

# New Zealand.

ANNO VICESIMO OCTAVO

## VICTORIÆ REGINÆ.

[*Local and Personal.*]

### No. 6.

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**AN ACT to enable "The Dunedin Water Works Company (Limited)" to make and maintain Waterworks for the supply of the Town and neighbourhood of Dunedin with Water and for other purposes. [13th December 1864.]**

**WHEREAS** a Joint Stock Company called "The Dunedin Water Works Company (Limited)" has been lately established in the Province of Otago under "The Joint Stock Companies Act 1860" and subject to the provisions and Regulations contained in the Memorandum and Articles of Association thereof dated the 23rd day of August 1864 for the purpose of furnishing a constant supply of water to the Town of Dunedin and its neighbourhood for domestic manufacturing and other purposes and to the shipping in the Harbor of Dunedin by bringing in

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part of the Stream called or known as "the Water of Leith" near Dunedin or one or more of its Tributaries or any other Stream near Dunedin aforesaid and for those purposes or any of them to make and maintain all necessary Reservoirs Waterworks Cisterns Tanks Aqueducts Drains Cuts Sluices Culverts Engines and other Works and lay and maintain pipes sink wells or shafts and erect such buildings as the said Company shall deem necessary and for diverting impounding and taking water from the aforesaid Streams or any of them and for levying Rates on the Inhabitants and others for the said supply and generally for the doing of all such other things as were incidental or conducive to the attainment of the above objects And whereas for the better carrying out the undertaking for which the said Company is incorporated it is desirable that it should possess further powers and privileges :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows :

Short Title.

I. The Short Title of this Act shall be "The Dunedin Water Works Act 1864" and may be so cited for all purposes.

Interpretation.

II. The following words and expressions in this Act and any Act wholly or partially incorporated herewith shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant to such construction (that is to say)—

The word "person" shall include a Corporation whether aggregate or sole The word "lands" shall include messuages lands tenements and hereditaments of any tenure and any estate and interest therein.

The expression "the Company" or "the said Company" shall mean "The said Dunedin Water Works Company."

The words "Directors" and "Secretary" shall respectively mean the Directors and Secretary for the time being of the Company.

The expression "the Works" or "the said Works" or "the said Water Works" shall mean the undertaking and Works hereby authorised to be executed.

The word "Auditor" shall mean "Auditors" if more than one be appointed.

The expression "any Justice" "such Justice" or "Justice" shall mean a Justice of the Peace for the Colony of New Zealand and the expression "two Justices" shall mean two or more Justices met and acting together.

The terms "plan" or "the plan" "Section" and "Book of Reference" shall mean the plan Section and Book of Reference respectively of the proposed Works deposited in the Private Bill Office.

Imperial Acts Incorporated.

III. Subject as hereinafter provided the Sections of the Imperial Acts and parts of the Imperial Acts incorporated with this Act wherever the words of the same would from their being framed with reference to the Kingdom of England be inapplicable to the circumstances of the Colony of New Zealand are to be read and interpreted so as to make them applicable to the circumstances of the said Colony and so as to ensure that the operation of the said Imperial Acts and parts of the said Imperial Acts shall be secured by this Act for the benefit of the said Water Works and also for the controlling of the same to the full extent and meaning of this Act.

The Company continued as a Body Corporate.

IV. The Company are by this Act continued a Body Corporate by the name of "The Dunedin Water Works Company" with perpetual succession and a Common Seal And with power to purchase and hold and dispose of Lands and other property for the purposes but subject to the restrictions and provisions of this Act and shall and may by that

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designation sue and be sued plead and be impleaded answer and be answered unto defend and be defended in all Courts and places whatsoever.

V. Subject to the provisions of this Act the Company may make and maintain Reservoirs Dams Aqueducts Sluices and other Works in the situation according to the lines and levels and upon and through the lands delineated on the plan and described in the Book of Reference and according to the Levels described on the Sections or within the Limits set forth on the said plan and for that purpose may enter upon take use and hold such of those Lands as they may think necessary and also intercept collect and impound and use for the purposes of the undertaking the water which shall fall or enter upon or drain into the said Lands.

Power to construct and maintain Water Works.

