

*Vesting the Management of the Wharf at Waitangi (Chatham Islands) in the Chatham Islands County Council, making Regulations with respect to, and prescribing Dues for, the Use of the said Wharf.*

CHARLES FERGUSSON, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 8th day of August, 1927.

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

WHEREAS it is provided by section one hundred and eighty-six of the Harbours Act, 1923 (hereinafter termed "the said Act"), that the Governor-General in Council may vest any wharf, the property of His Majesty, in any Harbour Board, local authority, or person, upon such terms and conditions as the Governor-General in Council thinks fit:

And whereas it is provided by section one hundred and eighty-seven of the said Act that the Governor-General may from time to time, by Order in Council, prescribe what dues and rates shall be taken by the Board, authority, or person in whom any such wharf is vested as aforesaid for the use of such wharf:

And whereas it is considered desirable to vest in the Chatham Islands County Council (who, with its successors and assigns, is hereinafter referred to as "the Council"), the management of the wharf at Waitangi, Chatham Islands, on the terms and conditions hereinafter set forth, to make regulations with respect to the said wharf, and to prescribe the dues and rates which shall be taken by the Council for the use of the said wharf:

Now, therefore, His Excellency the Governor-General of the Dominion of New Zealand, in pursuance and exercise of the power and authority conferred upon him by the said Act, and of all other powers and authorities enabling him in that behalf, and acting by and with the advice and consent of the Executive Council of the said Dominion, doth hereby vest the management of the said wharf in the Council, subject to the conditions set forth in the First Schedule hereto; and doth make the regulations with respect to the said wharf as set forth in the Second Schedule hereto; and doth prescribe that the dues and rates set forth in the Third Schedule hereto shall be taken by the Council for the use of the said wharf, and doth hereby order and declare that this Order in Council shall have force and effect on and from the first day of October, one thousand nine hundred and twenty-seven.

FIRST SCHEDULE.

CONDITIONS OF MANAGEMENT.

1. IN these conditions the terms—

"Foreshore" means such parts of the bed, shore, or banks of a tidal water as are covered and uncovered by the flow and ebb of the tide at ordinary spring tides:

"Low-water mark" means low-water mark at ordinary spring tides:

"Minister" means the Minister of Marine as defined by the Shipping and Seamen Act, 1908, and includes any officer, person, or authority acting by or under the direction of such Minister.

2. The concessions and privileges conferred by this Order in Council shall extend and apply only to the part of the foreshore and land below low-water mark adjacent thereto necessary for the maintenance of the said wharf.

3. All His Majesty's subjects shall at all reasonable times, and upon payment of the proper dues, have free and full liberty to use the above-mentioned wharf, and rights of ingress and egress thereto and therefrom.

4. His Majesty or the Governor-General, and all officers in the Government services acting in the execution of their duty, shall at all times have free ingress, passage, and egress into, over, and out of the said wharf without payment.

5. The Council shall maintain and keep the above-mentioned wharf and all erections on or in connection with the wharf in good order and repair; and shall at all times exhibit therefrom and maintain at the Council's own cost, suitable and necessary lights for the guidance of vessels: provided that no new light shall be exhibited until after it has been approved by the Minister:

6. All dues and rates received on account of the said wharf by the said Council shall be applied to keeping the said wharf and all erections on or in connection with such wharf in good order and repair.

7. Any person authorized by the Minister may at all reasonable times enter upon the said wharf and any buildings erected on the wharf or in connection therewith, and view the state of

repair thereof; and upon the Minister leaving at or posting to the last-known address of the Council in New Zealand a notice in writing of any defect or want of repair in such wharf or buildings, requiring the Council within a reasonable time to be therein prescribed, to make good or repair the same, the Council shall, with all convenient speed, cause such defect to be removed or such repairs to be made.

8. The ballast of all vessels loading at the said wharf shall be taken away by the Council and deposited above high-water mark, or at such place as may be approved of by the Minister, or by any person appointed by the Minister for that purpose.

9. The Council shall not erect, or suffer to be erected, on the said wharf any building or structure whatever, except with the consent of the Minister.

10. The Council shall keep a separate account of the receipts and expenditure on account of such wharf and premises, and shall cause such account to be balanced on the 31st day of March in every year, and shall send a copy of such account when balanced to the Minister, and shall supply any particulars in reference thereto as may be required by the Minister.

11. The Council shall appoint all officers necessary for the working and management of the said wharf.

12. Nothing herein contained shall authorize the Council to do or cause to be done anything repugnant to or inconsistent with any law relating to the Customs, or any regulations of the Minister of Customs, or with any provisions of the Harbours Act, 1923, or its amendments, or any regulation thereunder, and that are now or may hereafter be in force.

13. The rights, powers, and privileges hereby conferred shall continue in force for fourteen years, computed from the first day of October, 1927, unless in the meantime such rights, powers, and privileges shall be altered, modified, or revoked by competent authority; and the Council shall not assign, charge, or part with any such right, power, or privilege without the previous written consent of the Minister first obtained.

14. The rights, powers, and privileges conferred under or by virtue of this Order in Council may be at any time resumed by the Governor-General without payment of any compensation whatever, on giving to the Council three calendar months previous notice in writing. Any such notice shall be sufficient if given by the Minister and delivered at or posted to the last known address of the Council in New Zealand.

15. The Council shall be liable for any injury which may be caused at the said wharf to any vessel or boat through any default or neglect on the part of the Council.

16. In case the Council shall—

(1) Commit or suffer a breach of the conditions hereinbefore set forth, or any of them; or

(2) Cease to use or occupy the said wharf for a period of thirty consecutive days;

then, and in either of the said cases, this Order in Council and every license, right, power, or privilege, may be revoked and determined by the Governor-General in Council without any notice to the Council or other proceeding whatsoever; and publication in the *New Zealand Gazette* of an Order in Council containing such revocation shall be sufficient notice to the Council, and to all persons concerned or interested, that this Order in Council, and the licenses, rights, and privileges thereby granted and conferred, have been revoked and determined.

17. In the event of this Order in Council being revoked for any reason whatsoever, or upon the expiry of the period for which the license is granted, the Council shall, if required by the Minister so to do, remove the said wharf entirely from the site and restore the site to its original condition within three months from the date of the revocation or expiry, as the case may be; and, if the Council fails so to do, the Minister may cause the said wharf to be removed and the site so restored, and may recover the costs incurred by the said removal and restoration from the Council.

SECOND SCHEDULE.

REGULATIONS WITH RESPECT TO THE WHARF.

1. IN these regulations, if not inconsistent with the context,—

"Wharfinger" shall mean the person appointed by the Council to the charge of the wharf and shed, and shall include any person acting by or under the authority of the wharfinger.

"Goods, cargo" shall mean and include all merchandise, wares, and commodities of every description.

"Kerosene" shall include paraffin, petroleum, naphtha, benzine, turpentine, and other like goods.

"Ship, vessel" shall include launch or boat of any description carrying cargo or passengers.

"Wharf" shall mean and include any wharf, breastwork, jetty, landing-place, or the approaches thereto, under the control of the Council, and shall include any store, shed, or other building built on or attached to such wharf and under the control of the Council.