

(3) The Court may make such orders and give such directions as it may deem proper for and with respect to—

- (a) the appointment of a receiver;
- (b) the removal of a receiver;
- (c) the appointment of a receiver in place of a receiver previously appointed.

(4) The receiver shall be deemed to be an officer of the Court, and shall act under its directions.

**17.** (1) A receiver shall have power to collect all income payable to the Board which he has by order of the Court been so authorised to collect and for the purposes of this subsection the receiver shall be deemed to be the Board, and may exercise all the powers of the Board.

Powers and  
duties of  
receivers.  
*Ibid.*  
sec. 81.

(2) The receiver shall discharge such duties of the Board or of any servants of the Board as may be prescribed.



*Sydney Harbour Transport.*

18. The receiver shall be entitled to such commission or remuneration for his services as the Court may order, and the commission or remuneration shall be payable out of the income for and in respect of which he has been  
5 appointed receiver.

Commission  
to receiver.  
cf. Act No.  
50, 1924,  
sec. 82.

19. The receiver shall, subject to any order of the Court, pay and apply all moneys received by him in the following order, that is to say—

Application  
of money  
received.  
*Ibid.* sec. 83.

10 (a) firstly, in payment of the costs, charges, and expenses of collection, and of his commission or remuneration;

(b) secondly, in the payment of the amount due and payable to the holder of the debenture or inscribed stock or coupon, as the case may be;

15 (c) thirdly, in payment of all the residue of the moneys to the Board.

20. (1) A person advancing money to the Board shall not be bound to inquire into the application of the money advanced, or be in any way responsible for the non-  
20 application or misapplication thereof.

Protection  
of investors.  
*Ibid.*  
sec. 85.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Board shall, in favour of a lender and of any holder of a security given by the Board, be conclusive evidence  
25 that all conditions precedent to the borrowing have been complied with.

21. All debentures, bonds, or other securities which are secured upon the income and revenue of the Board shall rank *pari passu* without any preference one above  
30 another by reason of priority of date or otherwise.

Debentures  
and bonds to  
rank *pari*  
*passu*.  
*Ibid.*  
sec. 85A.

22. If the Board borrows any money without having first obtained the approval of the Governor, each member of the Board holding office who has knowingly and wilfully or for personal benefit or advantage, consented  
35 to the borrowing shall be liable to a penalty of five hundred pounds.

Penalty for  
illegal  
borrowing.  
Act No. 50,  
1924,  
sec. 86.

The action to recover the penalty shall not be taken without the written consent of the Attorney-General.

DIVISION



*Sydney Harbour Transport.*

DIVISION 2.—*Accounts and audit.*

23. (1) The Board shall cause books to be provided and kept, and true and regular accounts to be entered therein in respect of each fund established by it so as to show—

Accounts generally.  
cf. Act No. 50, 1924, sec. 109.

(a) the assets, liabilities, income and expenditure in respect of the fund; and

(b) the sources of income and purposes of expenditure in respect of the fund.

10 (2) The accounts of the Board shall be kept as prescribed.

24. The expenditure of each fund shall, subject to any provisions made by or under this Act, be charged against income and capital as nearly as may be in accordance with commercial principles.

Charging expenditure generally.  
*Ibid.*  
sec. 110.

25 (1) The Board shall cause to be prepared an annual statement of accounts and a balance-sheet, each of which shall be in a form approved by the Auditor-General, and shall also cause to be prepared an annual report of its operations.

Annual statements.  
*Ibid.*  
sec. 111.

(2) The Board shall furnish to the Minister a copy of such statement, balance-sheet and report.

(3) The report shall be laid before both Houses of Parliament.

25 26. (1) The statement of accounts and balance-sheet so prepared shall be audited and reported upon by the Auditor-General who shall have in respect to the accounts of the Board all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of the public accounts, as well as all powers conferred by this Act.

Audit.  
*Ibid.*  
sec. 112.

(2) The Auditor-General shall report to the Board and the Minister—

(a) whether or not in his opinion—

35 (i) due provision has been made for the repayment of loans; and

(ii)



*Sydney Harbour Transport.*

- (ii) the value of assets has (so far as he can judge) been in all cases fairly stated; and
- (iii) due diligence and care have been shown in the collection and banking of income; and
- 5 (iv) the expenditure incurred has been duly authorised, vouched, and supervised; and
- (v) proper account has been kept of plant, stores, and materials; and
- 10 (vi) any of the moneys or other property of the Board have been misappropriated or improperly or irregularly dealt with; and
- (b) as to any other matters which in his judgment call for special notice or which are prescribed
- 15 by the regulations.
- (3) Towards defraying the cost and expenses of the audit by the Auditor-General the Board shall at such periods as the Minister may direct pay to the Treasurer for credit of the Consolidated Revenue Fund, the amount
- 20 involved as certified by the Auditor-General.

PART IV.

GENERAL.

27. All courts and persons having by law or consent of parties authority to hear receive and examine
- 25 evidence—
- (a) shall take judicial notice of the seal of the Board affixed to any documents; and
- (b) shall until the contrary be proved presume that such seal was properly affixed thereto.
- 30 28. Any notice, summons, writ or other proceeding required to be served on the Board may be served by being left at the office of the Board or, in the case of a notice, by post.
- 29.

Judicial  
notice of  
seal of  
the Board.

cf. Act No.  
13, 1946,  
sec. 29.

Service of  
notice of  
proceed-  
ings on  
the Board.  
*Ibid.*  
sec. 30.



*Sydney Harbour Transport.*

**29.** Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Board may be sufficiently authenticated without the seal of the Board if signed by the chairman of the Board.

Documents.  
How authenticated.  
cf. Act No.  
13, 1946,  
sec. 31.

**30.** Any penalty imposed by the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions.

Recovery  
of penalty.  
*Ibid.*  
sec. 33.

**31.** (1) Any charge fee or money due to the Board under the provisions of this Act or any regulation may be recovered as a debt in a court of competent jurisdiction.

Recovery  
of charges,  
etc.  
cf. Act.  
No. 20,  
1938,  
sec. 128.

(2) Proceedings for the recovery of any charge fee or money so due to the Board shall be deemed to be for the recovery of a debt or liquidated demand within the meaning of—

- (a) section twenty-four of the Common Law Procedure Act, 1899;
- (b) section sixty-four of the District Courts Act, 1912-1949;
- (c) section twenty-five of the Small Debts Recovery Act, 1912-1933.

**32.** (1) In any legal proceedings by or against the Board no proof shall be required (until evidence is given to the contrary) of—

Proof of  
certain  
matters not  
required.  
cf. Act No.  
13, 1946,  
sec. 34.

- (a) the constitution of the Board;
- (b) any resolution of the Board;
- (c) the appointment of any member of the Board;
- (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Board;
- (e) the appointment of any person to act in the place of a member of the Board or of his authority so to act at any meeting of the Board.



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*Sydney Harbour Transport.*

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(2) Where in any legal proceedings by or against the Board it appears that any person acted in the place of a member of the Board at any meeting, it shall be presumed in the absence of proof to the contrary that he was duly appointed so to act, and that he was authorised so to act at that meeting.

**33.** (1) The Board may from time to time in relation to any particular matter or class of matters by writing, under its seal, delegate to any member or to any person or authority any of its powers, authorities, duties and functions, except this power of delegation.

