

**Reprint
as at 1 July 2013**



**Otamatea County Council
Wharves Vesting Order 1962
(SR 1962/185)**

H E Barrowclough, Administrator of the Government

Order in Council

At the Government House at Wellington this 10th day of October
1962

Present:

His Excellency the Administrator of the Government in Council

Pursuant to the Harbours Act 1950, His Excellency the Administrator
of the Government, acting by and with the advice and consent of the
Executive Council, hereby makes the following order.

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989
have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together
with other explanatory material about this reprint.

This order is administered by the Ministry of Transport.

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Order

1

This order may be cited as the Otamatea County Council Wharves Vesting Order 1962.

2

In this order, unless the context otherwise requires,—

boat means any open, decked, or half-decked boat, punt, or barge, attached to or used in connection with any ship or other vessel, being a boat, punt, or barge in which the means of propulsion is either exclusively by oars or partly by oars and partly by sails

Council means the Otamatea County Council

master includes the person actually in charge of any vessel, whether or not he is certificated

vessel includes every description of launch or ship (not being a boat), whether used in navigation or in any way kept or used as a hulk or storeship or for any other purpose whatsoever, whether business or pleasure

wharfinger includes every person actually in charge of a wharf for the time being

wharves means the Pahi Wharf, the Tinopai Wharf, and the Raupo Ferry Slip, as shown on plans marked MD 1940, 5708, 5758; 6923; and 2991, 4485, 4497, and 6552, respectively, and deposited in the office of the Ministry of Transport at Wellington; and any reference to a wharf means any of the wharves.

Clause 2 **wharves**: amended, on 1 September 1972, pursuant to section 6(2)(b) of the Ministry of Transport Amendment Act 1972 (1972 No 4).

Part 1

Vesting of management

3

The Council is hereby vested with the management of the wharves, such vesting to be subject to the following conditions:

- (a) the provisions of the Foreshore Licence Regulations 1960 (SR 1960/32) shall apply with respect to this order:
- (b) the annual sum payable by the Council shall be 1s, payable on demand:
- (c) the term of the vesting shall be 14 years from 28 August 1958.

Part 2

Dues

4

Every person who uses any of the wharves with any vessel shall pay to the Council for the use thereof the dues specified in Schedule 1.

5

Every person who uses any of the wharves for landing or shipping any goods shall pay to the Council wharfage dues according to the scale prescribed in Schedule 2.

6

Every person who uses any of the wharves for storage of goods shall pay to the Council for the use thereof storage dues specified in Schedule 3.

Part 3

Regulations as to the use of wharves

7

The master of every vessel discharging ballast at any of the wharves shall have all such ballast taken away and deposited above high-water mark, or at such place as may be approved

4

by the Minister or by any person appointed by the Minister for that purpose.

8

The master of any vessel loading or discharging at any wharf shall be deemed responsible for the proper slinging and landing of all goods, and responsible for all damage that may occur either from the breakage of slings or from the goods being improperly slung or improperly handled.

9

It shall be the duty of the master to cause proper tarpaulins to be stretched from the wharf to the vessel loading or discharging as aforesaid, and to be there maintained while cargo or ballast is being handled or shipped.

10

Where any vessel does or causes any damage to any wharf or any part thereof, or to any machinery or building thereon or appertaining thereto, the master of that vessel shall forthwith report the occurrence to the wharfinger by telegraph, or by at once reporting to the wharfinger in person, or, should there be no wharfinger, shall report to the Council in like manner.

11

Any damage done or caused as aforesaid may be repaired by the Council, and the cost thereof shall be recoverable by the Council from the master and owner of any such vessel, or either of them, in any court of competent jurisdiction.

12

The owner of all goods landed on any wharf, or brought thereon for shipment, shall place the goods as the wharfinger or other authorised person directs, and so as to keep all mooring posts or rings free and all rails or tramways clear.

13

Before any vessel or boat is removed from any wharf, the master or other person in charge of the vessel or boat shall cause all dirt or rubbish to be thoroughly cleared from the portion of the wharf occupied by the vessel or boat, and shall deposit that dirt or rubbish at such places as may be appointed by the wharfinger.

14

No person shall make fast any boat to any steps or landing place on any wharf or so near thereto as to obstruct the approach of vessels or boats, nor shall any person permit any boat to lie alongside any steps or landing place longer than is required for landing passengers.

15

- (1) No person shall take, drive, or work, or cause to be driven, taken, or worked, at other than a walking pace, any cart, vehicle, or horse on any wharf on which carts, vehicles, or horses are permitted by the wharfinger to be taken.
- (2) If any such cart or vehicle is drawn by 1 horse, the person in charge shall walk at the head of and lead the horse, and no person shall ride on any wharf, but shall dismount and lead his horse.
- (3) Every person driving or taking any horse-driven vehicle on any such wharf shall remain in attendance thereon, so as to have control of his horse or horses.

16

All watermen, stevedores, carters, and other persons employed on any wharf shall be under the control of the wharfinger, and shall obey all orders given by the wharfinger.

