

1962/63



**THE WAIHEKE ROAD DISTRICT FORESHORE LICENCE  
ORDER 1962**

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COBHAM, Governor-General  
ORDER IN COUNCIL

At the Government House at Wellington this 9th day of May 1962

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Harbours Act 1950, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

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O R D E R

1. This order may be cited as the Waiheke Road District Foreshore Licence Order 1962.

2. In this order, unless the context otherwise requires,—

“Board” means the Waiheke Road Board; and includes its successors and assigns:

“Goods” includes wares and merchandise of every description and all chattels, livestock, and other articles:

“Master” means the person for the time being in charge of any vessel, whether or not he is certificated:

“Vessel” and “wharf” have the same meanings as in the Harbours Act 1950:

“Wharfinger” includes every person who is for the time being in charge of any wharf:

“The said wharves” means the wharves and landing ramp referred to in clause 3 of this order.

PART I—FORESHORE LICENCE

3. The Board is hereby licensed and permitted to use and occupy—

- (a) A part of the foreshore and land below low-water mark at Matiatia Bay, Waiheke Island, as shown on plans marked M.D. 5724, M.D. 7920, M.D. 8530, and M.D. 8659 and deposited in the office of the Marine Department at Wellington, for the purpose of maintaining thereon the wharf shown on those plans:

- (b) A part of the foreshore and land below low-water mark at Orapiu, Waiheke Island, as shown on a plan marked M.D. 4496 and deposited in the office of the Marine Department at Wellington, for the purpose of maintaining thereon the wharf shown on that plan:
- (c) A part of the foreshore and land below low-water mark at Okahuiti Creek, Ostend, Waiheke Island, as shown on a plan marked M.D. 9639 and deposited in the office of the Marine Department at Wellington, for the purpose of maintaining thereon the landing ramp shown on that plan.

4. The licence granted under clause 3 of this order shall be subject to the following conditions:

- (a) The Foreshore Licence Regulations 1960\* shall apply with respect to the licence, subject to the following modifications:
  - (i) Instead of complying with the provisions of regulation 12 (3) of those regulations, the Board shall apply all dues received by it in respect of any of the said wharves in keeping in good order, repair, or condition any wharf or other structure in respect of which the Board is the holder of a foreshore licence under the Harbours Act 1950 and the buildings and structures from time to time existing on or in connection with any such wharf or other structure, or in the renewal or extension of any such buildings or structures, subject to the provisions of regulation 12 (2) of those regulations, or in the construction, maintenance, improvement, or renewal of approach roads to any such wharf or other structure or of passenger waiting rooms, toilet facilities, or other amenities for passengers using any such wharf, whether those waiting rooms, facilities, or amenities are on the wharf or not:
  - (ii) Instead of complying with the provisions of regulation 12 (4) of those regulations, the Board shall keep a separate bank account, to be known as the Wharves Account, for all receipts and expenditure in respect of all wharves in respect of which it is the holder of a foreshore licence under the Harbours Act 1950, and shall cause the account to be balanced on the 31st day of March of every year:
- (b) The annual sum payable by the Board in respect of the licence shall be 1s., payable on demand:
- (c) The term of the licence shall be 14 years from the date of this order.

#### PART II—REGULATIONS AS TO USE OF WHARVES

5. The Board may at any time and from time to time by resolution appoint any person to be the wharfinger in respect of any of the said wharves upon such terms and conditions as the Board thinks fit.

6. The Board shall have the sole control of all traffic on the said wharves, and may at any time and from time to time authorise the wharfinger or any other person or persons to control such traffic and also to exercise on its behalf all or any of the powers specified in clauses 7 to 19 of this order.

7. The Board shall be entitled at any time and from time to time without notice to close any of the said wharves or any part thereof to all traffic and to prohibit the entry of any vehicles thereon for such period as it thinks fit.

8. For the purpose of maintaining good order, avoiding and preventing congestion, and ensuring the safety of the public on the said wharves and the approaches thereto, the Board may, before the arrival at or departure from any of the said wharves of any vessel, erect barriers on or about that portion of the wharf at or to which the vessel is to be berthed or moored or from which it is to depart.

9. (1) Without restricting the powers conferred by clause 6 of this order, the Board may at any time and from time to time close any of the said wharves or any part thereof, either to traffic generally or in respect of particular vehicles or in regard to vehicles moving in any particular direction, for such period as the Board or the wharfinger or any other person from time to time duly authorised in that behalf by the Board orders or directs.

(2) Any such order or direction may be given orally, or by written notice exhibited on the wharf or the approaches thereto, or by signal, whether given by hand, lamp, or torch, or in such other manner as is determined by the Board or by the wharfinger or by such other authorised person as aforesaid.

(3) No person shall use or enter upon the wharf, either with or without a vehicle, in contravention of any such order or direction.