(2) A delegate, when acting within the scope of any such delegation, shall be deemed to be the Board. But no delegation shall prevent the exercise or discharge by the Board of any power, authority, duty or function.

(3) The Board may by writing, under its seal, revoke any delegation made under this section.

(4) Where the exercise or discharge by the Board of any power, authority, duty or function is dependent upon the opinion or belief of the Board in relation to any matter, that power, authority, duty or function may be exercised or discharged by the delegate upon the opinion or belief of that delegate.

**34.** (1) A writ or other process in respect of any damage or injury to person or property shall not be sued out or served upon the Board or any member, or any agent or servant of the Board or any person acting in his aid for anything done or intended to be done or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on the Board or member, agent, servant or person, as provided in this section.

Notice of  
action.  
cf. Act No.  
41, 1919,  
s. 580.

(2) The notice shall state—

(a) the cause of action;

(b) the time and place at which the damage or injury was sustained; and

(c)



*Sydney Harbour Transport.*

- (c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

(3) In the case of damage to property, any person  
 5 who produces on demand his authority from the Board shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, the nature and extent of the damage, and the amount of money, if any, expended  
 10 in repairing the same shall be given to him.

Representative of the Board to be permitted to inspect property injured.

(4) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled  
 15 to maintain the action:

Provided that at any stage of the proceedings the court or any judge of the court in which the action is pending may, if the court or judge deems it to be just or reasonable in the circumstances so to do—

- 20 (a) amend any defect in the notice on such terms and conditions, if any, as the court or judge may fix;  
 (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar  
 25 to the maintenance of the action.

(5) Every such action shall be commenced within the period of twelve months next after the occurring of the cause of action. Such period is in this subsection referred to as the "prescribed period":

- 30 Provided that where an application is made to a judge of the Supreme Court in accordance with rules of court for an extension of the prescribed period the judge may, if he is satisfied that sufficient cause has been shown, or that having regard to all the circumstances of the case,  
 35 it would be reasonable so to do, make an order for extension of the prescribed period for such further period and subject



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*Sydney Harbour Transport.*

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subject to such terms and conditions, if any, as may be set out in the order. Such applications for extension may be made either within the prescribed period or at any time within twelve months thereafter.

- 5 Any person who is dissatisfied with the decision of the judge on any such application may appeal to the Supreme Court and that court may on the appeal make any order which ought to have been made in the first instance.
- 10 Every such appeal shall be made in accordance with rules of court.

- (6) The Board, or any member, agent, servant or person to whom any such notice of action is given as aforesaid, may tender amends to the plaintiff, his  
15 attorney or agent at any time within one month after service of notice of action, and in case the same is not accepted may plead the tender in bar.

- (7) The defendant in every such action may plead the general issue and at the trial thereof give this Act  
20 and the special matter in evidence.

- 35.** (1) The Governor may make regulations, not Regulations.  
inconsistent with this Act, prescribing all matters which are by this Act required or permitted to be prescribed or which are necessary or convenient to be prescribed for  
25 carrying out or giving effect to this Act.

- (2) The regulations may impose a penalty not exceeding fifty pounds for any breach thereof.

- (3) The regulations shall—

- (a) be published in the Gazette;  
30 (b) take effect from the date of publication or from a later date to be specified therein; and  
(c)



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*Sydney Harbour Transport.*

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(c) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session and if not, then within fourteen sitting days after the commencement of the next session.

5

(4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation  
10 or part thereof, such regulation or part shall thereupon cease to have effect.



Sessional Order of Business

(1) It is the duty of both Houses of Parliament within fourteen days after publication in Parliament of a Bill, to decide whether it is in session and if not, then within fourteen days after the commencement of the next session.

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(2) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen days after such resolutions have been laid before such House following any resolution 10 or part thereof, such resolution or part shall thereupon cease to have effect.











No. , 1951.

## A BILL

To make provision for the continuance of certain ferry services on Sydney Harbour; to constitute a body corporate under the name of the Sydney Harbour Transport Board; to make provision for the purchase by that Board of certain of the assets of Sydney Ferries Limited; to authorise that Board to arrange for the conduct of ferry services on Sydney Harbour and to confer and impose upon it certain other powers, authorities, duties and functions; and for purposes connected therewith.

[Mr. SHEAHAN; 13 June, 1951.]



*Sydney Harbour Transport.*

**B**E it enacted by the King's Most Excellent Majesty,  
by and with the advice and consent of the Legis-  
lative Council and Legislative Assembly of New South  
Wales in Parliament assembled, and by the authority of  
5 the same, as follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Sydney Harbour Short title.  
Transport Act, 1951".

10 2. In this Act unless the context or subject matter Interpre-  
otherwise indicates or requires— tation.

"Board" means the Sydney Harbour Transport  
Board constituted under this Act.

"Member" means member of the Board.

15 "Prescribed" means prescribed by this Act or by  
the regulations made thereunder.

"Sydney Ferries Limited" means the company  
incorporated under that name in New South  
Wales under and in accordance with the  
20 Companies Acts.

3. This Act is divided into Parts as follows:—

Division  
into Parts.

PART I.—PRELIMINARY.

PART II.—SYDNEY HARBOUR TRANSPORT BOARD.

DIVISION 1—*Constitution.*

25 DIVISION 2—*Powers and functions.*

PART III.—FINANCE.

DIVISION 1—*Borrowing powers.*

DIVISION 2—*Accounts and audit.*

7 PART IV.—GENERAL.

PART



*Sydney Harbour Transport.*

PART II.

SYDNEY HARBOUR TRANSPORT BOARD.

DIVISION 1.—*Constitution.*

4. (1) There shall be a Sydney Harbour Transport Board which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this Act. Constitution of Board.

In the exercise and discharge of such powers, authorities, duties and functions, the Board shall be subject in all respects to the control and direction of the Minister.

(2) (a) The Board shall consist of three members who shall be the persons who for the time being respectively hold the offices of Director of Transport and Highways, President of the Maritime Services Board of New South Wales, and Under Secretary of the Treasury.

(b) A member of the Board may by writing under his hand appoint a person to act in his place at all meetings of the Board or at any particular meeting or class of meetings or at all meetings other than a particular meeting or class of meetings, and such person, while so acting, shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed by this Act upon the member by whom he was so appointed.

(c) Each member of the Board and each person appointed pursuant to paragraph (b) of this subsection shall be entitled to receive such travelling or other expenses as the Governor may determine.

(3) The Director of Transport and Highways shall be the chairman of the Board.

5. (1) The Board shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be capable of purchasing, holding, granting, demising, disposing of or otherwise Board to be body corporate —Proceedings of Board.



*Sydney Harbour Transport.*

otherwise dealing with real and personal property and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

(2) The corporate name of the Board shall be "The  
5 Sydney Harbour Transport Board".

(3) For the purposes of any Act the Board shall be deemed a statutory body representing the Crown.

(4) The common seal shall be kept in the custody of the chairman and shall not be affixed to any instrument  
10 except in pursuance of a resolution of the Board.

Any instrument executed in pursuance of any such resolution shall be attested by the signatures of any two members.

(5) (a) The procedure for the calling of meetings  
15 of the Board and for the conduct of business at such meetings shall be as determined by the Board.

(b) Two of the members shall form a quorum, and any duly convened meeting at which a quorum is present shall be competent to transact any business of the  
20 Board and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Board.

