

No. 26, 1950.]

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ACT

To provide for the management, control and development of the Cape Town foreshore and to that end to establish a board in respect of the said foreshore and to define its functions, and to provide for other incidental matters.

(Afrikaans text signed by the Officer Administering the Government.)

(Assented to 13th June, 1950.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

1. In this Act, unless the context otherwise indicates— Definitions.
 - (i) "board" means the Cape Town Foreshore Board established under section *two*; (ii)
 - (ii) "council" means the council of the City of Cape Town; (iii)
 - (iii) "foreshore" means the Cape Town Foreshore comprising the land referred to in the Schedule to this Act, together with any land which may be acquired by the board by virtue of the powers vested in it by paragraph (*h*) of sub-section (1) of section *ten*; (iv)
 - (iv) "Minister" means the Minister of Lands. (i)

2. (1) There is hereby established a board to be known as the Cape Town Foreshore Board, which shall be a body corporate capable of suing and being sued in its corporate name and of performing all such acts as are necessary for or incidental to the carrying out of its objects and the performance of its functions and duties under this Act. Establishment of Cape Town Foreshore Board.

(2) The board shall not be liable for any tax, duty or other charge imposed by or under any law.

3. (1) The board shall consist of five members of whom— Constitution of board.
 - (a) three shall be appointed by the Governor-General; and
 - (b) two shall be appointed by the council.

(2) The Governor-General shall designate one of the members appointed under paragraph (a) of sub-section (1) to be chairman of the board.

4. A member of the board shall hold office— Tenure of office of members of board.
 - (a) in the case of a member referred to in paragraph (a) of sub-section (1) of section *three*, for such a period, not exceeding five years, as the Governor-General may in each case determine; and
 - (b) in the case of a member referred to in paragraph (b) of that sub-section, for such period as the council may in each case determine.

5. A member of the board shall vacate his office— Vacation of office by members of board.
 - (a) if he resigns or dies or the board is abolished in terms of section *nineteen*;
 - (b) if his estate is sequestrated or a notice with reference to him is published under sub-section (1) of section *ten* of the Farmers' Assistance Act, 1935 (Act No. 48 of 1935);
 - (c) if he becomes of unsound mind or is convicted of an offence under section *seventeen* or *eighteen* or is convicted of any other offence and sentenced to imprisonment without the option of a fine; or
 - (d) if he has absented himself from four consecutive meetings of the board without its leave which shall not be granted for a period exceeding six months in any period of twelve months,

and may be removed from his office by the Governor-General on an address from both Houses of Parliament during the same session praying for such removal.

6. (1) There shall be payable to every member of the board who is not an officer in the public service, such remuneration and allowances in respect of his services as the Governor-General may determine. Remuneration and allowances of members of board.

(2) A member of the board who is an officer in the public service may receive such remuneration, in addition to his salary and allowances as such an officer, as may be determined subject to the laws governing the public service.

(3) Any remuneration or allowances which may become payable under sub-section (1) or (2), shall be paid out of the funds of the board.

7. (1) The first meeting of the board shall be held at a time and place to be determined by the Minister, and all subsequent meetings shall be held at such times and places as the board or the chairman of the board, if authorized thereto by it, may determine. Meetings of board.

(2) The chairman of the board may at any time call a special meeting of the board and shall call such a meeting within fourteen days after receipt of a written request desiring such a meeting to be called and signed by not less than two members of the board.

(3) Three members of the board shall form a quorum for a meeting of the board.

(4) The chairman of the board shall preside at all meetings thereof at which he is present, and if he is absent from any meeting the members present thereat may elect one of their number to preside at such meeting.

(5) The decision of a majority of the members of the board present at any meeting thereof shall be deemed to be the decision of the board.

(6) In the event of an equality of votes on any matter before a meeting of the board, the person presiding at such meeting shall have a casting vote in addition to his deliberative vote.

8. (1) The clerical and administrative work incidental to the performance by the board of its functions shall be performed at its expense and under its directions and control by officers in the public service to be seconded to the service of the board. Staff of board.

(2) The number of officers of various grades to be seconded to the service of the board under sub-section (1) shall be determined from time to time by the Minister in consultation with the board.

(3) Any officer seconded to the service of the board under this section shall in all respects remain subject to the laws governing the public service, and for that purpose the chief administrative officer of the board shall be deemed to be the head of the department in which such officer is employed.

9. As from the commencement of this Act, the ownership in the land comprising the foreshore shall be vested in the board and the Registrar of Deeds at Cape Town is hereby required to cause the necessary entries and endorsements to that effect to be made in his registers and on the title deeds of the said land and to issue to the board upon application by it a certificate of registered title to the said land. Ownership in foreshore vested in board.