10. No person shall at any time park or store any vehicle on any of the said wharves or any part thereof or on the approaches thereto. The payment of any toll charge under clause 14 of this order or of any sum for and the issue of a wharf pass under clause 15 of this order shall not be deemed to authorise or entitle any person to park or store any motor vehicle at any time on any of the said wharves or any part thereof or on the approaches thereto.

11. Every person in charge of any vehicle that is for the time being on any of the said wharves or any part thereof or on the approaches thereto shall at all times be subject to and under the control of the Board, the wharfinger, and any other person duly authorised by the Board in that behalf, and shall, if and whenever required so to do, remove that vehicle from the wharf or from that part of the wharf or the approaches thereto on which the vehicle is for the time being to such other part thereof as the Board, the wharfinger, or such other authorised person directs.

12. Without restricting the powers conferred by clause 11 of this order, the Board, the wharfinger, any traffic officer within the meaning of the Transport Act 1949, and any other person from time to time duly authorised in that behalf by the Board, may at any time move or cause to be removed from any of the said wharves or any part thereof or from the approaches thereto any vehicle that, in its or his opinion, is obstructing or is likely to obstruct the wharf or the said approaches thereto or the traffic thereon, or the removal of which is, in such opinion, necessary or desirable for any other reason.

13. No person shall drive any vehicle on any of the said wharves or any part thereof or on the approaches thereto at a speed exceeding 10 miles an hour.

14. The driver of every vehicle (except a motor vehicle in respect of which a wharf pass has been issued by the Board under the provisions of clause 15 of this order) shall, when entering with that vehicle upon any of the said wharves, pay to the Board or to the wharfinger or to such other person as may be duly authorised by the Board to receive the same such amount (referred to in this order as a toll charge) as the Board from time to time determines, but in no case shall any such toll charge exceed the sum of 1s. for each entry upon any of the said wharves.

15. The Board may from time to time authorise any person in writing (such written authority being referred to in this order as a wharf pass), on payment of such amount as the Board from time to time determines in respect of any particular motor vehicle according to the purpose for which the motor vehicle is or may be used (but in no case being less than the sum of 10s. in respect of any one year), to enter upon any of the said wharves at any time during the period of 12 months from the date of the wharf pass without payment of any toll charge, subject to the provisions of clauses 6, 7, and 9 to 13 of this order.

16. The Board, the wharfinger, and any other person from time to time duly authorised by the Board in that behalf, may at any time prohibit the entry on to and may order the removal from any of the said wharves or any part thereof or the approaches thereto of any person who—

- (a) Refuses or neglects to obey or comply with any order or direction of the Board or the wharfinger or such other authorised person as aforesaid made or given or purporting to be in exercise of the powers conferred by this order; or
- (b) Creates or causes any disturbance on or about the wharf or the approaches thereto.

17. No goods shall be left or allowed to remain on any of the said wharves or any part thereof or on the approaches thereto for a longer time than 48 hours without the consent of the Board. The provisions of section 201 of the Harbours Act 1950 shall apply with respect to any such goods as if the aforesaid period of 48 hours were fixed and determined by a bylaw made by the Board pursuant to the provisions of section 200 of that Act.

18. If any goods are left or allowed to remain on any of the said wharves or any part thereof or on the approaches thereto for a longer time than 48 hours, it shall be lawful for the Board or the wharfinger or any other person from time to time duly authorised by the Board in that behalf to open and examine the goods in addition to exercising in respect thereof the powers conferred by clause 17 of this order and such other powers as may from time to time be conferred upon the Board by law.

19. All vessels shall, if so required by the Board or the wharfinger or any other person duly authorised by the Board in that behalf, cease the loading or unloading of goods for such period as may be specified by the Board or the wharfinger or any such other authorised person as aforesaid.

20. The master of any vessel coming alongside any of the said wharves shall be responsible for the proper and safe berthing of his vessel, and the master and owner shall each be responsible for any damage done to the wharf by or in connection with that vessel. The Board may repair any

such damage and charge the cost of doing so against the master or owner of the vessel doing the damage, and that cost may be recovered by the Board from the master or owner by action in any Court of competent jurisdiction.

21. When two vessels are expecting to berth at any of the said wharves at the same time, the wharfinger or any other person authorised by the Board to do so shall direct the master of each vessel where his vessel is to be berthed, and any master failing to carry out those directions commits a breach of this order.

22. Before any vessel is removed from any of the said wharves, the master shall cause all dirt and rubbish to be thoroughly cleared from the portion of the wharf occupied by that vessel and deposited how and where directed by the wharfinger or by any other person authorised by the Board so to direct the master.

