

**Reprint**  
**as at 1 July 2013**

**Nelson Waterworks Act 1863**

Provincial Act 1  
Date of assent 7 August 1863

References to the “Parliament of New Zealand” were substituted for references to the “General Assembly of New Zealand” by section 29(2) Constitution Act 1986.

References in this Act to decimal currency were substituted for references to the former currency by section 7 Decimal Currency Act 1964 (1964 No 27).

References to a District Court Judge were substituted for references to a Magistrate pursuant to section 18(2) District Courts Amendment Act 1979.

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**Note**

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

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

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**An Act to make provision for the making and maintaining waterworks for supplying the City of Nelson with water**

**Preamble**

Whereas it is expedient that waterworks should be constructed for the purpose of providing the City of Nelson with a constant supply of water.

**1 Short Title**

The Short Title of this Act shall be called the Nelson Waterworks Act 1863.

**2 Interpretation**

The following words and expressions in this Act 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 **lands** shall include messuages, lands, tenements, and hereditaments of any tenure

The word **streams** shall, include springs, brooks, and other running waters

The word **street** shall include any wharf, quay, jetty, square, court, alley, highway, lane, road, thoroughfare, or public passage, or place within the District of Brook Street Valley or City of Nelson, or projecting from any part thereof into the sea or harbour

The expression **waterworks** shall mean the waterworks and the works connected therewith authorised to be constructed by this Act

The expression **water rate** shall include any rent, reward, or payment to be made for a supply of water

The expression **2 Justices** shall mean 2 or more Justices of the Peace met and acting together, or a District Court Judge

The word **Superintendent** shall mean the Superintendent for the time being of the Province of Nelson.

**3 Waterworks may be constructed**

It shall be lawful for the Superintendent to make, construct, complete, and maintain such waterworks as may be deemed expedient for the purpose of supplying the City of Nelson with water from Brook Street Valley in the said Province.

**4 Power to take lands, etc**

Subject to the provisions, restrictions, and conditions contained in the Act, the Superintendent may exercise the

following powers and may execute or cause to be executed any of the following works (that is to say):

He may without any previous agreement with the owner or occupier enter upon any lands or other places in the City of Nelson, or District of Brook Street Valley and take the levels of the same:

He may purchase and hold any lands required for the purposes of this Act;

He may from time to time sink such wells or shafts, or make, maintain, alter, or discontinue, such reservoirs, waterworks, cisterns, tanks, aqueducts, drains, cuts, sluices, pipes, culverts, engines, and other works, and erect such buildings as he shall think proper for supplying the said City with water:

He may from time to time divert, impound, and take such water as may be found in the District of Brook Street Valley aforesaid, as shall be required for the purposes of this Act, and may alter the course of any stream in the said City or District:

He may without previous payment, tender or deposit, enter upon, and use any land within the said City, or District of Brook Street Valley, for the purpose of taking any earth, stone, or clay therefrom, and he may enter upon and use any lands adjacent for making temporary roads or approaches to the works: provided always that before he shall make such temporary use of any such lands, he shall give 10 days' notice of such his intention to the occupiers of such lands except in the case of accident to the works requiring immediate reparation:

provided also that the Superintendent shall until any land taken by him for temporary use be given up to the owner pay to the owner or occupier half yearly reasonable compensation for the use of such lands, and for any damage or injury done to the crop or to the surface of the land or otherwise, and such compensation shall, if the parties cannot agree, be settled by arbitration, in manner hereinafter provided.

## **5 Other watering places to be provided**

Provided always that in the exercise of the said powers, the Superintendent shall do as little damage as can be, and in all cases where it can be done, shall provide other watering places,

drains, and channels, for the use of adjoining lands in place of any such as shall be taken away or interrupted by him.

**6 Compensation to be made for lands taken, etc**

In exercising the powers of taking lands and streams hereinbefore conferred, the Superintendent shall make to the owners and occupiers of, and all other parties interested in any lands or streams taken or used for the purposes of this Act, or injuriously affected by the construction or maintenance of the waterworks, or otherwise by the execution of the powers hereby conferred, full compensation for all damages sustained by such owners, occupiers, and other persons, by reason of the exercise as to such lands or streams of the powers vested in the Superintendent by this Act.

