

Queensland



*Transport Infrastructure Act 1994*

# **TRANSPORT INFRASTRUCTURE (PORTS) REGULATION 1994**

**Reprinted as in force on 19 August 1994  
(includes amendments up to SL No. 300 of 1994)**

**Reprint No. 1**

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# Information about this reprint

This regulation is reprinted as at 19 August 1994. The reprint—

- shows the law as amended by all amendments that commenced on or before that day
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

The reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- use standard punctuation consistent with current legislative drafting practice (s 27)
- correct minor errors.

**Also see Endnotes for—**

- **details about when provisions commenced**
- **any provisions that have not commenced and are not incorporated in the reprint**
- **further information about editorial changes made in the reprint, including Table of corrected minor errors.**

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(PORTS) REGULATION 1994**

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# TRANSPORT INFRASTRUCTURE (PORTS) REGULATION 1994

[as amended by all amendments that commenced on or before 19 August 1994<sup>2</sup>]

## PART 1—PRELIMINARY

### *Division 1—Introduction*

#### Short title

1. This regulation may be cited as the *Transport Infrastructure (Ports) Regulation 1994*<sup>3-5</sup>.

#### Commencement

2. This regulation commences on 1 July 1994.

### *Division 2—Interpretation*

#### Definitions

3. In this regulation—

“**authorised officer**” means a person who is appointed under this regulation as an authorised officer.

“**indication**” given by an official traffic sign has the same meaning as in the *Traffic Act 1949*.

“**obstruct**” includes hinder, resist, insult and attempt to obstruct.

“**official traffic sign**” means an official traffic sign within the meaning of the *Traffic Act 1949*.

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“**port**” does not include airport.

“**port area**” of a port authority means the area of its strategic port land, port facilities and port.

“**port facilities**” of a port authority means port facilities owned or controlled by it.

“**port notice**” means a notice, sign, pictograph or similar device, of whatever material and whether fixed or movable, erected or displayed in, or at an entrance to, a port authority’s port area.

“**requirement**” of a notice includes a direction, instruction, indication, condition or other provision contained in the notice.

*Division 3—Application of regulation*

**Application of regulation**

4. This regulation (other than Part 6) does not apply to—
- (a) the Cairns Port Authority in relation to its airport; or
  - (b) the Mackay Port Authority in relation to its airport.

**PART 2—AUTHORISED OFFICERS**

**Appointment of authorised officers**

5.(1) A port authority may appoint a person to be an authorised officer under this regulation if the authority is satisfied the person has the necessary training, or knowledge and experience, to be an authorised officer.

(2) A port authority may restrict an authorised officer’s powers by written notice given to the officer.

### **Identity cards**

**6.(1)** A port authority must issue an identity card to each authorised officer appointed by the port authority.

**(2)** The identity card must—

- (a) contain a recent photograph of the authorised officer; and
- (b) be signed by the authorised officer; and
- (c) identify the person as an authorised officer of the port authority.

**(3)** A person who ceases to be an authorised officer must, as soon as practicable, return his or her identity card to the port authority, unless the person has a reasonable excuse for not returning it.

Maximum penalty—10 penalty units.

**(4)** This section does not apply to an authorised officer who is a police officer.

### **Production or display of authorised officer's identity card**

**7.(1)** An authorised officer (other than a police officer in uniform) may exercise a power under this regulation in relation to someone else only if the officer—

- (a) first produces his or her identity card for inspection by the person;  
or
- (b) has his or her identity card displayed so that it is clearly visible to the person.

**(2)** However, if for any reason, it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for inspection by the person at the first reasonable opportunity.

## **PART 3—CONTROL OF ACTIVITIES AT PORTS**

### *Division 1—Port notices*

#### **Port notices—general control of activities**

**8.(1)** A port authority may, by port notice, control access to, or the use of, its strategic port land, port facilities or areas in its port where activities may affect the port's operation.

**(2)** Without limiting subsection (1), the port authority may, by port notice, control activities or conduct at the port area for—

- (a) maintaining or improving the safe, secure or efficient operation of its port; or
- (b) maintaining or improving the convenience of port users; or
- (c) protecting the environment at the port area.

**(3)** The power conferred by another provision of this Division to control by port notice does not limit the power conferred by this section.

