

31. Claims for compensation under the last preceding regulation shall be made and determined within the time and in the manner provided by the Public Works Act, 1928, in respect of lands taken under that Act or injuriously affected, as the case may be, by a Compensation Court constituted as provided by that Act.

32. Any person having any estate or interest in any land injuriously affected otherwise than as aforesaid by the operation of any provision in a scheme, whether by reason of a restriction on the use of the land or otherwise, shall be entitled to full compensation for the same from the Council, subject to the provisions hereinafter contained, to be made and determined under Part V of these regulations.

33. No claim for compensation under the last preceding regulation shall be made after a period of twelve months from the date of coming into force of the scheme.

34. The value of land taken or injuriously affected shall be assessed for the purpose of ascertaining the amount of compensation—

- (a) At its value on the 4th day of February, 1931;
- (b) Together with any increase in value, either between that date and the date of coming into force of the scheme or between that date and the commencement of the work in respect of which compensation is claimed, as the case may be, if such increase in value be general throughout the development area; but
- (c) Exclusive of any particular increase in value attributable to the existence of the scheme, or to the carrying-out of any work authorized by the scheme, or to the enactment of any provisions thereof, or to the anticipation of the provisions comprised in a scheme, whether or not such particular increase be shown to have accrued prior to the date when the scheme came into force; and
- (d) Exclusive of any increase in the cost of executing the work in respect of which land has been taken or injuriously affected if the Court is of opinion that such increase is due to anything done by the claimant since the 4th day of February, 1931, upon or under such land with the purpose and effect of rendering the execution of such work more difficult or costly.

35. Compensation shall not be payable in any of the following cases, that is to say:—

- (1) In respect of any land taken for a road the right to make a road over which is otherwise reserved to the Crown, and has not lapsed or become barred;
- (2) In respect of the operation of any provision that could have been made and enforced without liability to pay compensation by any local or public authority independently of these regulations;
- (3) In respect of any building or other structure erected or any contract made or other thing done after the date of coming into force of a scheme otherwise than in completion of any erection or of the doing of any other thing begun prior to the last-mentioned date;
- (4) In respect of any provision of a scheme restricting the use of land in any locality, if such provision is imposed by way of general restriction, whether or not subject to particular exceptions:

Provided that compensation shall nevertheless be payable in respect of any provision of a scheme having substantially the effect of a by-law made under section 189 of the Municipal Corporations Act, 1920, and in respect of any provision of a scheme restricting the use of land so as to facilitate visibility of traffic at corners of roads or streets.

36. The Council may at any time within one month after the date of any award of compensation (whether for land taken, for land injuriously affected by the taking of land, or the carrying-out of a work, or for land otherwise injuriously affected by the operation of any provision in a scheme) give notice to the claimant of its intention to abandon or modify the proposed taking, or the proposed work, or the provision in question of the scheme.

37. Where such notice has been given, the council shall, within three months thereafter, submit to the claimant and to the Board provisions varying the scheme by way of such abandonment or modification as aforesaid, and upon approval by the Board of such provisions (whether with or without modification), and upon notification by the council to the claimant of such approval, and of the provisions so approved, the award of compensation shall be discharged, but without prejudice to the claimant's right—

- (a) To a reasonable sum for his costs of and in connection with the discharged claim;
- (b) To a claim for compensation in respect of the period up to the date when the approval by the Board of such conditions was notified by the Council to the claimant;
- (c) To a further claim for compensation in respect of any matter arising out of the provisions so approved in like manner as if such provisions were originally part of the scheme.

38. No award of compensation under these regulations shall be enforceable until after the expiration of one month from the making thereof, or, if notice of abandonment or modification has within that period been given, then until after the Board has given its decision as to any provisions submitted varying the scheme by way of such abandonment or modification, and such decision has been notified to the claimant.

39. The Court shall have jurisdiction to determine who are the owners of any land or the owners of any estate or interest in any land for the purpose of a claim to compensation, and to apportion the benefit of any compensation amongst the respective owners of any estate or interest in such land.

PART V.—ASSESSMENT OF CLAIMS.

40. This part of these regulations applies to cases in which a claim for betterment increase or compensation is to be decided by the Hawke's Bay Adjustment Court pursuant to these regulations.

41. If in any case the amount of the claim does not exceed £500, the presiding Judge may appoint a Magistrate to be President of the Court in his stead.

42. Except as hereby expressly provided, the provisions of Part I of the Hawke's Bay Earthquake Act, 1931, relating to the Court and the procedure and powers thereof, shall, so far as applicable, apply to the Court when exercising the jurisdiction conferred by these regulations, but the provisions of section 24 and subsection (2) of section 25 thereof shall not apply.

43. The Court shall have power, at its discretion, on the application of any party, to state a case for the opinion of the Supreme Court on any question of law arising in the course of its proceedings, and to fix the costs of proceedings as between party and party, and give directions as to the payment of such costs, either as part of an award or by separate order.

44. The Council, in lieu of waiting for a claim to be served upon it as respondent in respect of any matter, may at any time serve upon any person whom it considers is or may be entitled to make any such claim a notice requiring that such claim, and the existence of any right in such person to make a claim in respect of that matter, be decided by the Court, and such notice shall have the same effect for the purpose of instituting proceedings as if it were a claim made by the person so served.

45. The Council or any person instituting or served with a claim or other proceedings may at any time within ten days after service of such proceedings apply to the Court, upon notice to all parties affected, for an order that any other claim or proceedings be dealt with by the Court together with, and at the same time as the first-mentioned claim or proceedings, and on the hearing of such application the Court may make such order as in its discretion it thinks fit.

46. The Court may, on the application of any party and at any stage of the proceedings, nevertheless order that any one or more of such claims or other proceedings be dealt with separately, and may make such further orders as it thinks necessary for that purpose:

Provided that the Court shall not, except on special grounds, so order in any case—

- (a) Where claims or proceedings relate to different interests in the same land or parts thereof;
- (b) Where claims or proceedings relate to adjoining or neighbouring lands and are based on substantially similar grounds.

47. Although notice has not been given within the time hereinbefore prescribed desiring that two or more claims or proceedings be dealt with by the Court together and at the same time, nevertheless any party to any claim or proceedings may at any time apply to the Court for an order that such claims or proceedings be so dealt with, and the Court, if it thinks fit, may order accordingly, and may make such further orders as it deems necessary for that purpose.

48. Any claims or proceedings referred to the Court to be dealt with together as hereinbefore provided, shall be heard together or wholly or partly in succession as the Court thinks most convenient, and one decision may be given relating to two or more claims or proceedings.

49. Any period fixed by these regulations within which compensation or betterment must be claimed, may be extended to a date to be fixed by the Court on application made in a summary manner either before or after the expiration of the period so fixed, and upon notice to the party from whom the claim is to be made:

Provided that no such extension shall be granted unless reasonable cause for the delay be shown:

Provided also that in granting any extension the Court may impose on the applicant such conditions as it thinks fit.

50. Any claim that might be the subject of an award of the Court under these regulations may be settled, compromised, abandoned, adjusted, and agreed upon whether as to amount, terms of payment, or other terms or conditions, by mutual agreement of the parties concerned.

F. D. THOMSON,

Clerk of the Executive Council.

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