A decision of a majority of the members present at a meeting of the Board shall be the decision of the Board.

(c) At any meeting of the Board the chairman  
25 shall preside. In the absence of the chairman, the President of the Maritime Services Board of New South Wales shall preside as chairman.

At any meeting of the Board the chairman or the member presiding as chairman (as the case may be) shall  
30 have a deliberative vote, and if the voting is equal, a casting vote.

(6) The Board shall cause full and accurate minutes to be kept of its proceedings at formal meetings, and submit to the Minister a copy of the minutes of each  
40 formal meeting within one week after the date on which each such formal meeting is held,

(7)



*Sydney Harbour Transport.*

(7) No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced, there was a vacancy in the office of a  
5 member.

(8) (a) No matter or thing done, and no contract entered into by the Board, and no matter or thing done by any member or by any other person whomsoever acting under the direction of the Board shall, if the matter  
10 or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim, or demand whatsoever.

(b) Nothing in this subsection shall exempt  
15 any member from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Board, and which such member authorised or joined in authorising.

DIVISION 2.—*Powers and functions.*

20 **6.** (1) The Board shall, subject to this Act, take all such steps as it may deem necessary to provide for the continued operation of the ferry services which, immediately before the appointed day, were carried on by Sydney Ferries Limited. Powers and functions.

25 (2) The Board may acquire by purchase from Sydney Ferries Limited for the sum of twenty-five thousand pounds the ferries and other assets which that company agreed to sell on the thirteenth day of June one thousand nine hundred and fifty-one. The contract  
30 of purchase may be made on such terms and conditions as may be agreed upon.

The ferry services operated with the ferries and other assets so purchased are in this section hereinafter referred to as "the purchased ferry services".

(3)



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*Sydney Harbour Transport.*

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(3) The Board may, from time to time, enter into an arrangement with any person or body of persons corporate or unincorporate for the management and operation by that person or body of persons, upon such 5 terms and conditions as may be agreed upon, of the purchased ferry services or of any ferry service established by the Board.

(4) Any such agreement made with respect to the purchased ferry services shall expressly provide for the 10 transfer of the employees of Sydney Ferries Limited to the service of the person or body of persons undertaking the management and operation of the services, upon terms and conditions of employment not less favourable than those to which they were subject on the first day of 15 June, one thousand nine hundred and fifty-one.

(5) The Board may, from time to time—

- (a) extend or alter or discontinue any of the purchased ferry services;
- (b) establish any new ferry service;
- 20 (c) conduct any business arising out of or ancillary to the conduct and operation of ferry services and construct any works or acquire any works or property, real or personal, and maintain and operate the same for the purpose of conducting 25 any such business;
- (d) acquire any land or interest in land and erect or adapt any buildings or installations thereon which may be necessary or convenient for or in connection with the conduct or operation of any 30 of the ferry services or any such business;
- (e) acquire either absolutely or on lease any vessels, wharves, plant, machinery or equipment which may be necessary or convenient for or in connection



*Sydney Harbour Transport.*

5 connection with the conduct or operation of any of the ferry services or of any such business and dispose of the same when, in the opinion of the Board, they are no longer required for such purposes.

(6) The Board may, with the approval of the Governor—

- (a) sell and dispose of any land vested in the Board;
- 10 (b) sell and dispose of all or any of the purchased ferry services, or all or any of the ferry services established by the Board.

7. (1) The Board may make and enter into contracts or agreements with any person for the performance of  
 15 such services or for the supply of vessels, plant, machinery or equipment required for or in connection with the exercise or discharge by the Board of its powers, authorities, duties and functions under this Act. Contracts.

(2) All persons contracting with the Board shall be  
 20 deemed for the purposes of the Constitution Act, 1902, to be public contractors.

(3) Any contract or agreement authorised by this or any other section of this Act shall be in the name of the Board and may be made as follows, that is to say—

25 with respect to any contract which if made between private persons would be by law required to be in writing and signed by the parties to be charged therewith or in writing and under seal the Board may  
 30 make such contract in writing and under its common seal and in the same manner may vary or discharge the same;

with respect to any contract which if made between private persons would by law be valid although made by parol only and not reduced into writing the  
 chairman



*Sydney Harbour Transport.*

chairman of the Board may make such contract by  
parol only without writing and in the same manner  
may vary or discharge the same.

8. (1) The Board may appoint and employ such **Officers and**  
5 officers and servants as may be necessary for carrying **servants.**  
out the provisions of this Act.

(2) The Board may employ, in an advisory or  
consulting capacity, and so use the services of any person  
or persons not employed in the Public Service or in any  
10 of the departments into which the Ministry of Transport  
is divided under the Transport (Division of Functions)  
Act, 1932-1947, or in the Maritime Services Board of New  
South Wales, at such remuneration as may in any such  
case be fixed by the Board.

15 (3) For the purposes of this Act the Board  
with the approval of the Public Service Board or of the  
Minister administering any of the departments into which  
the Ministry of Transport is divided under the Transport  
(Division of Functions) Act, 1932-1947, or the Maritime  
20 Services Board of New South Wales may, on such terms  
as may be arranged, make use of the services of any  
officer or employee of any Government Department or  
of any of the departments into which the Ministry of  
Transport is so divided, or of the Maritime Services  
25 Board of New South Wales, as the case may be.



*Sydney Harbour Transport.*

PART III.

FINANCE.

DIVISION 1.—*Borrowing powers.*

9. (1) For the temporary accommodation of the  
5 Board it may obtain advances by overdraft of current  
account in any bank or banks upon the credit of the  
Board's funds to such extent as may from time to time  
be approved by the Governor.

Temporary  
accommoda-  
tion.  
cf. Act No.  
50, 1924,  
sec. 71.

(2) The Treasurer may advance such moneys to  
10 the Board as the Governor may approve upon such terms  
and conditions as to repayment and interest as may be  
agreed upon.

(3) The Board may subject to the conditions and  
upon the terms prescribed receive money on deposit at  
15 short call or on fixed deposit.

10. The Board may from time to time with the  
approval of the Governor borrow money for—

Purposes  
for which  
money may  
be  
borrowed.  
*Ibid.*  
sec. 72.

(a) any purpose of or connected with the exercise or  
20 discharge by the Board of its powers authorities  
duties and functions under this Act;

(b) the renewal of loans; and

(c) the discharge or partial discharge of any  
indebtedness to the Treasurer or to any bank.

11. Loans to the Board shall be deemed to be secured  
25 upon the income of the Board from whatever source  
arising.

Security  
for loans.  
*Ibid.*  
sec. 74.

12. (1) There shall be a reserve for loan repayment  
in every fund of the Board in respect to which any  
renewal or other loan or any part thereof has been raised  
30 by the Board.

Reserves  
for re-  
payment.  
*Ibid.*  
sec. 75.

(2) The Board shall during each year transfer  
to the reserve for loan repayment from the moneys of  
the appropriate fund a sum not less than the Board in  
its application for approval of the loan intimated that it  
35 proposed to set apart as aforesaid.

(3)



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*Sydney Harbour Transport.*

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(3) Where any land or property of any kind which has been provided out of loan moneys is sold before the loan has been wholly repaid the net proceeds of the sale shall be added to the reserve for loan repayment in  
5 the appropriate fund or paid directly to the lender or used for the provision or purchase of other land or property chargeable upon the fund to which the proceeds belong.