23. The master of every vessel discharging ballast at any of the said wharves shall have all such ballast taken away and deposited above high-water mark, or at such place as may be approved by the Minister or by any person appointed by the Minister for that purpose.

24. No person shall permit any animal to remain on any of the said wharves for any time longer than is actually necessary for loading or unloading the animal.

25. The owner or consignee, or the agent of the owner or consignee, of any explosives, kerosene, benzine, fuel oil, or goods of a dangerous or inflammable character landed on any of the said wharves shall cause the same to be removed from the wharf immediately on being landed, and any owner, consignee, or agent failing to do so shall be responsible for any damage or loss that may accrue from any accident arising therefrom in addition to any penalty for the default.

26. All goods landed at any of the said wharves shall be so landed at the shipper's own risk, and the Board shall be under no responsibility to deliver the goods to the consignee.

27. Any goods placed on any of the said wharves for shipment shall be placed there at the consignor's own risk, and the consignor shall be solely responsible for the safety of the goods until accepted by the master, owner, or agent of the vessel by which they are to be shipped.

28. No person shall be entitled to claim against the Board for the loss of any goods landed or placed on any of the said wharves or in any wharf shed, but nothing in this clause shall be deemed to relieve the Board from liability for negligence on the part of any servant of the Board acting within the scope and in the course of his employment.

29. No person shall—

- (a) Refuse to carry out the lawful instructions of the wharfinger; or
- (b) Permit the remains of fish, offal, or other offensive matter to be placed in or about any of the said wharves; or
- (c) Use any of the said wharves for any purpose other than embarking or disembarking passengers or loading or unloading goods.

30. Every person commits an offence, and is liable on summary conviction to a fine not exceeding £20, who does any act in contravention of or fails to comply with any provision of this Part of this order.

## PART III—DUES

31. (1) Every person who uses any of the said wharves with any vessel shall pay on demand to the Board for the use thereof the dues specified in Part I or Part II of the First Schedule to this order, as the case may require.

(2) The decision of the wharfinger as to whether or not any person is a regular and frequent user or an intermittent and infrequent user of any of the said wharves shall be final.

32. Every person who uses any of the said wharves for landing or shipping any goods shall pay to the Board wharfage dues according to the scale prescribed in the Second Schedule to this order.

33. Every person storing goods on any of the said wharves for a longer period than 12 hours after the goods have been landed on the wharf shall pay on demand to the Board for the use thereof the dues specified in the Third Schedule to this order.

34. If any vessel uses any of the said wharves for the discharge of any goods or cargo after the usual working hours or on wharf holidays, the master, owner, or agent of that vessel shall pay to the Board for the use of the wharf a charge at the rate fixed by the Board, not exceeding 1s. per ton weight or per ton measurement (whichever amount is the greater), in addition to the said wharfage dues, on all goods or cargo so discharged from that vessel. This charge shall be made only when, in the opinion of the Board, it is necessary to employ labour to stack or remove cargo in sheds in consequence of the discharge of such goods or cargo as aforesaid.

35. The master, owner, or agent of every vessel using any of the said wharves shall, not later than the last day of every month, furnish to the Clerk of the Board a certified copy of the freight lists of the cargo carried by that vessel each trip, with proper accounts of the weights and measurements of all goods landed on and shipped from the said wharves during the previous month, and shall at the same time pay to the Treasurer of the Board the amount due for wharfage at the rates prescribed in the Second Schedule to this order on all goods the weights and measurements of which are shown on the certified freight lists.

36. Where any cargo remains on any of the said wharves for a longer period than 48 hours, or where any such cargo hinders the loading or unloading of any vessel, or is an impediment to the approaches, the Board, through the wharfinger or other authorised person, may have the cargo removed at the expense of the owner, and the cost of the removal shall be payable by the owner before taking delivery of the goods.

37. Every person landing on or embarking from any of the said wharves shall pay to the Board an amount fixed by the Board, not exceeding 1s.:

Provided that no person who is landed on or embarked from any of the said wharves, and who has been issued by the master, owner, or agent of the vessel on which that person is carried with a return ticket covering the fare from Auckland City to Waiheke Island and also the return fare to the city, shall be liable to pay more than a total amount of 1s.:

Provided further than no dues or charges whatsoever shall be paid or payable by or in respect of any child under the age of five years landing on or embarking from any of the said wharves.

38. The passenger dues referred to in clause 37 of this order shall, in the first place, be paid by the persons liable to pay the same to the master, owner, or agent of the vessel on which they are carried, and that master, owner, or agent shall collect the same from his passengers in addition to or as part of the fare charged by him.

39. (1) The master, owner, or agent of any such vessel shall pay to the Treasurer of the Board for each and every person carried by that vessel and landed on or embarked from any of the said wharves the sum prescribed by and subject to the restrictions in clause 37 of this order.