VI. The Works by this Act authorised are to commence upon or near to Section Numbered 88 on the Record Map of the Wakari District on a Creek known as Helensburn or Ross' Creek and thence proceed through Sections Numbered respectively 90 92 and 94 on the Record Map of the said District through a piece of land containing by admeasurement 88 acres or thereabouts granted to Robert Chapman as Allotment Numbered Wakari District but now known as Block XI on the Record Map of the Dunedin and East Taieri District and through Sections Numbered respectively 7 6 5 4 3 2 and 1 Block VIII on the Record Map of the Upper Kaikorai District and across the Town Belt into the Town of Dunedin.

Direction and course of Works.

VII. All persons being owners or having any less Estate or Interest in any Lands taken under the authority of this Act or which may be damaged by the construction of such Works shall be entitled to receive compensation for such Land or damage the amount whereof shall be ascertained in the manner set forth in "the Lands Clauses Consolidation Act 1863" which Act for that and other purposes shall be incorporated with this Act.

Compensation.

VIII. Subject to the provisions of this Act the Act of the Imperial Parliament called "The Companies Clauses Consolidation Act 1845" except the sections thereof numbered respectively 163 and 164 and the Act of the Imperial Parliament called the "Water Works Clauses Act 1847" shall be incorporated with this Act.

"The Companies Clauses Consolidation Act 1845" except sections 163 and 164 and "The Water Works Clauses Act 1847" Incorporated.

IX. Provided that whenever in the said Imperial Acts the following words are used they shall have the meanings hereinafter severally set opposite to them that is to say the words:—

Further Interpretation.

"Commissioners of Her Majesty's Treasury" shall mean "the Governor for the time being of New Zealand" "Superior Courts" "the Court of Chancery" "the Court of Queen's Bench" "the Court of Exchequer" "General Quarter Sessions" and "Quarter Sessions" shall mean severally "the Supreme Court of New Zealand" "the promoters of the Undertaking" or "the Undertakers" shall mean "the Company" "the United Kingdom" shall mean "the Colony" "the County" shall mean "the Province of Otago" or "the said Province" "the Bank" shall mean "the Savings Bank" in Dunedin or other Bank to be appointed by the Governor for the time being "the Board of Trade" shall mean "the Superintendent of Otago acting by and with the advice and consent of the Executive Council of the said Province."

"Clerk of the Peace" "One of the Masters of the Queen's Bench" "Accountant General of the Court of Chancery in England" "Accountant General of the Court of Exchequer in Ireland" "Taxing Master of the Court of Chancery" "Master Extraordinary" shall mean severally "the Registrar in Dunedin of the Supreme Court of New Zealand."

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“The Inspector” shall mean “the Officer appointed by the Company to inspect and examine the Works.”  
*London or Dublin Gazette* shall mean the *Otago Provincial Government Gazette*.

Capital.

X. The Capital of the Company shall be £50,000 divided into 5,000 shares of £10 each.

Calls.

XI. One pound a share shall be the greatest amount of a Call and two months at least shall be the interval between successive Calls.

Power to borrow Money on Mortgage.

XII. The Company may borrow on mortgage any sums not exceeding in the whole the sum of Ten Thousand pounds but no part thereof shall be borrowed until the whole of the Capital of Fifty Thousand Pounds is subscribed for and one half thereof paid up.

Application of moneys

XIII. Provided always that all and every part of the money to be raised under Act whether by shares or by borrowing shall be applied only for the purposes of this Act.

Interest not to be paid out of borrowed money on Calls paid up.

XIV. The Company shall not out of any money by this Act authorised to be raised by Calls or by borrowing pay interest or dividend to any Shareholder on the amount of the Calls made in respect of the Shares held by him. Provided always that this Act shall not prevent the Company from paying to any Shareholder such Interest on money advanced by him beyond the amount of Calls actually made as is in conformity with “The Companies Clauses Consolidation Act 1845”

Next and other Meetings.

XV. The next Ordinary Meeting of the Company shall be held in the month of February next and the subsequent Ordinary Meetings of the Company shall be held yearly in the month of February.

Number of Directors.

XVI. Subject to the provisions of this Act for reducing the number of Directors the number of Directors shall be nine.

Qualification of Directors.

XVII. The Qualification of a Director shall be the possession in his own right of at least 20 shares in the Company.

Election of Directors and power to reduce their Number.

XVIII. The present Directors of the Company shall continue in Office until the next Ordinary Meeting held after the passing of this Act and at such Meeting and at the meeting to be held in every subsequent year one-third of the Directors for the time being or if their number is not a multiple of three then the number nearest to one-third shall retire from Office and the Shareholders present personally or by proxy may elect other Directors to supply the place of the retiring Directors and all or any of the retiring Directors shall be eligible for re-election and the Company may from time to time reduce the number of Directors so as the number be not less than five.