#### **Port notices—movement or mooring of ships etc.**

**9.(1)** A port authority may, by port notice, control the movement or mooring of ships at its port facilities.

**(2)** A port authority may also, by port notice, control the movement or mooring of ships if the movement or mooring may affect the port's operation.

**(3)** In addition, a port authority may, by port notice, control activities on or by ships moored at its port facilities or in its port if the activities may affect the port's operation.

#### **Port notices—movement, handling or storage of goods**

**10.** A port authority may, by port notice, control the movement, handling

or storage of goods loaded, unloaded or transhipped to or from ships using its port facilities or on its port facilities or strategic port land.

### **Port notices—movement of passengers**

**11.** A port authority may, by port notice, control the movement of passengers to or from ships using its port facilities or on its port facilities or strategic port land.

### **Port notices—movement, stopping or parking of vehicles**

**12.** A port authority may, by port notice, control the movement, stopping or parking of vehicles on its strategic port land or at its port facilities, including, for example—

- (a) fixing a maximum speed limit; or
- (b) indicating a pedestrian crossing; or
- (c) indicating a place where driving, parking or standing of a vehicle is restricted or prohibited.

### **Port notices—movement, stopping or parking of trains**

**13.** A port authority may, by port notice, control the movement, stopping or parking of trains on its strategic port land or at its port facilities, including, for example, indicating where the parking of trains is restricted or prohibited.

### **Noncompliance with port notices**

**14.** A person must comply with a port notice, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—

- (a) for contravention of a requirement of a port notice about the movement or mooring of, or activities by, ships—100 penalty units; or

- (b) for contravention of a requirement of a port notice about the movement, handling or storage of goods—50 penalty units; or
- (c) for contravention of another port notice—25 penalty units.

### **Port notices generally**

**15.(1)** A port notice—

- (a) must indicate the area to which the notice applies; and
- (b) if contravention of a requirement of the notice is an offence against this regulation—must state that it is an offence and the maximum penalty for the offence; and
- (c) may be in the form of an official traffic sign and, if it is, is taken to contain the indication given by the corresponding official traffic sign.

**(2)** Evidence that a sign was erected or displayed on, or at the entrance to, the port authority's port area is evidence that the notice was erected or displayed by the authority.

**(3)** A port notice must be clearly visible to passers-by.

### **Port notice may refer to standards**

**16.(1)** A port notice may require a person to comply with requirements in standards adopted by a peak port industry body about any of the following—

- (a) the movement, handling or storage of goods;
- (b) fire protection;
- (c) emergency procedures.

**(2)** A port authority must ensure that copies of a document setting out details of the standards are available for inspection and purchase (at reasonable cost) during business hours at its offices in the locality to which the standards relate.

## ***Division 2—General powers of authorised officers***

### **Directions—safety and security**

**17.(1)** An authorised officer may give directions to persons on a port authority's strategic port land or at its port facilities, or in areas in its port where activities may affect the port's operations, if the directions are reasonably necessary for the purpose of ensuring the safety or security of the port area, its users and the port authority's employees.

**(2)** The power conferred on authorised officers by another provision of this Division does not limit the power conferred on authorised officers by this section.

### **Control of movement or mooring of ships etc.**

**18.(1)** An authorised officer may control the movement or mooring of ships at a port authority's port facilities and, for the purpose, may give directions to persons apparently in charge of ships.

**(2)** An authorised officer may also control the movement and mooring of ships in a port authority's port if the movement or mooring may affect the port's operation and, for the purpose, may give directions to persons apparently in charge of ships.

**(3)** In addition, an authorised officer may control activities on or by ships moored at its port facilities or in its port if the activities may affect the port's operation and, for the purpose, may give directions to persons apparently in charge of ships.

### **Control of movement, handling or storage of goods**

**19.** An authorised officer may control the movement, handling or storage of goods loaded, unloaded or transhipped to or from ships using its port facilities or on its port facilities or strategic port land and, for the purpose, may give directions to persons apparently in charge of goods at the port.

### **Control of movement of passengers**

**20.** An authorised officer may control the movement of passengers to or from ships using its port facilities or on its port facilities or strategic port land and, for the purpose, may give directions to persons at the port.

### **Control of movement, stopping or parking of vehicles**

**21.** An authorised officer may control the movement, stopping or parking of vehicles on its strategic port land or at its port facilities and, for the purpose, may give directions to drivers of vehicles and other persons at the port.