(2) All such passenger dues shall be paid monthly on or before the last day of each month in accordance with a return of all passengers landed on or embarked from the said wharves during the previous month.

(3) Every such return shall be furnished to the Treasurer of the Board by the master, owner, or agent of the vessel which carried the passengers, and shall be compiled from the books or records kept by him in respect of the trading of each vessel, and shall also contain particulars of the number of passengers carried on each trip by any such vessel.

40. In default of payment of any of the shipping wharfage dues, goods wharfage dues, or passenger dues hereinbefore referred to, the Board may recover the same as a debt due by the master, owner, or agent of any such vessel as aforesaid by action in any Court of competent jurisdiction, and may also, in any such action as aforesaid, require any such master, owner, or agent to account to the Board for any dues payable by him in respect of which he may have failed to furnish returns as required by the provisions of clause 39 of this order.

41. In default of payment of the wharfage charges payable in respect of any goods, the Board may, in the manner and in the time provided in section 201 of the Harbours Act 1950, sell the goods, and may exercise all the powers contained in the said section 201.

#### PART IV—REVOCATIONS

42. The following enactments are hereby revoked:

- (a) Order in Council made on the 28th day of November 1951 granting a foreshore licence to the Devonport Steam Ferry Company Limited:\*
- (b) Order in Council made on the 25th day of January 1955 amending the first-mentioned Order in Council†:
- (c) The Waiheke Road District (Matiatia) Foreshore Licence Notice 1958‡:
- (d) The Waiheke Road District (Orapiu) Foreshore Licence Notice 1958§.

\**Gazette*, 6 December 1951, p. 1783

†*Gazette*, 3 February 1955, p. 107

‡S.R. 1958/160

§S.R. 1958/161

## SCHEDULES

## Clause 31 FIRST SCHEDULE

## SHIPPING WHARFAGE

## PART I

*Regular and Frequent Users*

FOR every vessel a sum fixed by the Board, not exceeding 6s. per ton on the gross tonnage of the vessel per year, for occupying a berth at any of the said wharves or alongside any other vessel lying at any of the said wharves or lying at any of the said wharves undergoing repairs or fitting out only, or lying off any of the said wharves with a line attached thereto.

## PART II

*Intermittent and Infrequent Users*

FOR every vessel a sum fixed by the Board, not exceeding 1d. per ton on the gross tonnage of the vessel for every day or part of a day during which the vessel occupies a berth alongside any of the said wharves, or during which the vessel lies off any of the said wharves with a line attached thereto.

## Clause 32 SECOND SCHEDULE

## GOODS WHARFAGE

1. For every head of great cattle or horses landed upon or shipped from any of the said wharves, a sum fixed by the Board, not exceeding 2s. 6d.
2. For every yearling or calf landed upon or shipped from any of the said wharves, a sum fixed by the Board, not exceeding 1s.
3. For every head of sheep or small cattle landed upon or shipped from any of the said wharves, a sum fixed by the Board, not exceeding 6d.
4. Vehicles, an amount fixed by the Board, not exceeding—
 

(a) Private motorcars, and motor vehicles with "L" plates	.....	.....	5s.
(b) Motor vehicles with "H" plates	.....	.....	7s. 6d.
(c) Motor cycles and motor scooters	.....	.....	2s.
(d) Other vehicles, including earth-moving vehicles	.....	.....	2s. 6d. per ton weight or measurement (whichever amount is the greater).
5. For all goods not hereinbefore specially provided for landed on or shipped from any of the said wharves, a rate fixed by the Board, not exceeding a rate of 2s. 6d. per ton weight or measurement (whichever is the greater).



THIRD SCHEDULE

Clause 33

GOODS STORAGE

	An amount fixed by the Board, not exceeding—
	s. d.
For every package or parcel—	
Not exceeding 30 lb weight, per day or part of a day .....	0 1
Exceeding 30 lb weight but not exceeding 100 lb weight, per day or part of a day .....	0 2
Exceeding 100 lb weight but not exceeding 5 cwt weight, per day or part of a day .....	0 3
Exceeding 5 cwt weight, per day or part of a day .....	0 6

T. J. SHERRARD,  
Clerk of the Executive Council.

EXPLANATORY NOTE

*This note is not part of the order, but is intended to indicate its general effect.*

This order replaces the Waiheke Road District (Matiatia) Foreshore Licence Notice 1958 and the Waiheke Road District (Orapiu) Foreshore Licence Notice 1958. It also grants a foreshore licence in respect of a landing ramp at Okahuiti Creek. Clauses 5 to 19 are new, but otherwise the licence is substantially in the same terms as those being replaced, but is granted by Order in Council instead of by notice by the Minister of Marine in order to remove doubts as to the validity of the regulations in Part II.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 10 May 1962.

These regulations are administered in the Marine Department.