Quorum.

XIX. The quorum of a Meeting of Directors shall be three.

No compulsion on Company to supply water.

XX. Notwithstanding anything in this Act or in any Act incorporated herewith it shall not be compulsory on the Company to supply water to any person whatever in any case in which and for such a time as the Resident Magistrate stationed in Dunedin shall certify by writing under his hand that such supply cannot or ought not to be made and such Resident Magistrate is hereby authorised and required to hear and determine any complaint made under this provision in a summary manner and the Company may in any case require a Meter approved by them to be adopted and such supply shall be charged and paid for according to the quantity used or according to the rateable value of the house or premises as the Company may determine.

Power to make Bye-Laws.

XXI. The Company may make alter and repeal Bye Laws for regulating the mode form strength material construction and arrangement of pipes and other works supplying water from the pipes of the Company to adjacent premises and regulating the time of doing the same and the notices to be given for the superintending thereof the making good ground which may be displaced thereby and for inspecting all services whether within or without any Buildings at all reasonable

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times and to regulate the construction disposition custody and inspection of meters and for classifying the several tenements to be supplied with water and determining the rate to be paid for each class either according to the annual value or the number of rooms in such tenements or otherwise and for making and levying such rate and for preventing the waste or misuse of water supplied by the Company and for causing persons using the same to keep their pipes and other apparatus in proper repair and for preventing any tampering with or altering such pipes without notice to the Company and for repairing such pipes and apparatus so as to prevent the waste of water and recovering the cost of such repairs and for preventing any person from allowing any other person not having agreed to be supplied by the Company to use the water and for preventing such person from using the same and for preventing any person from wilfully or carelessly breaking injuring or opening any lock cock valve pipe work or engine belonging to the Company and from doing any other wilful act whereby such water may be wasted and for imposing penalties for breaches of such Bye Laws Provided the Surveyor or other person appointed for that purpose by the Company may between the hours of nine o'clock in the forenoon and four o'clock in the afternoon enter into any house or premises supplied with water by the Company in order to examine if there be any waste or misuse of such water and if such Surveyor or other person at any such time be refused admittance into such dwelling-house or premises for any of the purposes aforesaid or be prevented from making such examination as aforesaid the Company may turn off the water supplied by them from such house or other premises And provided that no penalty greater than ten pounds shall be imposed by any such Bye Law for the breach thereof.

XXII. Every Penalty imposed by this or any of the said incorporated Acts or by any Bye Laws made in pursuance thereof shall and may be proceeded for and enforced either against the person actually committing any breach of such Act or Bye Law or the person in whose employment he may be and on whose behalf he may be acting.

Persons able to Penalties.

XXIII. All damages costs and forfeitures may be proceeded for before and enforced by any two or more Justices.

Enforcing Forfeiture &c.

XXIV. A valuation shall be made from time to time if the Company think fit of the annual value of all houses and tenements opposite or convenient to which pipes for the conveyance of water shall have been laid by the Company.

Ascertainment of annual value of Houses &c.

XXV. Notice of the amount of such Valuation shall be given to the person liable to pay Water Rate for the same.

Notice thereof to be given.

XXVI. Such persons may appeal to the Company against such Valuation on giving notice in writing of such appeal to the Secretary of the Company within fourteen days of the service of such notice.

Appeal.

XXVII. The Company may either confirm the Valuation or make a new one And in the event of the parties not acquiescing in the award of the Company they may appeal to two Justices of the Peace by whom the same shall be determined.

Company may confirm Valuation or make new one.

XXVIII. All persons applying for and receiving water from the Company or liable to be rated for water under the provisions of this Act shall pay for such water until further notice be given by the Company of any alterations in their Valuation at the following rates and all persons not applying for and receiving Water as aforesaid shall pay two-thirds of such rates namely

Rates to be charged.

1. On Houses of £50 annual value and under a rate not exceeding £7 per cent. on the valuation.
2. On Houses above £50 and under £300 annual value a rate not exceeding £6 per cent. on the valuation.

