

CHAPTER 149.

FORESHORES.

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CHAPTER 149.

FORESHORES.

An Ordinance to provide for Reclamations and to Validate and Facilitate Leases or Grants of Foreshores and the Erection of Wharves thereon. 11 of 1931.
30 of 1932.

[1ST AUGUST, 1931.]

1. This Ordinance may be cited as the Foreshores Ordinance. Short title.
2. In this Ordinance, unless the context otherwise requires— Interpreta-
tion.
“wharf” includes every pier, dock, wharf, quay, jetty, landing stage, sea-wall, embankment, revetment, or other structure of any description whatsoever erected on or

extending beyond the foreshore of the sea or of any tidal river, creek or channel.

Powers of the Governor.

3. The Governor may—

- (a) construct wharves along or out from the foreshore of the Colony or in the sea-bed adjacent thereto;
- (b) reclaim any part of the foreshore or sea-bed in the Colony or in any tidal river, creek or channel therein;
- (c) erect buildings upon any areas of land reclaimed from the sea;
- (d) dredge the sea-bed in the Colony or in any tidal river, creek or channel therein;
- (e) alienate, lease or otherwise dispose of any part of any reclaimed area.

Declaration regarding reclaimed lands.

4. (1) The Governor may, by proclamation published in the *Gazette*, declare any lands formed by the reclamation of any part of the foreshore of the Colony, or any area of land reclaimed from the sea or in any tidal river, creek or channel to be Crown land, and thereupon such land shall immediately vest in the Crown freed and discharged from all public and private rights which may have existed or been claimed over such foreshore, sea-bed or bed of any tidal river, creek or channel before the same were so reclaimed.

(2) A plan of the said land bearing a certificate of the said declaration under the hand of the Director of Surveys and Lands shall be registered in the office of the Registrar General.

Compensation for interference with public or private rights in certain cases.

5. There shall be a right of compensation in respect of any lands or of any interest therein which have been injuriously affected by the execution by the Governor of any of the powers vested in him by section 3 if the damage in respect of which the compensation is claimed agrees with the following description and not otherwise—

- (a) damage caused by reason of what has been authorised by this Ordinance;
- (b) damage arising from the execution of the works and not by their subsequent use;
- (c) damage arising from that which would, if done without the authority of this Ordinance, have given rise to a cause of action; and

where the compensation is claimed in respect of any interference with a public or private right—

(d) damage arising from a physical interference with a right, public or private, which the owner or occupier of property is by law entitled to make use of in connection with such property, and which gives an additional market value to such property, apart from the uses to which any particular owner or occupier might put it:

Provided that where the right which the owner or occupier of the property is entitled to make use of is one which he possesses in common with the public, there is something peculiar to the right in its connection with the property to distinguish it from that which is enjoyed by the public generally.

6. (1) If it appears to the Governor that any reclamation, construction, erection or other works or things in the course of being, or which are about to be carried out under the powers contained in this Ordinance, may give rise to any claims for compensation on account of any such works or things injuriously affecting any lands or any interest therein, the Governor shall publish a notification in the *Gazette* requiring all persons who claim that any damage has been caused by any works in the course of construction, or will be caused if any such works or any works about to be commenced, are carried out, to give notice of their claims to the Director of Surveys and Lands, together with full particulars of the nature of the damage that is claimed to have been or to be likely to be caused, and showing, as the case may require, whether the claim is made in respect of a partial interference, or the entire loss of any right, or alternatively, together with the amount and particulars of the compensation claimed for such partial interference or entire loss, as the case may be.

Notice requiring persons who claim such rights have been interfered with to furnish particulars of their claims.

(2) Every such notification shall describe the works intended to be carried out or done by reference to a plan, or plans thereof, which shall contain such information of the extent and nature of the works as will be sufficient to enable any owner of property in their vicinity to know whether any land or any interest therein in respect of which he would be entitled to claim compensation, if injuriously affected, are likely, and to what extent, to be so affected by such works.

(3) A copy of such notification shall be served on all persons known or believed to be interested in the same.

(4) Such plan or plans shall be open for inspection at the office of the Director of Surveys and Lands by any person at all reasonable times.

(5) No person shall be entitled to any compensation for damage to any lands, or any interest therein in any case where the compensation is claimed in respect of any interference with a public or private right unless he has given the notice of his claim or claims, required by this section, within six months from the date of the publication of the notification by the Governor, or in any other case unless the claim is made within one year from the date when a cause of action would, if the execution of the works causing the damage had not been authorised by this Ordinance, have first arisen.

(6) The time herein allowed for giving notice of a claim in respect of interference with a public or private right shall not begin to run against any claimant unless he might have known by inspecting the plan or plans that the damage complained of would be likely to occur if the works were carried out mainly in the manner therein described.

Application
of Cap. 116 to
claims for
compensa-
tion.

7. Where a claim is not admitted on the ground that the damage is not such as is the subject of compensation under this Ordinance, or the amount of the compensation is not agreed, the question of the right of compensation or the amount shall be determined by the Supreme Court in the like manner, as nearly as may be, as claims for compensation are awarded and paid under the provisions of the Public Lands Ordinance.

Cap. 116.

No action
for damage
prior to
commence-
ment of
Ordinance.

8. (1) No person shall be entitled to claim, and no action or proceeding shall be brought against the Government or any person to recover any compensation in respect of any interference with a public or private right, or in respect of any lands or of any interest therein which have been injuriously affected by the erection of any wharf or building on the foreshore or sea-bed of the Colony or in any tidal river, creek or channel therein prior to the commencement of this Ordinance.

(2) The power of the Governor to order the removal of any wharf under the provisions of this Ordinance shall not be affected by this section.

Construction
of wharves
prohibited
except in
accordance
with the
provisions
of the
Ordinance.

9. From and after the date of the commencement of this Ordinance, no person shall erect, re-erect, alter or extend any wharf on the foreshore or in the sea-bed of the Colony or in the bed of any tidal river, channel or creek therein except in accordance with the provisions of this Ordinance or the terms of any lease or grant which may have been made by the Government before the commencement of this Ordinance. Any