### **Control of movement, stopping or parking of trains**

**22.** An authorised officer may control the movement, stopping or parking of trains on its strategic port land or at its port facilities and, for the purpose, may give directions to train drivers at the port.

### **Noncompliance with directions**

**23.** A person must comply with a direction given to the person by an authorised officer under this Division, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—

- (a) for contravention of a direction about the movement or mooring of, or activities by, ships—100 penalty units; or
- (b) for contravention of a direction about the movement, handling or storage of goods—50 penalty units; or
- (c) for contravention of another direction—25 penalty units.

***Division 3—Moving illegally moored ships, illegally parked vehicles or  
trains and illegally left goods***

**Moving illegally moored ships**

**24.(1)** This section applies if—

- (a) an authorised officer believes on reasonable grounds that—
  - (i) a ship is moored at a port facility or in a port in contravention of a requirement of a port notice or a direction of an authorised officer under Division 2; and
  - (ii) it is necessary to move the ship having regard to—
    - (A) the convenience of ships or persons using the port; or
    - (B) the safety or security of the port, its users or the port authority’s employees; and
- (b) the authorised officer—
  - (i) cannot immediately find the ship’s master or another person in charge of the ship; or
  - (ii) believes on reasonable grounds that neither the ship’s master, nor any other person in charge of the ship, is able or willing to move the ship immediately.

**(2)** The authorised officer may take steps that are necessary and reasonable to have the ship moved.

**Moving illegally parked vehicles and trains**

**25.(1)** This section applies if—

- (a) an authorised officer believes on reasonable grounds that—
  - (i) a vehicle or train is parked on a port authority’s strategic port land or at its port facilities in contravention of a requirement of a port notice or a direction of an authorised officer under Division 2; and
  - (ii) it is necessary to move the vehicle or train having regard

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to—

- (A) the convenience of vehicles, trains or persons using the port area; or
  - (B) the safety or security of the port area, its users or the port authority's employees; and
- (b) the authorised officer—
- (i) cannot immediately find the driver of the vehicle or train or another person in charge of the vehicle or train; or
  - (ii) believes on reasonable grounds that neither the driver of the vehicle or train, nor any other person in charge of the vehicle or train, is able or willing to move the vehicle or train immediately.

(2) The authorised officer may take steps that are necessary and reasonable to have the vehicle or train moved.

### **Moving illegally left goods**

**26.(1)** This section applies if—

- (a) an authorised officer believes on reasonable grounds that—
  - (i) goods have been left in a port authority's port area in contravention of a requirement of a port notice or a direction of an authorised officer under Division 2; and
  - (ii) it is necessary to move the goods having regard to—
    - (A) the efficient operation of the port area; or
    - (B) the safety or security of the port area, its users and the port authority's employees; and
- (b) the authorised officer—
  - (i) cannot immediately find the owner or other person in charge of the goods; or
  - (ii) believes on reasonable grounds that neither the owner, nor any other person in charge of the goods, is able or willing to

move the goods immediately.

(2) The authorised officer may take steps that are necessary and reasonable to have the goods moved or, if the goods are perishable or of little or no value, treat the goods as abandoned property.

## **PART 4—LIABILITY FOR, AND RECOVERY OF, CHARGES AND EXPENSES**

### *Division 1—Liability for charges and expenses*

#### **Persons who are liable for charges**

**27.(1)** If charges are payable for a ship, the liability for the charges falls jointly and severally on the owner of the ship, the master of the ship, the agent of the owner of the ship and any other person who has made himself or herself liable for the charges.

(2) If charges are payable for goods, the liability for the charges falls jointly and severally on the owner of the goods, the consignor and consignee of the goods, the shipper, the agent for the sale or custody of the goods, the person entitled to possession of the goods and the master of the ship.

(3) If charges are payable for passengers, the liability for the charges falls jointly and severally on the owner of ship, the master of the ship, the agent of the owner of the ship and any other person who has made himself or herself liable for charges.

#### **Liability for movement of ships, goods, vehicles or trains**

**28.(1)** If a port authority incurs reasonable expenses because an authorised officer takes steps under this regulation to have a ship or goods moved, the amount of the expenses is a debt payable jointly and severally to the authority by the persons who would be liable for any charges payable

for the ship or goods.

(2) If a port authority incurs reasonable expenses because an authorised officer takes steps under this regulation to have a vehicle or train moved, the amount of the expenses is a debt payable jointly and severally to the authority by the owner and driver of the vehicle or train.