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3. On Houses of £300 annual value and upwards a rate not exceeding £5 10s. per cent. on the valuation.
4. Houses Stores Manufactories or Premises in which the quantity of water consumed or likely to be consumed would be greater or less than the average consumption of Private Houses of equal value shall be subject to such Special Rate on the annual value as the Company may think fit to impose and as may be agreed to by the owners in addition to or in deduction from the above named rating at their annual value.
5. In every Dwelling-house in which there shall be a Water-closet or Bath supplied with water under this Act there shall be charged and recoverable by the Company in addition to the rates hereinbefore mentioned for every such Water-closet or Bath a sum not exceeding £8 a year Provided always that the Company shall not be compelled to supply any Water-closet or Bath or the Apparatus or Pipes connected therewith respectively unless the same respectively be constructed and used so as to prevent the waste or undue consumption of the water of the Company and the return of foul air or noisome or impure matter into the mains or other pipes belonging to or connected with the mains or pipes of the Company Provided also that whenever the amount receivable for dividends interest bonus and profit by Shareholders in the said Company shall in any year amount to £20 per cent. on the paid up capital the rates thereafter to be levied shall be reduced and it shall be the duty of the Company to reduce the same so that the said total profits including Dividends Interest Bonus and other Profits shall not exceed £20 per cent. per annum on the said paid up capital.

Water for domestic purposes not to include supply for other purposes.

XXIX. A supply of water for Domestic purposes shall not include a supply of water for Railway purposes or for Public Baths Wash-houses or other public purposes or for Cattle or for Horses or for washing Carriages where such Horses and Carriages are kept for hire or for Ornamental purposes or for any Steam Engine or for any Brewery Wash-house Counting-house Office Shop Coach-house Stable Store Cellar Vault Workshop Mill Manufactory or for any Trade Manufacture or Business whatsoever.

Penalty for improperly permitting water to be taken from Premises.

XXX. Any person receiving water from the Company who shall supply any House or Premises with water other than the House or Premises for which he is himself liable to be rated or who shall allow any person not subject to Water Rate to be supplied or who shall allow water to be taken from his premises to be consumed elsewhere shall be liable to a Penalty not exceeding £5 for every case in which water shall be so supplied by him.

Uncovering Pipes without authority.

XXXI. Any Person who shall open any Ground so as to uncover a Pipe of the Company or who shall lay any leaden or other Pipe to communicate with any such Pipe without giving to the Company fourteen days' notice of his intention so to do or who shall make any Pipe to communicate with the Pipes of the Company without giving to them two days' notice of the day and hour when such Pipe is intended to be made to communicate with the Pipes of the Company or who shall make such communication without the superintendence or contrary to the directions of the Officer appointed by the Company unless he shall fail to attend at the time mentioned in such Notice or who shall lay any leaden or other Pipe to communicate with the Pipes of the Company of a strength and material not approved of by the Company shall forfeit for each offence a sum not exceeding £20.

Stand Pipes

XXXII. In all cases where a Stand Pipe is erected for the supply of the Houses and Tenements in any Way Passage Lane or other place

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any person not occupying a House in any such Way Passage Lane or other place who shall take Water from such Stand Pipe shall be liable to a penalty not exceeding £5 unless such person shall have received a written permission from the Company to take Water from such Stand Pipe.

XXXIII. Any Person supplied with Water who shall wilfully or negligently allow the same to run to waste shall be liable for each offence to a Penalty not exceeding £5. Wasting Water.

XXXIV. All Persons requiring to remove or alter the position of any Meter shall give six days' notice in writing to that effect to the Secretary of the Company in order that the Registration of the quantity of water used may be taken and any person who shall remove or alter the position of any such Meter without giving such Notice as aforesaid shall forfeit to the Company a sum not exceeding £20 for each offence over and above the damage which he may be found liable to pay in any Action at Law at the Suit of the Company. Removing Meters.

XXXV. All Owners and Occupiers shall at their own expense keep and maintain their Meters in good working condition to the satisfaction of such Officer as may be appointed by the Company and in the event of any repairs being required Notice in writing shall be immediately given to the Secretary of the Company and a Registration taken before such repair shall be commenced. Repairing Meters.

XXXVI. The Company shall at their own cost lay the necessary Service Pipes and Stop Cocks from the Main Pipe to the building line of the street opposite to all Messuages or Tenements and immediately on such pipe being laid and notice thereof given by the Company to the occupier or occupiers of any such Messuages or Tenements or left for him or them upon the premises which he or they shall so occupy such Occupier or Occupiers and the Owners of the said premises shall respectively be liable to pay the charges as directed in this Act. Compulsory Clause.

XXXVII. On Main Pipes being laid in the streets quite round any Block it shall be lawful for the Company to charge a Water Rate upon the whole of the Messuages or Tenements upon such Block whether fronting the streets or not. Rating a Street Block.