17

No person shall in any way obstruct or impede traffic on any wharf.

18

- (1) No person shall, otherwise than as specifically permitted by these regulations, obstruct or impede ingress to or egress from any wharf by any vessel, boat, or cable, or in any other way.
- (2) If in breach of this clause any person obstructs or impedes ingress or egress as aforesaid, and does not, upon being ordered so to do by the wharfinger, remove the obstruction, then, irrespective of the penalty to which that person is liable for the obstruction, the wharfinger may remove, cast off, or cut any such obstruction, and may recover the cost of so doing from that person.

19

The wharfinger shall have power, on authority of the Chairman of the Council, to close the wharves, or any of them or any portion thereof whenever in the opinion of the wharfinger it is advisable so to do, and no person shall enter upon any wharf or portion of the wharf so closed without the consent of the wharfinger.

20

The master of every vessel lying at a wharf shall give way to any vessel carrying mails, whether discharging cargo or passengers, and shall either vacate his berth or assist the master of the vessel carrying mails to moor alongside his vessel, and allow the cargo and passengers to be shipped or unshipped over and across the deck of his vessel, as the case may require, under such conditions as the wharfinger may impose.

21

The master of every vessel, whether carrying passengers or not, when lying alongside any wharf shall fix, and at all times keep fixed, a safe and proper gangway from his vessel to the wharf. Every such gangway shall have side rails and stanchions, with ropes rove taut through same, the top rail or rope being not less than 2 ft 9 in high; and he shall also keep a gangway net properly secured beneath the gangway, and shall at all times throughout the night—that is to say, from sunset to sunrise—show and exhibit a proper light fixed at each gangway,

and shall conform to and obey all orders the wharfinger may give regarding the position, size, and kind of the gangways and lights.

22

The master, owner, or agent of every vessel using any wharf shall produce to the wharfinger the certificate of registry (if any) of his vessel, and shall give to the wharfinger a copy of the bill of lading, freight list, or manifest of the cargo, or other proper accounts of the weights and measurements of all goods according as freight is payable, intended to be unshipped from the vessel on to a wharf, and also of all goods shipped from the wharf on to his vessel.

23

No person shall remove goods from any wharf without having previously paid the dues payable thereon.

24

In the absence of the consignee the wharfinger may take delivery of all goods landed on the wharf, and place the goods in the wharf shed, and keep the goods until payment to the Council of the expenses of the removal, wharfage, and storage dues herein provided for, together with any other charges due to the Council thereupon, and in default of payment may, in the manner and in the time provided in section 201 of the Harbours Act 1950, sell the goods, and may exercise on behalf of the Council all the powers contained in the said section 201: provided that goods as mentioned in clauses 29 and 31 shall not be stored in any wharf shed.

25

If any goods, which in the opinion of the wharfinger it is not expedient to put in the wharf shed, are stored on the wharf, the owner of the goods shall pay storage to the Council for the goods at the same rate as mentioned in Schedule 3.

26

If any cargo remains on any wharf for a period longer than 48 hours, or where any cargo in any way hinders the loading or unloading of any vessel, or is an impediment to the approaches, the wharfinger may have the cargo removed at the expense of the shipper, and in the case of inward cargo at the expense of the consignee or owner:

provided that, if any timber remains on any wharf for a period longer than 12 hours, the wharfinger may have the timber removed at the expense of the shipper, consignee, or owner, as the case may be.

27

No person shall ship or unship any timber, coal, produce, or cargo of any description except at such time and places and in such order or mode as may be directed and deemed expedient by the wharfinger for the proper working of any vessel or boat.

28

No person shall deposit any ballast, coal, coke, patent or other fuel on any wharf or in any shed without special permission of the wharfinger.

29

No owner of any goods or articles of any description which, in the opinion of the wharfinger, are likely to occasion damage to any wharf or shed, or anything for the time being on the wharf or in any such shed, shall discharge or land the goods on any such wharf or place them in any such shed.

30

No person shall place or leave upon any wharf or in any shed any vegetable or animal matter or goods which are in a state of decay or putrefaction. Any goods which are, in the opinion of the wharfinger, unfit to remain on any wharf, or harmful to other goods stored on any wharf or in any shed, may be removed from the wharf or any shed by the wharfinger, and the consignee or owner shall, upon demand, repay to the Council the cost of that removal, and also in addition the amount of any

damage done by the goods to any other goods on the wharf or in the shed.

31

All explosives, kerosine, and all goods of a dangerous or inflammable character shall be removed by the owner, agent, or consignee immediately on being landed, and any owner, agent, or consignee failing so to do shall be held responsible for any damage or loss that may accrue from any accident arising therefrom, in addition to the penalty provided for a breach of these regulations, and the Council shall not be responsible for any damage or loss which may accrue to any such goods.

32

Every person commits an offence, and is liable on conviction to a fine not exceeding £20, who does any act in contravention of or fails to comply with any provision of this Part.