(4) Moneys held as reserve for loan repayment  
10 may be invested in Government securities of the Commonwealth of Australia or of the State of New South Wales, or in debentures or inscribed stock in any loan of the Board, or in any securities guaranteed by the Government of the said State, or in debentures or  
15 securities issued by the Sydney County Council or the Sydney City Council, or in such other securities as the Governor may approve or as may be prescribed in each case at their current market price. Any interest or profits realised on such investments shall be added to and form  
20 part of the reserve for loan repayment. All moneys paid into the reserve for loan repayment in any fund may be applied in or towards repayment of any renewal or other loan raised in respect of the same fund, but except where otherwise provided may not be applied for any other  
25 purpose.

(5) Where the Board decides to cancel debentures and inscribed stock of the Board purchased from the reserve for repayment of the loan for which they were issued, then, in addition to the sums otherwise payable  
30 to the reserve for loan repayment in respect of that loan, the Board shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to such reserve, pay to such reserve interest at the rate of four and one-half per centum per annum on  
35 the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(6) If after a loan raised in respect of any fund has been repaid, there remains in the reserve for repayment of that loan any balance, such balance may be  
40 transferred to the current account of that fund.

(7)



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*Sydney Harbour Transport.*

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(7) The reserve for loan repayment shall not be subject to seizure in satisfaction of any debt other than for loans primarily charged on the income of the fund in which the reserve is provided.

**5 13.** (1) For securing repayment of the principal and interest on any money borrowed, the Board may issue debentures or inscribed stock as prescribed by the regulations. Debentures,  
etc.  
cf. Act No.  
50, 1924,  
sec. 76.

(2) Every such debenture and every coupon  
**10** originally annexed to the debenture and whether separated therefrom or not shall be transferable by simple delivery.

(3) Inscribed stock shall be transferable in the books of the Board in accordance with the regulations.

**15** (4) Debentures or inscribed stock issued under this Act shall both as regards the issue and transfer thereof for full consideration in money or money's worth be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act,  
**20** 1920-1949, contained in the Second Schedule to that Act.

(5) The holder of a coupon originally annexed to a debenture and whether separated therefrom or not shall be entitled to receive payment from the Board of the interest mentioned in the coupon upon the presentation  
**25** of the same on or after the date when and at the place where the interest is payable.

(6) The due repayment of the debentures and stock and the interest thereon shall be a charge upon the income and revenue of the Board and is hereby  
**30** guaranteed by the Government. Any liability arising from such guarantee shall be payable out of moneys provided by Parliament. Such charge shall not prejudice or affect the power of the Board to sell or convey any property vested in it free of any such charge.

**35 14.** (1) Any trustee unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust moneys in his hands in stock inscribed by the Board, Trustees.  
*Ibid.*  
sec. 78.  
and



*Sydney Harbour Transport.*

and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925, or any Act amending or replacing that Act.

(2) Any debenture issued or stock inscribed by the Board shall be a lawful investment for any moneys which any company, council, or body corporate incorporated by any Act of the Parliament of New South Wales is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys.

(3) No notice of any trust expressed, implied, or constructive, shall be received by the Board or by any servant of the Board in relation to any debenture or coupon issued or stock inscribed by the Board.

15 **15.** (1) If any debenture issued by the Board is lost or destroyed or defaced before the same has been paid, the Board may, subject to the provisions of this section, issue a new debenture in lieu thereof. Lost debentures.  
cf. Act No.  
50, 1924,  
sec. 79.

(2) The new debenture with interest coupon annexed shall bear the same date, number, principal sum, and rate of interest as the lost, destroyed, or defaced debenture.

(3) When the debenture is lost or destroyed the new debenture shall not be issued unless and until—

- 25 (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture, or of some person approved by the judge, that the same has been lost or destroyed before it has been paid off;
- 30 (b) such advertisement as the judge may direct has been published;
- (c) six months have elapsed since the publication of the last of the advertisements; and
- 35 (d) sufficient security has been given to the Board to indemnify it against any double payment if the missing debenture be at any time thereafter presented for payment.

(4)



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*Sydney Harbour Transport.*

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(4) When the debenture is defaced the new debenture shall not be issued unless and until the defaced debenture is lodged with the Board for cancellation.

(5) The provisions of this section shall, *mutatis mutandis*, extend to the case of a lost, destroyed, or defaced coupon.

**16.** (1) If for six months' default is made by the Board in making any payment, whether of principal or interest, to the holder of any debenture, or coupon, issued or stock inscribed by the Board, the holder thereof may apply to the Supreme Court in its equitable jurisdiction, in accordance with rules of court, for the appointment of a receiver of the income of the Board.

Receivers.  
cf. Act  
No. 50,  
1924,  
sec. 80.

(2) A receiver may be appointed in respect of the income of the Board either generally or as regards specified income.

(3) The Court may make such orders and give such directions as it may deem proper for and with respect to—

- (a) the appointment of a receiver;
- (b) the removal of a receiver;
- (c) the appointment of a receiver in place of a receiver previously appointed.

(4) The receiver shall be deemed to be an officer of the Court, and shall act under its directions.

**17.** (1) A receiver shall have power to collect all income payable to the Board which he has by order of the Court been so authorised to collect and for the purposes of this subsection the receiver shall be deemed to be the Board, and may exercise all the powers of the Board.

Powers and  
duties of  
receivers.  
*Ibid.*  
sec. 81.

(2) The receiver shall discharge such duties of the Board or of any servants of the Board as may be prescribed.



*Sydney Harbour Transport.*

18. The receiver shall be entitled to such commission or remuneration for his services as the Court may order, and the commission or remuneration shall be payable out of the income for and in respect of which he has been appointed receiver.

Commission  
to receiver.  
cf. Act No.  
50, 1924,  
sec. 82.

19. The receiver shall, subject to any order of the Court, pay and apply all moneys received by him in the following order, that is to say—

Application  
of money  
received.  
*Ibid.* sec. 83.

(a) firstly, in payment of the costs, charges, and expenses of collection, and of his commission or remuneration;

(b) secondly, in the payment of the amount due and payable to the holder of the debenture or inscribed stock or coupon, as the case may be;

(c) thirdly, in payment of all the residue of the moneys to the Board.

20. (1) A person advancing money to the Board shall not be bound to inquire into the application of the money advanced, or be in any way responsible for the non-application or misapplication thereof.

Protection  
of investors.  
*Ibid.*  
sec. 85.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Board shall, in favour of a lender and of any holder of a security given by the Board, be conclusive evidence that all conditions precedent to the borrowing have been complied with.

21. All debentures, bonds, or other securities which are secured upon the income and revenue of the Board shall rank *pari passu* without any preference one above another by reason of priority of date or otherwise.

Debentures  
and bonds to  
rank *pari*  
*passu*.  
*Ibid.*  
sec. 85A.

22. If the Board borrows any money without having first obtained the approval of the Governor, each member of the Board holding office who has knowingly and wilfully or for personal benefit or advantage, consented to the borrowing shall be liable to a penalty of five hundred pounds.

Penalty for  
illegal  
borrowing.  
Act No. 50,  
1924,  
sec. 86.

The action to recover the penalty shall not be taken without the written consent of the Attorney-General.