**7 Amount of compensation, how ascertained**

In case of any disagreement as to the amount of any damage sustained in carrying out the provisions of this Act, the same shall be determined by the appraisalment of 2 indifferent persons, 1 to be chosen by the Superintendent and the other by the person claiming compensation, or by an umpire to be chosen by such 2 appraisers, or if the compensation claimed do not exceed the sum of \$40 the same may be ascertained by the District Court Judge or any 2 Justices.

**8 Limit of time for making claims**

All claims for compensation shall be made in writing to the Superintendent within 18 months from the time when such claims shall have arisen when the person claiming compensation shall reside within the Province of Nelson, and when residing elsewhere then within 3 years.

**9 Service pipes to be laid on at expense of occupier**

Service pipes shall, when required, be laid on to any building at the expense of the person requiring the same, by some person authorised for that purpose by the Superintendent.

**10 Power to break up streets and open drains, etc**

The Superintendent or any person authorised by him may open and break up the soil and pavement of the several roads, streets, bridges, and reserves within the said City of Nelson and District of Brook Street Valley, and may open and break up any sewers, drains, or tunnels within or under any such roads, streets, and bridges, and lay down and place pipes, conduit, service pipes, and other works and engines, and from time to time repair, alter, or remove the same, and for the purposes aforesaid may remove and use all earth and materials in and under such roads, streets, bridges, and reserves, and do all other acts which the Superintendent shall from time to time deem necessary for supplying water to the inhabitants of the said City, and to the shipping at the Port of Nelson, doing as little damage as can be in the execution of the powers hereby granted, and making compensation for any damages which may be done in the execution of such powers.

**11 Streets, etc, broken up to be reinstated**

When any person shall, for the purposes of this Act, open or break up the road, path, or pavement of any street or bridge, or any sewer, drain, or tunnel, such person shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground and reinstate and make good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby, and shall at all times whilst any such road or pavement shall be so opened or broken up cause the same to be fenced and guarded, and shall cause a light sufficient for the warning of passengers to be set up and kept there throughout every night during which such road or pavement shall be continued open or broken up.

**12 Penalty for obstructing construction of works**

Every person who shall wilfully obstruct any person acting under the authority of the Superintendent in setting out the line of the works, or pull up or remove any pole or stake driven into the ground for the purpose of setting out the line of such works, or deface or destroy any works made for the same purpose,

shall be liable to penalty not exceeding \$40 for every such offence.

**13 Penalty for diverting water, etc**

After any stream or supply of water hereby authorised to be taken by the Superintendent shall have been so taken, every person who shall illegally divert or take the water supplying or flowing into the stream so taken or any part thereof, or who shall do any unlawful act, whereby the said stream or supply of water may be drawn off or diminished in quantity, and who shall not immediately repair the injury done by him on being required so to do, so as to restore the said waters to the state in which they were before such act, shall forfeit and pay any sum which shall be awarded by 2 Justices of the Peace not exceeding \$ 200 for every day during which the said supply of water shall be diverted or diminished, by reason of any act done by or by the authority of such person, and any sum so forfeited shall be in addition to the sum which he may be lawfully adjudged liable to pay to the Superintendent for any damage which may be sustained by reason of the supply of water being diminished, and the payment of the sum so forfeited shall not bar or affect the right of the Superintendent to bring an action at law against such person for the damage so committed.

**14 Assessment to be made**

The Superintendent shall in each year cause an assessment to be made of the annual value of all buildings in the City of Nelson, situated within 100 yards of any water pipes to be laid down under the authority of this Act.

**15 Notice of assessment to be given**

When such assessment shall be made the Superintendent shall cause public notice thereof, and of the place in the said City where the same may be inspected, for a period of 21 days, to be given in some newspaper published in the Province, and the person having the custody of such assessment shall permit the same to be inspected by any person during office hours.

**16 Parties aggrieved may appeal**

If any person shall think himself aggrieved by such assessment on the ground that it includes any property for which he is not rateable under this Act, or that it assess his rateable property beyond its full and fair annual value, or that the name or property of any person is omitted out of such assessment, or that the property of any person is assessed below its full and fair annual value, the person so considering himself aggrieved may at any time within 28 days after public notice of such assessment shall have been given as aforesaid, notify in writing to the Superintendent the grounds of his objection to the assessment and his intention to appeal to a bench of District Court Judges; and shall also send a similar notice to the Clerk to the District Court Judges at Nelson, who shall thereupon by advertisement in some newspaper published in the Province, summon a meeting of the District Court Judges to hear such appeals, which meeting shall be held within 14 days after the expiration of the aforesaid 28 days, and in case it shall appear that the appellant is entitled to relief on account of being erroneously or too highly assessed, or that the name or property of any person has been improperly omitted out of the assessment, or that the property of any person is assessed below its full and fair annual value, the said Court of Appeal shall alter or amend the assessment in such manner as it shall deem necessary, but the assessment shall not be altered with respect to any other person named therein, and the said Court of Appeal shall have power to order the costs of such appeal to be paid by either party, and the determination of the said Court of Appeal shall be final and conclusive.