10. (1) The objects of the board shall be to control, manage and develop the foreshore and to dispose of the land included therein, and to that end the board shall have power— Objects and powers of board.

- (a) subject to the provisions of section *eight*, to appoint such servants as it may consider necessary for the performance of its functions and the attainment of its objects;
- (b) to appoint from amongst its members one or more committees and to vest in any committee so appointed such of its powers as it may deem fit: Provided that the board shall not be divested of any of its powers which it may have vested in any such committee;
- (c) in consultation with the council, and subject to the approval of the Minister, to sub-divide, lay out, plan and develop the foreshore;
- (d) to cause surveys, plans, sections, maps, diagrams or drawings to be made in respect of the foreshore;
- (e) to reserve or set aside any portion of the foreshore for streets, open spaces or other public purposes, and to transfer to the council any portion so reserved or set aside;

- (f) to construct, or to authorize the council to construct, roads, streets, thoroughfares, bridges, subways, drains, sewers, aqueducts, conduits, water or other mains, power lines and such other works or buildings on or over the foreshore as the board may deem necessary;
- (g) to enter into contracts with the Union Government, including the South African Railways and Harbours Administration, the council or any other body or person for the performance of any act which the board is empowered to perform;
- (h) with the approval of the Minister and subject to such conditions as he may determine—
 - (i) to sell, let, hypothecate or otherwise encumber any land forming part of the foreshore, or to exchange any such land for other land or to donate it for any purpose or to deal therewith in any other manner; and
 - (ii) to acquire by purchase, lease, exchange or otherwise any land or any interest in land or any building or other structure in as far as the acquisition thereof may be necessary for or incidental to the attainment of the objects of the board;
- (i) with the approval of the Minister, and subject to such conditions as he may determine, to advance money to the council for any purpose which in the opinion of the board will be conducive to the attainment of the objects of this Act;
- (j) generally to do all such things as may be necessary for or incidental to the attainment of the objects of this Act.

(2) No portion of the foreshore which has been reserved or set aside under paragraph (e) of sub-section (1), shall be used for any purpose other than the purpose for which it has been so reserved or set aside, unless both Houses of Parliament have by resolution approved of the use thereof for such other purpose.

(3) The provisions of the Townships Ordinance, 1934 (Ordinance No. 33 of 1934), of the Cape of Good Hope, shall not apply in respect of any land forming part of the foreshore so long as the ownership in such land is vested in the board.

11. (1) The board may subject to the approval of the Minister make rules relating to— Board may make rules.

- (a) the regulation and control of such land as it may from time to time reserve or set aside for streets, open spaces or other public purposes or any works constructed by it or under its authority;
- (b) the siting, construction, erection, maintenance and control of buildings and other improvements on the foreshore; and
- (c) generally any other matter in regard to which the Minister deems it necessary or expedient that the board should make rules in order that this Act may be effectively administered.

(2) Any rules made under sub-section (1) may prescribe penalties, not exceeding a fine of twenty-five pounds, for a contravention of or failure to comply with such rules or any requirements or conditions prescribed in any permit, order or other document issued thereunder.

(3) Whenever any person has been convicted under any rule made in terms of paragraph (b) of sub-section (1) the board may order him to remove or alter any building or improvement in respect of the siting, construction, erection, maintenance or control of which he has been so convicted or cause such building or improvement to be removed or altered at his expense.

12. (1) The funds of the board shall consist of— Funds of board.

- (a) moneys derived from the sale of land by the board;
- (b) any loans granted to the board by the Minister of Finance out of moneys appropriated by Parliament for the purpose; and
- (c) any amounts which may become payable to the board under this Act or any rules made under section *eleven*.

(2) The board shall cause full and correct account to be kept of all amounts received or expended by it.

(3) Any moneys in the possession of the board which are not required for immediate use, shall be invested by it with the Public Debt Commissioners or in such other manner as the Minister may in consultation with the Minister of Finance determine.

13. (1) The books and statements of account and balance sheet of the board shall be audited annually by the Controller and Auditor-General who may for the purposes of any such audit appoint one or more persons to assist him, subject to such directions as he may deem fit. Auditing of accounts.

(2) The provisions of sections *thirteen*, *fourteen*, *fifteen*, *eighteen* and *nineteen* of the Exchequer and Audit Act, 1911 (Act No. 21 of 1911), shall *mutatis mutandis* apply in respect of such audit, and for that purpose—

- (a) the references in sections *thirteen* and *eighteen* of the said Act to the Treasury, shall be deemed to be references to the Minister of Lands and to the board, respectively;
- (b) the reference in sections *fourteen* and *fifteen* of the said Act to a person in the employment of the Union Government shall be deemed to include a reference to a person employed by the board; and
- (c) the reference in section *nineteen* of the said Act to the Minister of Finance, shall be deemed to be reference to the Minister of Lands.