DIVISION



*Sydney Harbour Transport.*

DIVISION 2.—*Accounts and audit.*

**23.** (1) The Board shall cause books to be provided and kept, and true and regular accounts to be entered therein in respect of each fund established by it so as to show—

Accounts generally. cf. Act No. 50, 1924, sec. 109.

(a) the assets, liabilities, income and expenditure in respect of the fund; and

(b) the sources of income and purposes of expenditure in respect of the fund.

(2) The accounts of the Board shall be kept as prescribed.

**24.** The expenditure of each fund shall, subject to any provisions made by or under this Act, be charged against income and capital as nearly as may be in accordance with commercial principles.

Charging expenditure generally. *Ibid.* sec. 110.

**25.** (1) The Board shall cause to be prepared an annual statement of accounts and a balance-sheet, each of which shall be in a form approved by the Auditor-General, and shall also cause to be prepared an annual report of its operations.

Annual statements. *Ibid.* sec. 111.

(2) The Board shall furnish to the Minister a copy of such statement, balance-sheet and report.

(3) The report shall be laid before both Houses of Parliament.

**26.** (1) The statement of accounts and balance-sheet so prepared shall be audited and reported upon by the Auditor-General who shall have in respect to the accounts of the Board all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of the public accounts, as well as all powers conferred by this Act.

Audit. *Ibid.* sec. 112.

(2) The Auditor-General shall report to the Board and the Minister—

(a) whether or not in his opinion—

(i) due provision has been made for the repayment of loans; and

(ii)



*Sydney Harbour Transport.*

- (ii) the value of assets has (so far as he can judge) been in all cases fairly stated; and
- (iii) due diligence and care have been shown in the collection and banking of income; and
- (iv) the expenditure incurred has been duly authorised, vouched, and supervised; and
- (v) proper account has been kept of plant, stores, and materials; and
- (vi) any of the moneys or other property of the Board have been misappropriated or improperly or irregularly dealt with; and
- (b) as to any other matters which in his judgment call for special notice or which are prescribed by the regulations.

(3) Towards defraying the cost and expenses of the audit by the Auditor-General the Board shall at such periods as the Minister may direct pay to the Treasurer for credit of the Consolidated Revenue Fund, the amount involved as certified by the Auditor-General.

PART IV.

GENERAL.

- 27.** All courts and persons having by law or consent of parties authority to hear receive and examine evidence—
- (a) shall take judicial notice of the seal of the Board affixed to any documents; and
- (b) shall until the contrary be proved presume that such seal was properly affixed thereto.

Judicial notice of seal of the Board.

cf. Act No. 13, 1946, sec. 29.

- 28.** Any notice, summons, writ or other proceeding required to be served on the Board may be served by being left at the office of the Board or, in the case of a notice, by post.

Service of notice of proceedings on the Board,

*Ibid.*, sec. 30.

**29.**



No. , 1951.

## A BILL

To make provision for the continuance of certain ferry services on Sydney Harbour; to constitute a body corporate under the name of the Sydney Harbour Transport Board; to make provision for the purchase by that Board of certain of the assets of Sydney Ferries Limited; to authorise that Board to arrange for the conduct of ferry services on Sydney Harbour and to confer and impose upon it certain other powers, authorities, duties and functions; and for purposes connected therewith.

[Mr. SHEAHAN; 13 June, 1951.]



*Sydney Harbour Transport.*

**B**E it enacted by the King's Most Excellent Majesty,  
by and with the advice and consent of the Legis-  
lative Council and Legislative Assembly of New South  
Wales in Parliament assembled, and by the authority of  
5 the same, as follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Sydney Harbour Short title.  
Transport Act, 1951".

10 2. In this Act unless the context or subject matter Interpre-  
otherwise indicates or requires— tation.

"Board" means the Sydney Harbour Transport  
Board constituted under this Act.

"Member" means member of the Board.

15 "Prescribed" means prescribed by this Act or by  
the regulations made thereunder.

"Sydney Ferries Limited" means the company  
incorporated under that name in New South  
Wales under and in accordance with the  
20 Companies Acts.

3. This Act is divided into Parts as follows:—

Division  
into Parts.

PART I.—PRELIMINARY.

PART II.—SYDNEY HARBOUR TRANSPORT BOARD.

DIVISION 1—*Constitution.*

25 DIVISION 2—*Powers and functions.*

PART III.—FINANCE.

DIVISION 1—*Borrowing powers.*

DIVISION 2—*Accounts and audit.*

7 PART IV.—GENERAL.

PART



*Sydney Harbour Transport.*

PART II.

SYDNEY HARBOUR TRANSPORT BOARD.

DIVISION 1.—*Constitution.*

4. (1) There shall be a Sydney Harbour Transport Board which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this Act. Constitution of Board.

In the exercise and discharge of such powers, authorities, duties and functions, the Board shall be subject in all respects to the control and direction of the Minister.

(2) (a) The Board shall consist of three members who shall be the persons who for the time being respectively hold the offices of Director of Transport and Highways, President of the Maritime Services Board of New South Wales, and Under Secretary of the Treasury.

(b) A member of the Board may by writing under his hand appoint a person to act in his place at all meetings of the Board or at any particular meeting or class of meetings or at all meetings other than a particular meeting or class of meetings, and such person, while so acting, shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed by this Act upon the member by whom he was so appointed.

(c) Each member of the Board and each person appointed pursuant to paragraph (b) of this subsection shall be entitled to receive such travelling or other expenses as the Governor may determine.

(3) The Director of Transport and Highways shall be the chairman of the Board.

5. (1) The Board shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be capable of purchasing, holding, granting, demising, disposing of or otherwise Board to be body corporate —Proceedings of Board.



*Sydney Harbour Transport.*

otherwise dealing with real and personal property and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

(2) The corporate name of the Board shall be "The  
5 Sydney Harbour Transport Board".

(3) For the purposes of any Act the Board shall be deemed a statutory body representing the Crown.

(4) The common seal shall be kept in the custody of the chairman and shall not be affixed to any instrument  
10 except in pursuance of a resolution of the Board.

Any instrument executed in pursuance of any such resolution shall be attested by the signatures of any two members.

(5) (a) The procedure for the calling of meetings  
15 of the Board and for the conduct of business at such meetings shall be as determined by the Board.

(b) Two of the members shall form a quorum, and any duly convened meeting at which a quorum is present shall be competent to transact any business of the  
20 Board and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Board.

A decision of a majority of the members present at a meeting of the Board shall be the decision of the Board.

(c) At any meeting of the Board the chairman  
25 shall preside. In the absence of the chairman, the President of the Maritime Services Board of New South Wales shall preside as chairman.

At any meeting of the Board the chairman or the member presiding as chairman (as the case may be) shall  
30 have a deliberative vote, and if the voting is equal, a casting vote.

(6) The Board shall cause full and accurate minutes to be kept of its proceedings at formal meetings, and submit to the Minister a copy of the minutes of each  
40 formal meeting within one week after the date on which each such formal meeting is held,

(7)



*Sydney Harbour Transport.*

(7) No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced, there was a vacancy in the office of a 5 member.

(8) (a) No matter or thing done, and no contract entered into by the Board, and no matter or thing done by any member or by any other person whomsoever acting under the direction of the Board shall, if the matter 10 or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim, or demand whatsoever.

(b) Nothing in this subsection shall exempt 15 any member from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Board, and which such member authorised or joined in authorising.