**17**

*[Repealed]*

Section 17 was repealed by section 3 Provincial Ordinances Act 1892.

**18 Certain buildings to pay extra rate**

All buildings used as public houses and livery stables to which water shall be laid on shall pay annually an additional water rate of \$4 percent upon the annual value thereof and of the buildings occupied therewith.

**19 Breweries, etc, to pay extra rate**

All buildings used as breweries or manufactories to which water shall be laid on shall pay annually such additional rate as shall be agreed upon between the Superintendent and the occupier of such buildings and in case they cannot agree the amount of such additional rate shall be determined by 2 justices.

**20 Water not to be used for working machinery without consent of Superintendent**

No water to be supplied under the powers of this Act shall be used as a water power for the purpose of working any machinery without authority in writing from the Superintendent for that purpose: And it shall be lawful for the Superintendent to charge such sum of money by way of rate for the use of water for such purposes as he shall think fit: And any person who shall use any water so to be supplied as aforesaid for any such purpose without such authority first had and obtained, shall forfeit and pay for every day the water shall be so used, any sum not exceeding \$40, and it shall be lawful for the Superintendent to stop the supply of water to such person.

**21 Superintendent may supply water for other purposes**

It shall also be lawful for the Superintendent to supply water for such other purposes as may be required, and to charge such sums of money by way of rate for the use of such water as he may think fit.

**22 Exemptions from rates**

No rates shall be paid in respect of any buildings belonging to the Crown, or reserved or set apart for public purposes, or vested in trust for any public object, nor any buildings used as public schools, libraries, or museums.

**23**

*[Repealed]*

Section 23 was repealed by section 3 Provincial Ordinances Act 1892.

**24**

*[Repealed]*

Section 24 was repealed by section 3 Provincial Ordinances Act 1892.

**25 If rates not paid water may be stopped**

If any person supplied with water as aforesaid shall neglect to pay the water-rate at the time appointed for the payment thereof, it shall be lawful for the Superintendent to stop the water from flowing into the premises of such person, by cutting off the service pipe to such premises, or by such means as may be thought fit.

**26 Penalty for permitting water to be taken from premises**

Any person who shall permit any water to be supplied under the powers of this Act to be taken from premises occupied by such person, or to be used elsewhere than upon the premises so occupied, shall for every such offence forfeit and pay any sum not exceeding \$20.

**27 Penalty for wasting water**

Any person who shall wilfully cause or permit any water to be supplied as aforesaid, to be wasted, shall for every such offence forfeit and pay any sum not exceeding \$20.

**28 Penalty for fouling water**

Any person who shall commit or cause any act whereby the water in any reservoir, tank, cistern, aqueduct, drain, or pipe constructed under the authority of this Act shall be fouled or corrupted, shall for every such offence forfeit and pay any sum not exceeding \$100.

**29 Penalties, how recovered**

All penalties incurred under the authority of this Act may be recovered on conviction in accordance with Part 3 of the Summary Proceedings Act 1957.

Section 29: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

**30 Limitation of penalty**

No penalty to be imposed on any one conviction under this Act shall exceed the sum of \$200.

**31 Money to be paid to Provincial Treasurer, and appropriated by Superintendent for purposes of Act**

All money collected under the authority of this Act shall be paid to the Provincial Treasurer, and shall be appropriated by the Superintendent, by warrant under his hand, in carrying out the provisions of this Act, and in repayment of any money borrowed for the purposes hereof and the interest thereon.

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**Notes****1 General**

This is an eprint of the Nelson Waterworks Act 1863. The eprint incorporates all the amendments to the Act as at 1 July 2013. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the eprint are also included, after the principal enactment, in chronological order.

**2 About this eprint**

This eprint has not been officialised. For more information about eprints and officialisation, please *see* <http://www.pco.parliament.govt.nz/eprints/>.

**3 List of amendments incorporated in this eprint (most recent first)**

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

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