

New Zealand.



ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Interpretation. 3. County Councils holding in Otago Mining District mining privileges in respect of water may constitute water-supply areas. 4. County Councils may make by-laws in respect of water-supply areas. | <ol style="list-style-type: none"> 5. Power to stop, reduce, alternate, &c., flow of water in races. 6. Failure or pollution of supply not to relieve from payment of charges or to give claim to compensation. 7. Water may be cut off in default of payment, &c. 8. Exclusion of certain provisions of section 129 of principal Act. |
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1931, No. 35.

Title.

AN ACT to amend the Mining Act, 1926.

[11th November, 1931.]

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

Short Title.

1. This Act may be cited as the Mining Amendment Act, 1931, and shall be read together with and deemed part of the Mining Act, 1926 (hereinafter referred to as the principal Act).

Interpretation.

2. In this Act, unless the context otherwise requires,—

“Committee” means a committee to which a Council has, under paragraph (c) of section one hundred and twenty-nine of the principal Act, delegated powers conferred upon it by a mining privilege in respect of water:

“Council” means a County Council holding in the Otago Mining District any mining privilege in respect of water.

County Councils holding in Otago Mining District mining privileges in respect of water may constitute water-supply areas.

3. (1) Any Council may from time to time, by special order, declare the whole of its county, or any part thereof defined in such special order, to be a water-supply area for the purposes of this Act, with such name as is assigned thereto in such special order; and may, if it thinks fit, in the same or any subsequent special order, divide such water-supply area into such number of subdivisions with such boundaries as it thinks fit.

(2) The Council may from time to time in like manner—

(a) Alter the name of any water-supply area:

- (b) Alter the boundaries of any water-supply area by including therein or excluding therefrom any land within the county described in such special order :
 - (c) Alter the boundaries of any subdivision :
 - (d) Abolish all subdivisions and either leave the water-supply area undivided or redivide it into subdivisions.
- (3) Every special order under this section shall be published in the *Gazette*, and shall take effect on the date of gazetting or on some later date mentioned in such special order.

4. (1) The Council may from time to time, in the manner provided by the Counties Act, 1920, make by-laws in respect of any water-supply area constituted by it as aforesaid, and in such by-laws may—

County Councils may make by-laws in respect of water-supply areas.

- (a) Prescribe the terms and conditions on which water will be supplied under any mining privilege held by the Council to any persons for any specified purpose or purposes :
 - (b) Prescribe the mode of distribution of water :
 - (c) Fix either generally with respect to the water-supply area as a whole, or separately with respect to each subdivision thereof, scales of charges to be paid for water :
 - (d) Prescribe the time and mode of making payment of such charges :
 - (e) Make provision for the efficient control, management, and maintenance of mining privileges in respect of water held by the Council within the water-supply area and of the works in connection therewith, and generally regulating the use of water supplied by it :
 - (f) Prescribe fines for breaches of such by-laws not exceeding ten pounds in the case of any one breach.
- (2) The Council may in respect of any year, by resolution, reduce any scale of charges for water prescribed by any by-law as aforesaid, and where the Council has delegated to a committee any of the powers exercisable by the Council under a mining privilege in respect of water the power conferred by this subsection may, with the approval of the Council, be exercised by such committee.

(3) In addition to the power conferred on it by subsection one hereof, the Council may in any by-laws as aforesaid declare any part of a water-supply area to which water is supplied for domestic or industrial purposes to be a town area, and in such case the Council may in such by-laws—

- (a) Define ordinary supply of water for the purpose of such by-laws, and provide that the charge for such supply shall be a rate not exceeding one penny in the pound on the capital value of all rateable property in the town area, and such rate shall be payable by the occupier of every such property whether water is actually supplied thereto or not :
- (b) Define extraordinary supply of water for the purpose of such by-laws, and impose conditions respecting the furnishing and use of extraordinary supplies and fix the charges therefor :
- (c) Provide that in cases where the supply is neither ordinary nor extraordinary supply as aforesaid the Council may enter

into agreements with the users of water as to the conditions of supply, the charges therefor, and the mode of payment of such charges.

(4) No by-laws made pursuant to the foregoing provisions of this section shall have force or effect unless and until approved by the Governor-General.

(5) Every charge for water duly made pursuant to any such by-law as aforesaid shall for all purposes be deemed to be a rate.

(6) The Council may apply any moneys received for water supplied by it in any water-supply area in payment of interest and sinking fund charges on any loan or loans raised to provide for the cost of acquisition of the mining privileges in respect of water in that area or of constructing any work in connection therewith, and in payment of the cost of maintenance and repair of such mining privileges or works (including administration expenses).

Power to stop, reduce, alternate, &c., flow of water in races.

5. The Council, or where it has delegated its powers to a committee, then such committee, may stop, reduce, or alternate the flow of water in any water-race held by the Council, or, in the case of two or more races out of the one stream or watercourse, may from time to time, as it deems it expedient so to do, run all the water authorized to be diverted by such races wholly in one or more of such races, or partly in one or partly in another or others of such races to the exclusion of any other or others of such races.

Failure or pollution of supply not to relieve from payment of charges or to give claim to compensation.

6. (1) Nothing contained in this Act or in the said by-laws shall be read or construed to be a guarantee by the Council or any committee to provide or supply water in any particular race or to any occupier, owner, or ratepayer in a fixed or specified quantity, or to render it responsible for any partial or total failure of any such supply, or for any pollution in the same from whatever cause arising, nor shall any occupier, owner, or ratepayer by reason of such failure or pollution or through flooding, overflowing, seepage, or escape of water on to his lands be relieved of any part of the payment of any rate or charge duly imposed in respect of the supply of water under any by-laws as aforesaid or otherwise in accordance with the provisions of this Act; and such payment shall be made in full notwithstanding such failure, pollution, flooding, overflowing, seepage, or escape of water.

(2) No person shall have any claim to compensation or right of action or other remedy against the Council or any committee by reason of any such partial or total failure in the supply of water as aforesaid or of pollution of such water.

Water may be cut off in default of payment, &c.

7. In case any person—

(a) Makes default in payment of the charges which he is from time to time liable to pay:

(b) Makes default in payment of any rate imposed on his land within the county in respect of water-supply:

(c) Fails or refuses to do any act or thing which he is required to do by any by-laws made hereunder:

(d) Fails to do any act or thing which he has undertaken or agreed to do in respect of the supply of water to his land:

(e) Commits any offence against any such by-laws,—

the Council, or where the control of the particular water-supply area has been delegated to a committee, then such committee, may stop

the supply of water to the land of such person, and prevent him from using the water until he has ceased to make default or has otherwise complied with the requirements of the Council or committee.

8. Nothing in paragraph (*k*) or paragraph (*kk*) of section one hundred and twenty-nine of the principal Act shall have any application within any water-supply area constituted under section three of this Act :

Exclusion of certain provisions of section 129 of principal Act.

Provided that prices for water fixed under the said paragraph (*k*) and by-laws made under the said paragraph (*kk*) in respect of mining privileges within any such area shall enure for the purposes of such privileges until by-laws with respect thereto are made under this Act and come into force, and any moneys payable in respect of the prices for water as aforesaid and not paid before the coming into force of by-laws made under this Act may thereafter be recovered as provided in the said paragraph (*k*).