Clause 32: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

**Schedule 1
Berthage dues**

cl 4

	s	d
On every vessel under 20 tons register lying alongside a wharf, for each day or part of a day	1	0
On every vessel under 20 tons register, for every day or part of a day that the vessel lies alongside a vessel lying at a wharf	0	6
On every vessel under 20 tons register undergoing repairs or fitting out alongside a wharf, or lying off a wharf with a line attached thereto, per day or part of a day	0	6
On every vessel of 20 tons register and upwards lying at a wharf, per ton per day or part of a day	0	0¼
Minimum charge on every sailing vessel of 20 tons register and upwards lying alongside a wharf, per day or part of a day	1	0
Minimum charge on every steamship or motor vessel of 20 tons register and upwards lying alongside a wharf, per day or part of a day	1	6
On every vessel of 20 tons register and upwards lying alongside a vessel at a wharf, or lying off a wharf with a line attached thereto, or undergoing repairs, per ton per day or part of a day	0	0⅞
Minimum charge for vessel last-mentioned	0	6

Schedule 2 Goods wharfage

cl 5

	s	d
Bricks, per 100 bricks	0	3
Butter, up to 3 boxes, per box	0	1
Butter, over 3 boxes, per box	0	0½
Cattle, over 10 months old, each	1	0
Cattle, under 10 months old, each	0	3
Cement, per sack	0	1
Chaff, per sack	0	0½
Coal, per ton	1	0
Cream, per cwt (up to 15 cwt)	0	0¾
Cream, over 15 cwt and not exceeding 1 ton	1	0
Grass seed, per sack	0	1
Hides, each	0	1
Horses, each	1	0
Kauri gum, per sack	0	2
Kauri gum, per case	0	3
Kerosine and benzine, per case of 2 tins	0	1
Lime, per sack	0	1
Manure, per sack	0	1
Oats and grain, per sack	0	1½
Oysters, per sack	0	1½
Paint, oil, and varnish, keg or drum, each	0	2
Parcels, packages, boxes, jars, up to 12 lb, placed on board by consignors or taken off by consignee		Free
Parcels, packages, boxes, jars, up to 12 lb, when left in charge of wharfinger, each	0	1
Personal luggage, up to half a ton		Free
Personal luggage, over half a ton, per ton	1	0
Pigs (dead or alive), each	0	1
Pipes (iron and galvanised), per 100 lineal feet	0	3
Pipes (earthenware), each	0	1
Ploughs, each	0	6
Harrows, each	0	3
Poultry, per dozen	0	3

Saddles, with or without bridles, each	0	3
Sheep, each	0	1
Sheepskins, each	0	0½
Tanks, empty, each	0	6
Timber, per 100 superficial feet	0	2
Vegetables, per sack	0	1½
Vehicles, two wheels, each	0	9
Vehicles, four wheels, each	1	3
Wool, per bale	0	6
Wool, per half bale	0	3
Wool, per bag	0	1

The owner of any goods sent for repairs shall pay wharfage once only.

For all goods and merchandise, not specially provided for in the foregoing schedule, landed on or shipped from any wharf, a rate of 1s 6d per ton weight or measurement, at the option of the Council.

Per ton weight means 20 cwt.

Per ton measurement means 40 cubic feet.

Weight shall be gross weight (ie, including covering).

Measurement shall be outside measurement of all packages.

For smaller quantities according to the following scale:

<i>Weight</i> —For every fractional part of a ton as follows:	s	d
200 lb and under	0	3
Over 200 lb and not exceeding 500 lb	0	6
Over 500 lb and not exceeding 1 000 lb	0	9
Over 1 000 lb and not exceeding 1 500 lb	1	2
Over 1 500 lb and under 1 ton	1	6
<i>Measurement</i> —For every fractional part of a ton as follows:	s	d
4 cubic feet and under	0	3
Over 4 cubic feet and not exceeding 9 cubic feet	0	6
Over 9 cubic feet and not exceeding 18 cubic feet	0	9
Over 18 cubic feet and not exceeding 27 cubic feet	1	2
Over 27 cubic feet and under 1 ton (40 cubic feet)	1	6

Half the above rates shall be paid to the Council when delivery taken in boats from vessel discharging alongside the wharf.

All charges on goods shall be paid by the owner thereof to the Council before the goods are delivered.

Schedule 3
Storage

cl 6

For goods stored in any shed upon any wharf there shall be paid to the Council before receipt of the goods, and when called on by the Council or wharfinger so to do, storage for the goods as hereinafter mentioned, that is to say,—

For the first 12 hours, free.

After the first 12 hours, the rates as set out in Schedule 2 shall be payable to the Council for every week or part of a week that goods remain in the sheds.

T J Sherrard,
Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 11 October 1962.

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Notes**1 General**

This is a reprint of the Otamatea County Council Wharves Vesting Order 1962. The reprint incorporates all the amendments to the order as at 1 July 2013, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*

Criminal Procedure Act 2011 (2011 No 81): section 413

Ministry of Transport Amendment Act 1972 (1972 No 4): section 6(2)(b)