### *Division 2—Recovery of charges and expenses by detention*

#### **Meaning of “property” in Division**

29. In this Division—

“**property**” means a ship, goods, a vehicle or a train, and includes anything attached to, or contained in, a ship, vehicle or train.

#### **Detention for outstanding charges and interest, or expenses**

30.(1) If charges are payable to a port authority for a ship (including any charges payable for passengers of the ship), goods, a vehicle or a train (the “**property**”) that is in its port area, the port authority may detain the property as security for the recovery of the charges and any interest on the charges.

(2) If a port authority incurs reasonable expenses because an authorised officer takes steps under this regulation to have property moved, the port authority may detain the property as security for the recovery of the expenses.

(3) A port authority may take steps that are necessary and reasonable to give effect to the detention of property under this section.

#### **Notice to owner**

31.(1) As soon as practicable but within 14 days after property has been detained under this Division by a port authority, the authority must give to its owner a written notice stating that it has been detained, explaining how it may be recovered and stating that it may be sold if it is not recovered.

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(2) If the owner cannot be decided or located within 14 days after the detention, the notice may be given by publishing it in a newspaper circulating generally in the State.

(3) This section does not apply to perishable goods if it is impracticable, having regard to the nature and condition of the goods, to give the notice required by the section.

### **Return of property on payment**

32. The authority must return the property to its owner if—

- (a) a port authority detains property under this Division; and
- (b) the charges and any interest, or the expense, and any additional expenses reasonably incurred by the authority in detaining, or taking steps to sell, the property are paid before the authority sells it.

### **Sale of property if payment not made**

33.(1) This section applies if—

- (a) a port authority detains property under this Division; and
- (b) the charges and any interest, or expense, and any additional expenses reasonably incurred by the authority in detaining the property (the “**total amount owing**”), are not paid within 2 months after notice of the detention is given to its owner under this Division.

(2) The port authority may—

- (a) sell the property; or
- (b) if the proceeds of sale of the property are not likely to cover the total amount owing and the reasonable expenses that would be incurred by the authority in selling the property—dispose of the property in the way it considers appropriate.

(3) Despite anything else in this Division, if the property is perishable goods, the port authority may sell the property immediately if it is

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impracticable, having regard to the nature and condition of the property, for it to be detained by the authority.

(4) If the property is sold, the proceeds of the sale must be applied in the following order—

- (a) in payment of the expenses reasonably incurred by the port authority in selling the property (the “**sale expenses**”);
- (b) in payment of the total amount owing to the port authority in relation to the property;
- (c) in payment of any balance to the owner.

(5) If the proceeds of the sale are less than the total of the sale expenses and total amount owing, the difference is a debt payable to the port authority by the persons who were or would be liable for the payment of any charge for the property.

(6) Compensation is not recoverable against the port authority for a payment under this section.

## **PART 5—GENERAL PROVISIONS ABOUT PORT MANAGEMENT**

### **Power to require name and address**

**34.(1)** An authorised officer may require a person to state the person’s name and address if the officer—

- (a) finds the person committing an offence against the Act or this regulation; or
- (b) finds the person in circumstances that lead, or has information that leads, the officer to suspect on reasonable grounds that the person has just committed an offence against the Act or this regulation.

(2) When making the requirement, the authorised officer must warn the

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person it is an offence to fail to state the person's name and address unless the person has a reasonable excuse.

(3) The authorised officer may require the person to give evidence of the correctness of the person's stated name and address if the authorised officer suspects, on reasonable grounds, the stated name or address is false.

(4) A person must comply with the authorised officer's requirement under subsection (1) or (3), unless the person has a reasonable excuse for not complying with it.

Maximum penalty—10 penalty units.

(5) The person does not commit an offence against this section if—

- (a) the authorised officer required the person to state the person's name and address on suspicion of the person having committed an offence against the Act or this regulation; and
- (b) the person is not proved to have committed the offence.

### **Inspection of documents, ships, goods and vehicles**

**35.(1)** An authorised officer may require a person who is or may be liable to pay charges to a port authority to produce for the officer's inspection documents under the person's control relevant to deciding whether the person is liable to pay the charge and, if so, the amount of the charge.