*DIVISION 2.—Powers and functions.*

20 **6.** (1) The Board shall, subject to this Act, take all such steps as it may deem necessary to provide for the continued operation of the ferry services which, immediately before the appointed day, were carried on by Sydney Ferries Limited. Powers and functions.

25 (2) The Board may acquire by purchase from Sydney Ferries Limited for the sum of twenty-five thousand pounds the ferries and other assets which that company agreed to sell on the thirteenth day of June one thousand nine hundred and fifty-one. The contract 30 of purchase may be made on such terms and conditions as may be agreed upon.

The ferry services operated with the ferries and other assets so purchased are in this section hereinafter referred to as "the purchased ferry services".

(3)



*Sydney Harbour Transport.*

(3) The Board may, from time to time, enter into an arrangement with any person or body of persons corporate or unincorporate for the management and operation by that person or body of persons, upon such  
5 terms and conditions as may be agreed upon, of the purchased ferry services or of any ferry service established by the Board.

(4) Any such agreement made with respect to the purchased ferry services shall expressly provide for the  
10 transfer of the employees of Sydney Ferries Limited to the service of the person or body of persons undertaking the management and operation of the services, upon terms and conditions of employment not less favourable than those to which they were subject on the first day of  
15 June, one thousand nine hundred and fifty-one.

(5) The Board may, from time to time—

(a) extend or alter or discontinue any of the purchased ferry services;

(b) establish any new ferry service;

20 (c) conduct any business arising out of or ancillary to the conduct and operation of ferry services and construct any works or acquire any works or property, real or personal, and maintain and  
25 operate the same for the purpose of conducting any such business;

(d) acquire any land or interest in land and erect or adapt any buildings or installations thereon which may be necessary or convenient for or in  
30 connection with the conduct or operation of any of the ferry services or any such business;

(e) acquire either absolutely or on lease any vessels, wharves, plant, machinery or equipment which may be necessary or convenient for or in  
connection



*Sydney Harbour Transport.*

5 connection with the conduct or operation of any of the ferry services or of any such business and dispose of the same when, in the opinion of the Board, they are no longer required for such purposes.

(6) The Board may, with the approval of the Governor—

- (a) sell and dispose of any land vested in the Board;
- 10 (b) sell and dispose of all or any of the purchased ferry services, or all or any of the ferry services established by the Board.

7. (1) The Board may make and enter into contracts or agreements with any person for the performance of such services or for the supply of vessels, plant, machinery or equipment required for or in connection with the exercise or discharge by the Board of its powers, authorities, duties and functions under this Act. Contracts.

(2) All persons contracting with the Board shall be deemed for the purposes of the Constitution Act, 1902, to be public contractors.

(3) Any contract or agreement authorised by this or any other section of this Act shall be in the name of the Board and may be made as follows, that is to say—

25 with respect to any contract which if made between private persons would be by law required to be in writing and signed by the parties to be charged therewith or in writing and under seal the Board may make such contract in writing and under its common seal and in the same manner may vary or discharge the same;

30 with respect to any contract which if made between private persons would by law be valid although made by parol only and not reduced into writing the chairman



*Sydney Harbour Transport.*

chairman of the Board may make such contract by  
parol only without writing and in the same manner  
may vary or discharge the same.

8. (1) The Board may appoint and employ such <sup>Officers and</sup>  
5 officers and servants as may be necessary for carrying <sup>servants.</sup>  
out the provisions of this Act.

(2) The Board may employ, in an advisory or  
consulting capacity, and so use the services of any person  
or persons not employed in the Public Service or in any  
10 of the departments into which the Ministry of Transport  
is divided under the Transport (Division of Functions)  
Act, 1932-1947, or in the Maritime Services Board of New  
South Wales, at such remuneration as may in any such  
case be fixed by the Board.

15 (3) For the purposes of this Act the Board  
with the approval of the Public Service Board or of the  
Minister administering any of the departments into which  
the Ministry of Transport is divided under the Transport  
(Division of Functions) Act, 1932-1947, or the Maritime  
20 Services Board of New South Wales may, on such terms  
as may be arranged, make use of the services of any  
officer or employee of any Government Department or  
of any of the departments into which the Ministry of  
Transport is so divided, or of the Maritime Services  
25 Board of New South Wales, as the case may be.



*Sydney Harbour Transport.*

## PART III.

## FINANCE.

DIVISION 1.—*Borrowing powers.*

9. (1) For the temporary accommodation of the  
 5 Board it may obtain advances by overdraft of current  
 account in any bank or banks upon the credit of the  
 Board's funds to such extent as may from time to time  
 be approved by the Governor.

Temporary  
 accommoda-  
 tion.  
 cf. Act No.  
 50, 1924,  
 sec. 71.

(2) The Treasurer may advance such moneys to  
 10 the Board as the Governor may approve upon such terms  
 and conditions as to repayment and interest as may be  
 agreed upon.

(3) The Board may subject to the conditions and  
 upon the terms prescribed receive money on deposit at  
 15 short call or on fixed deposit.

10. The Board may from time to time with the  
 approval of the Governor borrow money for—

Purposes  
 for which  
 money may  
 be  
 borrowed.  
*Ibid.*  
 sec. 72.

(a) any purpose of or connected with the exercise or  
 discharge by the Board of its powers authorities  
 20 duties and functions under this Act;

(b) the renewal of loans; and

(c) the discharge or partial discharge of any  
 indebtedness to the Treasurer or to any bank.

11. Loans to the Board shall be deemed to be secured  
 25 upon the income of the Board from whatever source  
 arising.

Security  
 for loans.  
*Ibid.*  
 sec. 74.

12. (1) There shall be a reserve for loan repayment  
 in every fund of the Board in respect to which any  
 renewal or other loan or any part thereof has been raised  
 30 by the Board.

Reserves  
 for re-  
 payment.  
*Ibid.*  
 sec. 75.

(2) The Board shall during each year transfer  
 to the reserve for loan repayment from the moneys of  
 the appropriate fund a sum not less than the Board in  
 its application for approval of the loan intimated that it  
 35 proposed to set apart as aforesaid.

(3)



*Sydney Harbour Transport.*

(3) Where any land or property of any kind which has been provided out of loan moneys is sold before the loan has been wholly repaid the net proceeds of the sale shall be added to the reserve for loan repayment in  
5 the appropriate fund or paid directly to the lender or used for the provision or purchase of other land or property chargeable upon the fund to which the proceeds belong.

(4) Moneys held as reserve for loan repayment  
10 may be invested in Government securities of the Commonwealth of Australia or of the State of New South Wales, or in debentures or inscribed stock in any loan of the Board, or in any securities guaranteed by the Government of the said State, or in debentures or  
15 securities issued by the Sydney County Council or the Sydney City Council, or in such other securities as the Governor may approve or as may be prescribed in each case at their current market price. Any interest or profits realised on such investments shall be added to and form  
20 part of the reserve for loan repayment. All moneys paid into the reserve for loan repayment in any fund may be applied in or towards repayment of any renewal or other loan raised in respect of the same fund, but except where otherwise provided may not be applied for any other  
25 purpose.

(5) Where the Board decides to cancel debentures and inscribed stock of the Board purchased from the reserve for repayment of the loan for which they were issued, then, in addition to the sums otherwise payable  
30 to the reserve for loan repayment in respect of that loan, the Board shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to such reserve, pay to such reserve interest at the rate of four and one-half per centum per annum on  
35 the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(6) If after a loan raised in respect of any fund has been repaid, there remains in the reserve for repayment of that loan any balance, such balance may be  
40 transferred to the current account of that fund.

