

Licensing the Ostend-Onetangi Wharves (Limited) to use and occupy a Part of the Foreshore and Land below Low-water Mark at Putiki Bay, Waiheke Island, as a Site for a Wharf.

CHARLES FERGUSSON, Governor-General.

ORDER IN COUNCIL.

At the Government Buildings at Wellington, this 29th day of January, 1929.

Present:

THE RIGHT HONOURABLE SIR J. G. WARD, PRESIDING
IN COUNCIL.

WHEREAS by Order in Council dated the twelfth day of January, one thousand nine hundred and fifteen, and published in the *New Zealand Gazette*, No. 8, of the twenty-first day of the same month, Messrs. Lichtenstein, Arnoldson, and Company were licensed, in accordance with the provisions of the Harbours Act, 1923 (hereinafter called "the said Act"), to use and occupy a part of the foreshore and land below low-water mark at Putiki Bay, Waiheke Island, in order to maintain thereon a wharf erected in accordance with plan marked M.D. 4259, and deposited in the office of the Marine Department at Wellington:

And whereas the said license was, with the consent of the Minister of Marine, transferred to Ostend-Onetangi Wharves, Limited (who, with its successors and assigns, is hereinafter referred to as "the company"):

And whereas the said company has applied for a license for a further period of fourteen years, and it is desirable that such a license shall be granted and issued to the company under the said Act for the purposes aforesaid, on the terms and conditions hereinafter expressed:

Now, therefore, His Excellency the Governor-General of the Dominion of New Zealand, in pursuance and exercise of the power and authority vested in 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 approve of the purpose or object for which the said license is required by the company as aforesaid; and, in further pursuance and exercise of the said power and authority, and with the like advice and consent as aforesaid, doth hereby license and permit the company to use and occupy that part of the foreshore and land below low-water mark on which the said wharf is erected, as shown on the plan M.D. 4259, so deposited as aforesaid, for the purpose of maintaining the said wharf thereon; such license to be held and enjoyed by the company upon and subject to the terms and conditions set forth in the First Schedule hereto, and doth hereby prescribe that the dues set forth in the Second Schedule hereto shall be taken and received by the company for the use of the said wharf.

FIRST SCHEDULE.

1. In these conditions the term—

"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 necessary for the erection of the said wharf, as shown on the plan marked M.D. 4259, and deposited in the office of the Marine Department as aforesaid.

3. In consideration of the concessions and privileges granted by this Order in Council, the company shall pay to the Minister the sum of £2 10s., and thereafter an annual sum of £1 (in advance), payable on the first day of April in each year, the proportionate part of such rental in respect of the period from the date hereof until the 31st March following to be paid on the company being supplied with a copy of this Order in Council.

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

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

6. Any person authorized by the Minister may at all reasonable times enter upon the said wharf and view the state of repair thereof; and upon such Minister leaving at or posting to the last-known registered office of the company in New Zealand a notice in writing of any defect or want of repair in such wharf, requiring the company within a reasonable time, to be therein prescribed, to repair the wharf, the company shall with all reasonable speed cause such defect to be removed or such repairs to be made.

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

8. The rights, powers, and privileges conferred by or under this Order in Council shall continue in force for fourteen years from the twelfth day of January, one thousand nine hundred and twenty-nine, unless in the meantime such rights, powers, and privileges shall be altered, modified, or revoked by competent authority; and the company shall not assign, charge, or part with any such right, power, or privilege without the written consent of the Minister first obtained.

9. The said rights, powers, and privileges may be at any time resumed by the Governor-General, and the company may be required to move the wharf at the company's own cost, without payment of any compensation whatever, on giving to the company 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 registered office of the company in New Zealand.

10. The company shall be liable for any injury which the said wharf may cause any vessel or boat to sustain through any default or neglect on the company's part.

11. In case the company shall—

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

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

(3) Fail to pay the sums specified in clause 3 of these conditions; or

(4) Be in any manner wound up or dissolved—

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

12. 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 company 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 revocation or expiry, as the case may be; and, if the company 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 company.

SECOND SCHEDULE.

SHIPPING WHARFAGE.

EVERY person who shall use the said wharf with any vessel shall pay for the use thereof as follows, that is to say—

For every vessel a sum of 1d. per ton on the gross tonnage of such vessel per day for each day or part of a day a vessel shall occupy a berth alongside any vessel lying at the said wharf, or shall lie at the said wharf undergoing repairs or fitting out only, or shall lie off the said wharf with a line attached thereto.

GOODS WHARFAGE.

Every person who shall use the said wharf for landing or shipping any goods shall, before using same, pay dues as follows, that is to say—

1. For all goods landed on the said wharf, a rate of 2s. 6d. per ton, weight or measurement, at the option of the licensees.

2. For every head of cattle or horses landed upon or shipped from the said wharf, 2s. 6d. per head.

3. For every yearling or calf so landed upon or shipped from the said wharf, the sum of 1s. per head.

4. For every head of sheep or small cattle so landed upon or shipped from the said wharf, the sum of 6d. per head.

5. If any ship shall use the said wharf for the discharge of any goods or cargo after the usual working-hours or on