(2) The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

(3) The person in charge of a ship, goods, a vehicle or a train that is on a port authority's land, at its port facilities, or in its port where activities may affect the port's operation, must allow an authorised officer to enter and inspect the ship, inspect the goods or enter and inspect the vehicle for the purpose of deciding whether charges are payable for the ship, goods, vehicle or train and, if so, the amount of the charge.

(4) The authorised officer may, if necessary, enter by passing through

land or over facilities under the control of someone other than the port authority.

### **Obstructing authorised officers**

**36.** A person must not obstruct an authorised officer in the exercise of a power, unless the person has a reasonable excuse.

*Example—*

This regulation allows an authorised officer to enter land or a ship by passing through someone else's land to decide whether charges are payable for the ship. If the authorised officer is obstructed by a person from entering the land or ship, the person commits an offence against this section.

Maximum penalty—50 penalty units.

### **Conduct causing public nuisance**

**37.** A person must not, in a port authority's port area, be disorderly or create a disturbance.

Maximum penalty—50 penalty units.

### **Power to deal with persons causing public nuisance etc.**

**38.(1)** This section applies if an authorised officer in a port authority's port area—

- (a) finds a person committing an offence against section 37 (Conduct causing public nuisance); or
- (b) finds a person in circumstances that lead the authorised officer to suspect on reasonable grounds that the person has just committed an offence against section 37; or
- (c) has information that leads the authorised officer to suspect on reasonable grounds that the person has just committed an offence against section 37; or
- (d) reasonably believes, having regard to the way the person is behaving, that a person's presence in the port area may pose a

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threat to the safety or security of the port area, its users or the port authority's employees; or

- (e) has information that leads the authorised officer to believe, on reasonable grounds, a person's presence in the port area may pose a threat to the safety or security of the port area, its users or the port authority's employees; or
- (f) reasonably believes that a person is in the port area without lawful justification or excuse.

(2) The authorised officer may direct the person to leave the port area or a part of the port area.

(3) A direction under subsection (2) to leave the port area may include a direction not to re-enter the port area, or a part of the port area, for 24 hours.

(4) A person must not contravene a direction given to the person under subsection (2), unless the person has a reasonable excuse.

Maximum penalty for subsection (4)—100 penalty units.

### **Damaging etc. port notices**

**39.** A person must not unlawfully remove, damage or interfere with a port notice.

Maximum penalty—25 penalty units.

### **Power to hand over certain offenders to the police**

**40.** An authorised officer who finds a person in a port authority's port area—

- (a) committing an offence against section 37 (Conduct causing public nuisance); or
- (b) committing an offence against section 38(4) (Power to deal with persons causing public nuisance etc.); or
- (c) committing an offence against section 39 (Damaging etc. port notices); or

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(d) unlawfully damaging other property;

may take the person immediately to a police officer, using only such force as is necessary and reasonable.

### **Police power of arrest**

**41.(1)** This section applies to an offence against the following provisions—

- section 34 (Power to require name and address)
- section 38(4) (Power to deal with persons causing public nuisance etc.).

**(2)** A police officer may arrest a person if—

- (a) the officer—
- (i) finds the person committing an offence to which this section applies; or
  - (ii) finds the person in circumstances that lead, or has information that leads, the officer to suspect on reasonable grounds that the person has just committed an offence to which this section applies; and
- (b) the officer believes on reasonable grounds that a proceeding against the person by way of complaint and summons would be ineffective.

### **Persons who are liable for damage to port authority's works etc.**

**42.(1)** If damage is caused by a ship to a port authority's works or infrastructure, the liability for the damage falls jointly and severally on the owner of the ship, the master of the ship and the agent of the owner of the ship.

**(2)** If damage is caused by floating or submerged material to a port authority's works or infrastructure, the owner of the material is liable for the damage.

### **Approval for burning, welding etc. in certain ports**

**43.(1)** In this section—

**“port authority”** means—

- (a) the Mackay Port Authority; or
- (b) the Port of Brisbane Corporation.

**(2)** A port authority may give a person written approval, for a ship in the port, to burn, weld, rivet or carry out a similar operation.

**(3)** An approval may be subject to conditions.

**(4)** A person must not—

- (a) for a ship in a port—burn, weld, rivet or carry out a similar operation without the written approval of the port authority; or
- (b) breach a condition of an approval.

Maximum penalty—100 penalty units.

**(5)** The person in charge of a ship for which an approval is in force must allow an authorised officer to enter and inspect the ship to ensure this section is complied with.