(3) As soon as possible after any such audit, the Controller and Auditor-General shall transmit to the Minister and to the Minister of Finance a copy of the statements of account and balance sheet together with his certificate and report thereon.

(4) The Minister of Finance shall cause the accounts, balance sheet and report to be laid on the Tables of both Houses of Parliament within seven days after their receipt by him, if Parliament be then in ordinary session, or if Parliament be not then in ordinary session, within seven days after the commencement of its next ensuing ordinary session.

(5) The Controller and Auditor-General shall notify the board of any surcharge which he may have made under section *fifteen* of the Exchequer and Audit Act, 1911, as applied by sub-section (2) of this section, and the board shall, subject to the provisions of section *nineteen* of the said Act, as so applied, recover the amount thereof from the person against whom the surcharge was made: Provided that unless the Minister otherwise directs, the amount of any such surcharge which may be due from a person in the employment of the Union Government or the board, shall be recovered in equal monthly instalments by deductions from his monthly salary, not exceeding one-fourth thereof.

(6) The amount of any such surcharge may be recovered by the board by action in any competent court.

(7) An amount which shall be determined by the Treasury after consultation with the Minister and the Controller and Auditor-General, shall be paid by the board to the Consolidated Revenue Fund in respect of such audit.

14. (1) The board may from time to time out of the proceeds of the sale by it of land forming part of the foreshore, pay to the Consolidated Revenue Fund, the Railways and Harbours Fund and the council such amounts as may in each case be approved by the Minister in consultation with the Minister of Finance. Disposal of proceeds of sales of land.

(2) Any amounts which may in terms of sub-section (1) become payable to the council, shall be paid over to it subject to such conditions as the Minister may determine.

15. (1) No rates shall be levied by the council upon any land or property forming part of the foreshore, so long as such land or property has not been sold to any person by the board. Payment of rates etc. on land included in foreshore.

(2) Whenever any such land or property has been sold by the board, it shall become rateable as from the date of the sale as if it has been transferred on that date to the person to whom it has been sold and rates thereon shall as from that date become payable by that person.

(3) The council may in respect of the year in which any land or property is sold as aforesaid levy rates on that land or property on the same basis as that on which rates on other land or property within its area were levied for that year, and the person to whom the land or property was so sold shall in respect of that year pay such a portion of the rates thereon as is represented by the proportion which the unexpired portion of the year as from the date of the sale bears to the whole year.

(4) In this section "rates" means rates levied by the council on the value of immovable property.

16. The Board shall from time to time, but not less than once in every year, submit to the Minister reports on its activities, and the Minister shall lay copies of all such reports on the Tables of both Houses of Parliament within fourteen days after receipt thereof if Parliament is then in ordinary session or if Parliament is not then in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session. Annual report by board.

17. Any member of the board who directly or indirectly receives any fee or reward from any person in connection with any matter whatsoever dealt with by the board, shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding one year. Receiving of fees or rewards by members of board.

18. Any member of the board and any officer or other person in its service who discloses, except in the performance of his duties or as witness in a court of law, any information acquired by him in the course of his duties, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds. Preservation of secrecy.

19. (1) Whenever the Governor-General is satisfied that the board has achieved the objects for which it has been established or that the development of the foreshore has proceeded to a stage where the existence of the board is no longer necessary, he may by proclamation in the *Gazette* declare that the board shall be abolished with effect from a date to be specified in the proclamation. Abolition of board.

(2) As from the date specified in any proclamation issued under sub-section (1), all the powers, duties, assets and rights of the board shall vest in the Minister and all the liabilities and obligations of the board shall devolve upon the Minister, and any reference in any document to the board shall be deemed to be a reference to the Minister.

(3) The Registrar of Deeds at Cape Town shall cause all such notes and endorsements to be made in his registers and on the title deeds of any land forming part of the foreshore as may be necessary to give effect to the provisions of this section.

20. This Act shall be called the Cape Town Foreshore Act, 1950, and shall come into operation upon a date to be fixed by the Governor-General by proclamation in the *Gazette*. Short title and commencement.

Schedule.

DESCRIPTION OF CAPE TOWN FORESHORE.

The Crown Land known as the Cape Town Foreshore in extent approximately eighty morgen being the remaining portion of the land reclaimed from the sea in Table Bay in the Cape Division of the Province of the Cape of Good Hope, after deducting such portions thereof as have been reserved for the South African Railways and Harbours Administration.

The Minister is hereby authorized to define the boundaries of the said Crown Land by notice in the *Gazette*.