

CHAPTER 149

FORESHORES

ARRANGEMENT OF SECTIONS

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CHAPTER 149

FORESHORES

An Ordinance to provide for Reclamation 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— Interpretation.

“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 foreshores or the sea or of any tidal river, creek or channel.
3. The Governor may-- Powers of the Governor.
 - (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 any tidal river, creek or channel therein;
 - (e) alienate, lease or otherwise dispose of any part of any reclaimed area.

Declaration regarding reclaimed land.

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 or channel to be 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 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 reclaimed agrees with the following description and not otherwise—

- (a) damage caused by reason of what has been authorized 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 distinguished 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 alternately, 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 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 be entitled to claimed 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 Directors of Surveys and Lands by any person 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 authorized 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.110 to claims for compensation

Cap. 116

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 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 provision of the Public Lands ordinance.

No action for damage prior to commencement 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 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.

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 commencement of this Ordinance. Any person who shall erect, re-erect, alter or extend any wharf in contravention of this section shall be guilty of any offence and shall be liable, on summary conviction thereof, to a penalty fine not exceeding one hundred pounds and in addition thereto may be required by the Governor to remove such wharf at his own expense

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

10. Where any lease or grant has, prior to the commencement of this Ordinance, been made by the Government of any land being part of the foreshore or sea-bed within the territorial waters of the Colony, and any wharf or other work or building has been erected thereon, such lease or grant shall be deemed to be a valid conveyance and to have conveyed the foreshore or sea-bed, thereby expressed to be demised or granted, free and discharged from all public rights which have existed or been claimed over such foreshore or sea-bed before the making of such grant or lease.

Validation of former leases of grants.

11. (1) The owner of every wharf existing at the commencement of this Ordinance shall, within three months after the commencement thereof—

Procedure as to existing wharves.

- (i) if he holds any authority for the erection and continuance of the wharf contained in a lease or grant from the Government of the foreshore or sea-bed, produce to the Director of Surveys and Lands such lease or grant or a certified copy thereof;
- (ii) if he does not hold any such lease or grant but produces an authority in writing from the Government for the

erection of such wharf, apply to the Governor for a lease of the foreshore or sea-bed on which such wharf has been erected, and also for authority for the continuance of the said wharf, and furnish the Governor with a statement in writing setting forth the following particulars—

- (a) the name and address of the owner;
- (b) a description of the wharf;
- (c) the situation of the wharf;
- (d) the purpose for which the wharf is used;
- (e) whether the wharf is used solely for the purposes of the owner;
- (f) if persons other than the owner are permitted to use the wharf, whether any charge is made by the owner for such use, and the amount of the charge;
- (g) the date when the wharf was first erected and, if re-erected, altered or extended, the date of the last re-erection, alteration or extension.
- (h) the nature of the authority given for the erection of the wharf, the date thereof and the person by whom and the person to whom such authority was given;
- (i) the grounds, if any, on which he claims a right to continue to use and maintain the wharf, and for what term of duration such right is claimed.

(2) if the owner of a wharf establishes a legal or equitable title to the continuance of such wharf, he shall be entitled to receive from the Governor a lease of the foreshore and sea-bed on which such wharf has been erected, preserving to the owner such legal or equitable right with regard to the use and maintenance thereof and the re-erection, alteration and extension thereof as the owner had acquired before the commencement of this ordinance.

Such lease shall be granted under the provisions of section II, but shall not be subject to the preliminary procedure contained therein or require a declaration by the Governor in Council:

Provided always that the owner of any wharf who has received a lease or grant prior to the commencement of this Ordinance containing an authority from the erection of a wharf shall not be required to obtain a fresh lease until the expiration of the term contained therein.

12. If the owner of any wharf existing at the commencement of this Ordinance does not, within the time prescribed in section 11, either—

- (a) produce an authority from the Government for the erection and continuance of such wharf contained in a lease or grant; or
- (b) apply to the Governor for a lease under the provisions of the last preceding section.

the Governor may, by notice in writing, require the owner to remove

13. If the owner of a wharf existing at the commencement of this Ordinance applies for a lease of the foreshore or sea-bed on which such wharf has been erected and authority for the continuance thereof, and fails to establish any legal or equitable right to such continuance, the Governor may—

- (a) By notice in writing require the owner to remove such wharf within such time as may be specified in the notice; or
- (b) Grant the owner a lease of the foreshore or sea-bed on which such wharf has been erected, and authority to continue to use and maintain the same, subject to the provisions of section 14.

Removal of wharves when section 8 is not complied with.

Failure of owner to establish right to a wharf.

Power to let fore-shore and sea-bed in future.

14. (1) The Governor may make such leases of the foreshore and sea-bed in the Colony or in any tidal river, creek or channel therein as are declared by the Governor in Council not to create a substantial infringement of public rights.

Preliminary procedures.

(2) Before any such declaration is made by the Governor in Council the substance of any such lease, with a sufficient description of the property intended to be demised, shall be inserted in every ordinary issue of the *Gazette* during a period of three months, together with a notice calling upon all persons having objections to the making of such lease to send in their objections in writing to the Minister before the expiration of the said period of three months, and all such objections shall be duly considered by the Governor in Council.

Effect of leases under this Ordinance.

(3) Every such lease shall specify the purposes for which the land is required and shall be deemed to convey to the lessee the foreshore or sea-bed, expressed to be thereby demised, free and discharged from all public rights and privileges which have existed or may be claimed in or over such foreshore and sea-bed so far as is necessary for carrying out the said purposes, and shall contain such terms and conditions as the Governor may think proper or as may be prescribed by rules made under section 17.

Cancellation of leases in the public interest.

15. (1) The Governor may cancel any lease made under this Ordinance whensoever he may think proper in the public interest: Provided that where a wharf has been erected on the land demised, the owner of such wharf shall be entitled to compensation unless express provision to the contrary is contained in such lease.

Compensation.

(2) When the amount of such compensation is not agreed it shall be determined by the Supreme Court in the like manner as the amount of compensation is determined under the law for the time being regulating the acquisition of land for the public purpose.

Removal of wharf by Governor.

16. (1) Any person acting on the authority of the Governor may remove a wharf or any portion thereof, and for such purpose may enter upon any land in any of the following cases—

(a) where the owner is required by or under this Ordinance to remove a wharf and refuses or neglects to do so within the time specified;

(b) where, after the commencement of this Ordinance, the wharf has been erected, re-erected, altered or extended without any authority or contrary to the provisions of any lease granted either before or after the commencement of this Ordinance;

(c) where the lease containing authority for the erection or continuance of a wharf has been cancelled under the provisions of this Ordinance;

(d) Where the lease or other authority for the wharf has expired.

(2) Except in the case where a lease has been cancelled under section 15, the costs and expenses of and in connection with such removal shall be defrayed by the owner of the wharf and may be recovered from him at the suit of the Director of Surveys and Lands in any Court of competent jurisdiction in the Colony.

17. The Governor in Council may make rules for the better carrying out of the provisions and purposes of this Ordinance.

Power to make rules.

18. Nothing in this Ordinance shall be deemed to be in derogation of any of the powers or rights of the Crown in respect of the foreshore, territorial or inland tidal waters of the colony.

Saving as to foreshore rights, etc.

19. Nothing in this Ordinance contained shall in any way affect the rights of the Sierra Leone Development Company Limited to utilize and occupy the foreshore and bed of the Port Loko Creek, or any other creek or waterway, under the provisions of the Marampa Railway and Harbour Works Construction Ordinance.

Exemption of the Sierra Leone Development Company Cap. 136.