**(6)** The authorised officer may, if necessary, enter by passing through land or over facilities under the control of someone other than the port authority.

### **Approval of operation of tug service in certain ports**

**44.(1)** In this section—

**“port authority”** means—

- (a) the Bundaberg Port Authority; or
- (b) the Cairns Port Authority; or
- (c) the Gladstone Port Authority; or
- (d) the Mackay Port Authority; or
- (e) the Townsville Port Authority.

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(2) A port authority may give a person written approval to operate a tug service in the port.

(3) An approval may be subject to conditions.

(4) A person must not—

- (a) operate a tug service in a port of a port authority without the written approval of the port authority; or
- (b) breach a condition of an approval.

Maximum penalty for subsection (4)—50 penalty units.

### **Approval of operation of fuelling facility in certain ports**

**45.(1)** In this section—

**“port authority”** means—

- (a) the Bundaberg Port Authority; or
- (b) the Gladstone Port Authority; or
- (c) the Mackay Port Authority; or
- (d) the Port of Brisbane Corporation; or
- (e) the Ports Corporation of Queensland; or
- (f) the Rockhampton Port Authority.

(2) A port authority may give a person written approval to operate a fuelling facility to or from a ship in the port.

(3) An approval may be subject to conditions.

(4) A person must not—

- (a) operate a fuelling facility to or from a ship in a port without the written approval of the port authority; or
- (b) breach a condition of an approval.

Maximum penalty—50 penalty units.

(5) The owner of a facility for which an approval is in force must allow an authorised officer to enter and inspect the facility to ensure this section is

complied with.

(6) The authorised officer may, if necessary, enter by passing through land or over facilities under the control of someone other than the port authority.

### **Appeals**

**46.(1)** This section applies to a decision under this regulation to refuse, revoke, or impose or change conditions of—

- (a) an approval, for a ship in a port, to burn, weld, rivet or carry out a similar operation; or
- (b) an approval to operate a fuelling facility to or from a ship in a port.

(2) A person whose interests are affected by a decision to which this section applies may appeal to a Magistrates Court.

(3) A person who may appeal against or seek a review of a decision is entitled to receive a statement of reasons for the decision.

(4) An appeal lies under subsection (2) against a decision made by a delegate of the relevant port authority only if the applicant has sought a review by the port authority of the decision.

(5) Sections 17 to 23, and 24(2) to (5), of the *Transport Planning and Coordination Act 1994* apply to an appeal or review as if references to the chief executive were references to the port authority.

### **Time for making appeals**

**47.(1)** An appeal by a person against a decision must be made before the end of 28 days after—

- (a) a document setting out the decision was given to the person; or
- (b) if the document does not set out a statement of reasons for the decision and the person requests a statement of reasons within 28 days after the document was given to the person—the person is given the statement of reasons.

(2) However, the Magistrates Court may extend the period for making an appeal.

### **Disposal of abandoned property**

**48.(1)** In this section—

**“abandoned property”** means property (including ships, vehicles and anything attached to, or contained in, ships or vehicles) that a port authority believes on reasonable grounds has been abandoned.

(2) If a port authority finds abandoned property at its port area and intends to take action under this section, the authority—

(a) must take reasonable steps to locate the owner of the property; and

(b) may have the property moved to a place it considers appropriate.

(3) As soon as practicable but within 14 days after finding the abandoned property and deciding to take action under this section, the authority must give to the owner of the property a written notice describing the property, stating that the property has been found, explaining how it may be recovered and stating that it may be sold or disposed of if it is not recovered.

(4) If the owner cannot be located within the 14 days mentioned in subsection (3), the notice may be given by publishing it in a newspaper circulating generally in the State.

(5) If a person claims the abandoned property within 1 month after the notice is given, the port authority must return the property to the person if the person—

(a) satisfies the port authority that the person is the owner of the property; and

(b) pays the expenses reasonably incurred by the authority in dealing with the property under this section.

(6) If a person does not claim the abandoned property within 1 month after the notice is given, the port authority may—

(a) sell the property; or

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- (b) dispose of the property in the way it considers appropriate if the proceeds of sale of the property are not likely to cover the total of—
- (i) the expenses reasonably incurred by the authority in selling the property; and
  - (ii) the expenses reasonably incurred by the authority in dealing with the property under this section; and
  - (iii) any charges, interest and other expenses owing to the authority in relation to the property.