(7)



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*Sydney Harbour Transport.*

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(7) The reserve for loan repayment shall not be subject to seizure in satisfaction of any debt other than for loans primarily charged on the income of the fund in which the reserve is provided.

5   **13.** (1) For securing repayment of the principal and interest on any money borrowed, the Board may issue debentures or inscribed stock as prescribed by the regulations. Debentures,  
etc.  
cf. Act No.  
50, 1924,  
sec. 76.

10       (2) Every such debenture and every coupon originally annexed to the debenture and whether separated therefrom or not shall be transferable by simple delivery.

(3) Inscribed stock shall be transferable in the books of the Board in accordance with the regulations.

15       (4) Debentures or inscribed stock issued under this Act shall both as regards the issue and transfer thereof for full consideration in money or money's worth be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act,  
20 1920-1949, contained in the Second Schedule to that Act.

(5) The holder of a coupon originally annexed to a debenture and whether separated therefrom or not shall be entitled to receive payment from the Board of the interest mentioned in the coupon upon the presentation  
25 of the same on or after the date when and at the place where the interest is payable.

(6) The due repayment of the debentures and stock and the interest thereon shall be a charge upon the income and revenue of the Board and is hereby  
30 guaranteed by the Government. Any liability arising from such guarantee shall be payable out of moneys provided by Parliament. Such charge shall not prejudice or affect the power of the Board to sell or convey any property vested in it free of any such charge.

35   **14.** (1) Any trustee unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust moneys in his hands in stock inscribed by the Board, Trustees.  
*Ibid.*  
sec. 78.  
and



*Sydney Harbour Transport.*

and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925, or any Act amending or replacing that Act.

(2) Any debenture issued or stock inscribed by the Board shall be a lawful investment for any moneys which any company, council, or body corporate incorporated by any Act of the Parliament of New South Wales is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys.

(3) No notice of any trust expressed, implied, or constructive, shall be received by the Board or by any servant of the Board in relation to any debenture or coupon issued or stock inscribed by the Board.

15 **15.** (1) If any debenture issued by the Board is lost or destroyed or defaced before the same has been paid, the Board may, subject to the provisions of this section, issue a new debenture in lieu thereof.

Lost debentures.  
cf. Act No.  
50, 1924,  
sec. 79.

(2) The new debenture with interest coupon annexed shall bear the same date, number, principal sum, and rate of interest as the lost, destroyed, or defaced debenture.

(3) When the debenture is lost or destroyed the new debenture shall not be issued unless and until—

- 25 (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture, or of some person approved by the judge, that the same has been lost or destroyed before it has been paid off;
- 30 (b) such advertisement as the judge may direct has been published;
- (c) six months have elapsed since the publication of the last of the advertisements; and
- 35 (d) sufficient security has been given to the Board to indemnify it against any double payment if the missing debenture be at any time thereafter presented for payment.

(4)



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*Sydney Harbour Transport.*

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(4) When the debenture is defaced the new debenture shall not be issued unless and until the defaced debenture is lodged with the Board for cancellation.

(5) The provisions of this section shall, *mutatis mutandis*, extend to the case of a lost, destroyed, or defaced coupon.

16. (1) If for six months' default is made by the Board in making any payment, whether of principal or interest, to the holder of any debenture, or coupon, issued or stock inscribed by the Board, the holder thereof may apply to the Supreme Court in its equitable jurisdiction, in accordance with rules of court, for the appointment of a receiver of the income of the Board.

Receivers.  
cf. Act  
No. 50,  
1924,  
sec. 80.

15 (2) A receiver may be appointed in respect of the income of the Board either generally or as regards specified income.

(3) The Court may make such orders and give such directions as it may deem proper for and with respect to—

- (a) the appointment of a receiver;
- (b) the removal of a receiver;
- (c) the appointment of a receiver in place of a receiver previously appointed.

25 (4) The receiver shall be deemed to be an officer of the Court, and shall act under its directions.

17. (1) A receiver shall have power to collect all income payable to the Board which he has by order of the Court been so authorised to collect and for the purposes of this subsection the receiver shall be deemed to be the Board, and may exercise all the powers of the Board.

Powers and  
duties of  
receivers.  
*Ibid.*  
sec. 81.

(2) The receiver shall discharge such duties of the Board or of any servants of the Board as may be prescribed.



*Sydney Harbour Transport.*

18. The receiver shall be entitled to such commission or remuneration for his services as the Court may order, and the commission or remuneration shall be payable out of the income for and in respect of which he has been appointed receiver.

Commission  
to receiver.  
cf. Act No.  
50, 1924,  
sec. 82.

19. The receiver shall, subject to any order of the Court, pay and apply all moneys received by him in the following order, that is to say—

Application  
of money  
received.  
*Ibid.* sec. 83.

- (a) firstly, in payment of the costs, charges, and expenses of collection, and of his commission or remuneration;
- (b) secondly, in the payment of the amount due and payable to the holder of the debenture or inscribed stock or coupon, as the case may be;
- (c) thirdly, in payment of all the residue of the moneys to the Board.

20. (1) A person advancing money to the Board shall not be bound to inquire into the application of the money advanced, or be in any way responsible for the non-application or misapplication thereof.

Protection  
of investors.  
*Ibid.*  
sec. 85.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Board shall, in favour of a lender and of any holder of a security given by the Board, be conclusive evidence that all conditions precedent to the borrowing have been complied with.

21. All debentures, bonds, or other securities which are secured upon the income and revenue of the Board shall rank *pari passu* without any preference one above another by reason of priority of date or otherwise.

Debentures  
and bonds to  
rank *pari*  
*passu*.  
*Ibid.*  
sec. 85A.

22. If the Board borrows any money without having first obtained the approval of the Governor, each member of the Board holding office who has knowingly and wilfully or for personal benefit or advantage, consented to the borrowing shall be liable to a penalty of five hundred pounds.

Penalty for  
illegal  
borrowing.  
Act No. 50,  
1924,  
sec. 86.

The action to recover the penalty shall not be taken without the written consent of the Attorney-General.

DIVISION



*Sydney Harbour Transport.*

DIVISION 2.—*Accounts and audit.*

**23.** (1) The Board shall cause books to be provided and kept, and true and regular accounts to be entered therein in respect of each fund established by it so as to show—

Accounts generally.  
cf. Act No. 50, 1924, sec. 109.

(a) the assets, liabilities, income and expenditure in respect of the fund; and

(b) the sources of income and purposes of expenditure in respect of the fund.

(2) The accounts of the Board shall be kept as prescribed.

**24.** The expenditure of each fund shall, subject to any provisions made by or under this Act, be charged against income and capital as nearly as may be in accordance with commercial principles.

Charging expenditure generally.  
*Ibid.* sec. 110.

**25.** (1) The Board shall cause to be prepared an annual statement of accounts and a balance-sheet, each of which shall be in a form approved by the Auditor-General, and shall also cause to be prepared an annual report of its operations.

Annual statements.  
*Ibid.* sec. 111.

(2) The Board shall furnish to the Minister a copy of such statement, balance-sheet and report.

(3) The report shall be laid before both Houses of Parliament.