XXXVIII. All rates made under the authority of this Act or any Act incorporated herewith shall be payable in advance by equal quarterly payments on Christmas day Lady day Midsummer day and Michaelmas day in every year and the first payment for the whole or a broken quarter as the case may be shall be made at the time when the Service Pipe shall be made to communicate with the Main Pipes of the Company or at the time when the Agreement to take Water from the Company is made. Payment of Rates.

XXXIX. The Powers of the Company for the compulsory Purchase of Lands for the purposes of this Act shall not be exercised after the expiration of three years after the passing of this Act. Powers for Compulsory Purchases Limited.

XL. The Works shall be completed within five years after the passing of this Act and on the expiration of that period the Powers by this Act granted to the Company for executing the Works or otherwise in relation thereto shall cease to be exercised except as to so much of the Works as are then completed. Period for completion of Works.

XLI. Security shall be taken from the Treasurer Collector or Receiver and every other Officer entrusted with the collection or custody of moneys under this Act for the faithful execution of his office and full and accurate accounts shall be kept of all moneys received and expended under the provisions or for the purposes of this Act and such accounts shall be balanced once at least in each year. Security to be taken from officers and accounts to be kept.

XLII. Such accounts shall be duly audited once in each year at the least and for this purpose an Auditor or Auditors shall be chosen by the Shareholders at their ordinary meetings. Accounts to be audited.

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Books to be produced before Auditor.

XLIII. For the purpose of auditing such Accounts the Company shall cause the Accounts together with all their Books and Vouchers relating to the undertaking to be produced to the Auditor and the remuneration of the Auditor and his expenses shall be defrayed out of the Rates levied under this Act.

Annual Abstract to be prepared.

XLIV. An Annual Abstract shall be prepared of the total receipts and expenditure of all funds levied under this Act or received for the purposes hereof during the past year under the several distinct heads of receipts and expenditure with a statement of the balance of the said Accounts duly audited and certified by the Secretary of the Company and also by the Auditor thereof and a copy of such Annual Account shall be published once in the *Otago Provincial Government Gazette* and once in one of the Daily Newspapers circulating in Dunedin on or before the 20th day of January in each year.

Undisputed Rates or Rents may be recovered by Distress.

XLV. All Water Rates or Rents or Remunerations for Water due to the Company and all damages costs and expenses by this Act or "The Water Works Clauses Act 1847" directed to be paid and all costs of furnishing and fixing any Water Pipes and the amount of which shall not be disputed may be levied by distress and any Justice on application may issue his Warrant accordingly.

Costs of Proceedings may be included in Warrant.

XLVI. Any Justice who shall issue any Warrant of Distress for the recovery of any money payable under this Act or any Act incorporated herewith may order that the Costs of any proceedings for the recovery of such money shall be paid by the person liable to pay such sum of money. And such Costs may be ascertained by such Justice and may be included in the Warrant of Distress for the recovery of such money.

Several names and sums in one Warrant.

XLVII. Any number of Names and sums may be included in any Warrant of Distress or Notice obtained or given by the Company for any of the purposes of this Act and may be stated either in the Body of the Warrant or in a Schedule thereto.

No Justice disqualified by being a Shareholder Ratepayer or liable to Water Rates.

XLVIII. No Justice shall be disqualified for acting in the execution of this Act by reason of his being a Shareholder in the Company or a Ratepayer under this Act or being liable to payment of any Rent or other Charge under this Act.

Sums due to Company may be recovered by action.

XLIX. The Company may recover any sum of money which shall be due to them from any person for Water Rates or Water Rents or for the furnishing or fixing of any Water Pipes or for damages costs or expenses by action or proceeding in any Court having jurisdiction for the trial or hearing of any action, plaint or summons of the like amount.

Limit to Liability.

L. In the event of the Assets of the Company being insufficient to meet its engagements then and in that case the Shareholders shall be responsible to the extent of the amount if any unpaid on their subscribed shares only.

This Act is to be subject to future Legislation.

LI. Nothing herein contained shall be deemed or construed to exempt the Works by this Act authorized to be made from the provisions of any general Act relating to Water Works now in force or which may hereafter pass or from any future revision and alteration under the authority of the General Assembly of the maximum rates and charges authorized by this Act.

Expenses of Act.

LII. All the Costs Charges and Expenses of and attending the passing of this Act or incidental thereto shall be paid by the Company.