(7) Despite anything else in this section, if the abandoned property is perishable, the port authority may sell the property immediately if it is impracticable, having regard to the nature and condition of the property, for it to be detained by the authority.

(8) If the abandoned property is sold, the proceeds of the sale must be applied in the following order—

- (a) in payment of the expenses reasonably incurred by the port authority in selling the property;
- (b) in payment of the expenses reasonably incurred by the authority in dealing with the property under this section;
- (c) in payment of any charges, interest and other expenses owing to the authority in relation to the property;
- (d) in payment of any balance to the owner.

(9) If the proceeds of the sale are less than the total of the expenses mentioned in subsection (8)(a), (b) and (c), the difference is a debt payable to the port authority by the owner.

(10) Despite anything else in this section, if the abandoned property has no value or insufficient value to justify its sale, the authority may dispose of the property in the way it considers appropriate.

(11) Compensation is not recoverable against the port authority for a payment under this section.

## PART 6—OTHER GENERAL PROVISIONS

### Protection from liability—directors

49.(1) In this section—

“**official**” means a director of the board of a port authority.

(2) An official is not civilly liable for an act or omission done honestly and without negligence for a port authority.

(3) However, subsection (2) does not apply to a liability of the official to the port authority itself.

(4) This section expires on 30 June 1995.

### Protection from liability—employees etc.

50.(1) In this section—

“**official**” means an employee of a port authority or a person (other than a director of its board) acting for a port authority.

(2) An official is not civilly liable for an act or omission done honestly and without negligence for a port authority.

## PART 7—TRANSITIONAL PROVISIONS

### Authorised officers

51.(1) In this section—

“**GOC port authority**” means a port authority that is a GOC.

“**predecessor**” of a GOC port authority means the entity whose assets and liabilities were transferred to the authority by a regulation under the *Government Owned Corporations Act 1993*.

(2) A person who was, immediately before the commencement, an

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authorised officer or engineer of a port authority or of a predecessor of a GOC port authority under by-laws made under the *Harbours Act 1955* or the *Port of Brisbane Authority Act 1976* becomes, on the commencement, an authorised officer of the port authority or of the GOC port authority under this regulation.

**Approval to burn, weld etc.**

**52.** A permit issued to a person and in force immediately before the commencement that allowed the person, for a ship in a port, to burn, weld, rivet or carry out a similar operation is taken to be an approval given under this regulation allowing the same activity but subject to the conditions to which the permit was subject.

**Approval to operate a tug service**

**53.** A licence issued to a person and in force immediately before the commencement that allowed the person to operate a tug service at a port is taken to be an approval given under this regulation allowing the same activity but subject to the conditions to which the licence was subject.

**Approval to operate a fuelling facility**

**54.** A licence issued to a person and in force immediately before the commencement that allowed the person to operate a fuelling facility to or from a ship in a port is taken to be an approval given under this regulation allowing the same activity but subject to the conditions to which the licence was subject.

**Expiry of part**

**55.** This Part expires 6 months after it commences.

## ENDNOTES

### 1 Index to Endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 19 August 1994. Future amendments of the Transport Infrastructure (Ports) Regulation 1994 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 List of legislation

**Transport Infrastructure (Ports) Regulation 1994 SL No. 252**

notfd Gaz 1 July 1994 pp 1170–7

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 1994 (see s 2)

as amended by—

**Transport Infrastructure (State-controlled Roads) Regulation 1994 SL No. 300**

**Pts 1, 6**

notfd Gaz 12 August 1994 pp 1732–3

commenced on date of notification

## 4 List of annotations

### Key to abbreviations in list of annotations

amd	=	amended
Ch	=	Chapter
cl	=	clause
def	=	definition
Div	=	Division
exp	=	expires/expired
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
Pt	=	Part
RA	=	Reprints Act 1992
renum	=	renumbered
Sdiv	=	Subdivision
sub	=	substituted

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

### Moving illegally moored ships

s 24      amd 1994 SL No. 300 s 17

### Protection from liability—directors

s 49      exp 30 June 1995 (see s 49(4))

### PART 7—TRANSITIONAL PROVISIONS

Pt 7 (ss 51–55) exp 1 January 1995 (see s 55)

## 5 Table of corrected minor errors

### TABLE OF CORRECTED MINOR ERRORS under the Reprints Act 1992 s 44

Provision	Description
38(1)(a)	om 'etc.'