**26.** (1) The statement of accounts and balance-sheet so prepared shall be audited and reported upon by the Auditor-General who shall have in respect to the accounts of the Board all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of the public accounts, as well as all powers conferred by this Act.

Audit.  
*Ibid.* sec. 112.

(2) The Auditor-General shall report to the Board and the Minister—

(a) whether or not in his opinion—

(i) due provision has been made for the repayment of loans; and

(ii)



*Sydney Harbour Transport.*

- (ii) the value of assets has (so far as he can judge) been in all cases fairly stated; and
- (iii) due diligence and care have been shown in the collection and banking of income; and
- 5 (iv) the expenditure incurred has been duly authorised, vouched, and supervised; and
- (v) proper account has been kept of plant, stores, and materials; and
- 10 (vi) any of the moneys or other property of the Board have been misappropriated or improperly or irregularly dealt with; and
- (b) as to any other matters which in his judgment call for special notice or which are prescribed
- 15 by the regulations.
- (3) Towards defraying the cost and expenses of the audit by the Auditor-General the Board shall at such periods as the Minister may direct pay to the Treasurer for credit of the Consolidated Revenue Fund, the amount
- 20 involved as certified by the Auditor-General.

PART IV.

GENERAL.

- 27.** All courts and persons having by law or consent of parties authority to hear receive and examine
- 25 evidence—
- (a) shall take judicial notice of the seal of the Board affixed to any documents; and
- (b) shall until the contrary be proved presume that such seal was properly affixed thereto.
- 28.** Any notice, summons, writ or other proceeding required to be served on the Board may be served by being left at the office of the Board or, in the case of a notice, by post.

Judicial notice of seal of the Board.

cf. Act No. 13, 1946, sec. 29.

Service of notice of proceedings on the Board,

*Ibid.*, sec. 30,



*Sydney Harbour Transport.*

**29.** Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Board may be sufficiently authenticated without the seal of the Board if signed by the chairman of the Board.

Documents.  
How authenticated.  
cf. Act No.  
13, 1946,  
sec. 31.

**30.** Any penalty imposed by the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions.

Recovery  
of penalty.  
*Ibid.*  
sec. 33.

**31.** (1) Any charge fee or money due to the Board under the provisions of this Act or any regulation may be recovered as a debt in a court of competent jurisdiction.

Recovery  
of charges,  
etc.  
cf. Act.  
No. 20,  
1938,  
sec. 128.

(2) Proceedings for the recovery of any charge fee or money so due to the Board shall be deemed to be for the recovery of a debt or liquidated demand within the meaning of—

- (a) section twenty-four of the Common Law Procedure Act, 1899;
- (b) section sixty-four of the District Courts Act, 1912-1949;
- (c) section twenty-five of the Small Debts Recovery Act, 1912-1933.

**32.** (1) In any legal proceedings by or against the Board no proof shall be required (until evidence is given to the contrary) of—

Proof of  
certain  
matters not  
required.  
cf. Act No.  
13, 1946,  
sec. 34.

- (a) the constitution of the Board;
- (b) any resolution of the Board;
- (c) the appointment of any member of the Board;
- (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Board;
- (e) the appointment of any person to act in the place of a member of the Board or of his authority so to act at any meeting of the Board.

B

(2)



*Sydney Harbour Transport.*

(2) Where in any legal proceedings by or against the Board it appears that any person acted in the place of a member of the Board at any meeting, it shall be presumed in the absence of proof to the contrary that he was duly appointed so to act, and that he was authorised so to act at that meeting.

**33.** (1) The Board may from time to time in relation to any particular matter or class of matters by writing, under its seal, delegate to any member or to any person or authority any of its powers, authorities, duties and functions, except this power of delegation.

(2) A delegate, when acting within the scope of any such delegation, shall be deemed to be the Board. But no delegation shall prevent the exercise or discharge by the Board of any power, authority, duty or function.

(3) The Board may by writing, under its seal, revoke any delegation made under this section.

(4) Where the exercise or discharge by the Board of any power, authority, duty or function is dependent upon the opinion or belief of the Board in relation to any matter, that power, authority, duty or function may be exercised or discharged by the delegate upon the opinion or belief of that delegate.

**34.** (1) A writ or other process in respect of any damage or injury to person or property shall not be sued out or served upon the Board or any member, or any agent or servant of the Board or any person acting in his aid for anything done or intended to be done or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on the Board or member, agent, servant or person, as provided in this section.

Notice of  
action.  
cf. Act No.  
41, 1919,  
s. 580.

(2) The notice shall state—

- (a) the cause of action;
- (b) the time and place at which the damage or injury was sustained; and

(c)



*Sydney Harbour Transport.*

(c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

(3) In the case of damage to property, any person  
5 who produces on demand his authority from the Board shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, the nature and extent of the damage, and the amount of money, if any, expended  
10 in repairing the same shall be given to him.

Representative of the Board to be permitted to inspect property injured.

(4) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled  
15 to maintain the action:

Provided that at any stage of the proceedings the court or any judge of the court in which the action is pending may, if the court or judge deems it to be just or reasonable in the circumstances so to do—

- 20 (a) amend any defect in the notice on such terms and conditions, if any, as the court or judge may fix;
- (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar  
25 to the maintenance of the action.

(5) Every such action shall be commenced within the period of twelve months next after the occurring of the cause of action. Such period is in this subsection referred to as the "prescribed period":

- 30 Provided that where an application is made to a judge of the Supreme Court in accordance with rules of court for an extension of the prescribed period the judge may, if he is satisfied that sufficient cause has been shown, or that having regard to all the circumstances of the case,  
35 it would be reasonable so to do, make an order for extension of the prescribed period for such further period and subject



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subject to such terms and conditions, if any, as may be set out in the order. Such applications for extension may be made either within the prescribed period or at any time within twelve months thereafter.

5 Any person who is dissatisfied with the decision of the judge on any such application may appeal to the Supreme Court and that court may on the appeal make any order which ought to have been made in the first instance.

10 Every such appeal shall be made in accordance with rules of court.

(6) The Board, or any member, agent, servant or person to whom any such notice of action is given as aforesaid, may tender amends to the plaintiff, his  
15 attorney or agent at any time within one month after service of notice of action, and in case the same is not accepted may plead the tender in bar.

(7) The defendant in every such action may plead the general issue and at the trial thereof give this Act  
20 and the special matter in evidence.

35. (1) The Governor may make regulations, not Regulations.  
inconsistent with this Act, prescribing all matters which are by this Act required or permitted to be prescribed or which are necessary or convenient to be prescribed for  
25 carrying out or giving effect to this Act.

(2) The regulations may impose a penalty not exceeding fifty pounds for any breach thereof.

(3) The regulations shall—

(a) be published in the Gazette;

30 (b) take effect from the date of publication or from a later date to be specified therein; and

(c)



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5 (c) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session and if not, then within fourteen sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation  
10 or part thereof, such regulation or part shall thereupon cease to have effect.



### General House Rules

not be held before both Houses of Parliament within  
 twenty days after publication of the Bill in  
 its session and it shall then within fourteen  
 sitting days after the commencement of the next  
 session.

(3) If either House of Parliament passes a  
 resolution of which notice has been given at any time  
 within fifteen sitting days after such resolution has  
 been laid before such House following any resolution  
 to or past thereof, such resolution of that House shall thereupon  
 cease to have effect.







