



ANALYSIS

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1986, No. 29

An Act to amend the Tasman Pulp and Paper Company Enabling Act 1954 and to provide for its eventual repeal

[25 June 1986]

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

1. Short Title—This Act may be cited as the Tasman Pulp and Paper Company Enabling Amendment Act 1986, and shall be read together with and deemed part of the Tasman Pulp and Paper Company Enabling Act 1954 (hereinafter referred to as the principal Act).

2. Interpretation—(1) Section 2 of the principal Act is hereby amended by inserting, before the definition of the term “company”, the following definition:

“‘Board’ means the Bay of Plenty Regional Water Board:”.

(2) The said section 2 is hereby amended by repealing the definition of the term “Council”.

(3) The said section 2 is hereby amended by adding the following definition:

“‘Water’ has the same meaning as the term ‘natural water’ as defined in section 2 (1) of the Water and Soil Conservation Act 1967.”

3. Bay of Plenty Regional Water Board to assume functions of Council and Minister—The principal Act is hereby amended—

- (a) By omitting the words “the Council” wherever they occur, and substituting in each case the words “the Board”;
- (b) By omitting the words “Minister of Works” wherever they occur, and substituting in each case the word “Board”.

4. Discharge of trade wastes—The principal Act is hereby amended by repealing section 4, and substituting the following section:

“4. (1) Subject to the provisions of this Act, the company may discharge into the river trade wastes in such manner and of such a nature as it was authorised to discharge immediately before the commencement of this section.

“(2) The discharge of trade wastes authorised by subsection (1) of this section shall be at such point or points on the river as were approved immediately before the commencement of this section or at such other or further points on the river as may be approved from time to time by the Board.

“(3) The company shall take such steps as may be necessary to ensure that trade wastes discharged into the river are discharged in such manner and are of such a nature as to comply with such conditions as are from time to time imposed by the Board and notified in writing by the Board to the company.

“(4) Section 25 of the Water and Soil Conservation Act 1967, with the necessary modifications, shall apply in respect of every decision of the Board relating to the imposition or variation of conditions under subsection (3) of this section as if it were a decision of the Board under section 24 of the Water and Soil Conservation Act 1967.”

5. New sections inserted—The principal Act is hereby amended by repealing section 5, and substituting the following sections:

“5. Authorisations deemed to be rights granted under Water and Soil Conservation Act 1967—Notwithstanding anything in the Water and Soil Conservation Act 1967 or in any other enactment—

- “(a) The authorisations conferred by section 3 of this Act to take water from the river; and

“(b) The authorisations conferred by section 4 of this Act to discharge trade wastes into the river—
in force and exercisable by the company immediately before the commencement of this section shall be deemed to be rights granted under section 21 (3) of the Water and Soil Conservation Act 1967; and the provisions of that Act, so far as they are applicable and with the necessary modifications, shall accordingly apply in respect of those authorisations, the conditions to which they were subject immediately before the commencement of this section, and any conditions imposed by the Board under section 4 (3) of this Act (including any direction given under section 5D (3) of this Act).

“5A. **Duration of rights**—The rights referred to in section 5 of this Act shall continue in force until the expiry of this Act and shall then expire.

“5B. **Further rights not to be granted under this Act**—The Board shall not grant, pursuant to section 3 of this Act, the right to take from the river any greater quantity of water than the company was authorised to take immediately before the commencement of this section.

“5C. **Variation of rights and new rights may be granted**—Nothing in section 4 or section 5B of this Act shall be construed to prevent the Board from granting the company—

“(a) Any variation of the rights referred to in section 5 of this Act pursuant to section 24B of the Water and Soil Conservation Act 1967; or

“(b) Any new right pursuant to section 21 (3) of that Act.

“5D. **Exemption from conditions of discharge**—(1) Notwithstanding the provisions of section 4 (3) of this Act but subject to subsections (2) to (6) of this section, the company, in respect of the discharge authorised by section 4 of this Act, need not comply with—

“(a) Any condition, restriction, or prohibition imposed under this Act or the Water and Soil Conservation Act 1967; or

“(b) Any regulations or classification in force under the Water and Soil Conservation Act 1967—

requiring that the natural colour and clarity of the river not be changed to a conspicuous extent.

“(2) If at any time the Board determines, after giving the company reasonable opportunity to be heard, that it is practicable for the company to treat or manage the discharge

of its trade wastes into the river so that the natural colour and clarity of the river are not changed to a conspicuous extent, the Board may give written notice to that effect to the company.

“(3) If at any time the Board determines, after giving the company reasonable opportunity to be heard, that it is practicable for the company to treat or manage the discharge of its trade wastes into the river so that—

“(a) The colour and clarity of the river can be improved; or

“(b) Any matter in the discharge causing or contributing to discoloration of the river can be removed or reduced in volume—

the Board may give to the company a written direction to treat or manage the discharge in such a way and to such extent as is necessary to achieve that improvement or removal or reduction, as the case may be.

“(4) The company may appeal to the Planning Tribunal against any determination or direction of the Board under subsection (2) or subsection (3) of this section; and section 25 of the Water and Soil Conservation Act 1967, with the necessary modifications, shall apply in respect of the appeal.

“(5) If a notice is given under subsection (2) of this section, subsection (1) of this section shall cease to apply—

“(a) On such date as may be specified in the notice, being a date which provides a reasonable time for the company to comply with the notice; or

“(b) If an appeal has been made under subsection (4) of this section and the Board’s determination is upheld, on such date as may be determined by the Planning Tribunal.

“(6) Any direction given under subsection (3) of this section shall be deemed to be a condition imposed by the Board under section 4 (3) of this Act.

“5E. **Other existing discharges of waste**—(1) In this section and in section 5F of this Act, ‘waste’ means waste as defined in section 2 (1) of the Water and Soil Conservation Act 1967.

“(2) This section applies to every right and authorisation to discharge waste into the river in existence immediately before the commencement of this section, other than the authorisation conferred by section 4 of this Act.

“(3) If at any time the Board determines, after giving the holder reasonable opportunity to be heard, that it is practicable for the holder of any right to which this section applies to treat or manage the discharge of waste into the river so that the natural colour and clarity of the river are not changed to

a conspicuous extent, the Board may give written notice to that effect to the holder.

“(4) If at any time the Board determines, after giving the holder reasonable opportunity to be heard, that it is practicable for the holder of any right to which this section applies to treat or manage the discharge of waste into the river so that—

“(a) The colour and clarity of the river can be improved; or

“(b) Any matter in the discharge causing or contributing to discoloration of the river can be removed or reduced in volume—

the Board may give to the holder a written direction to treat or manage the discharge in such a way and to such extent as is necessary to achieve that improvement or removal or reduction, as the case may be.

“(5) The holder may appeal to the Planning Tribunal against any determination or direction of the Board under subsection (3) or subsection (4) of this section; and section 25 of the Water and Soil Conservation Act 1967, with the necessary modifications, shall apply in respect of the appeal.

“(6) If a notice is given under subsection (3) of this section, subsection (8) of this section shall cease to apply—

“(a) On such date as may be specified in the notice, being a date which provides a reasonable time for the holder to comply with the notice; or

“(b) If an appeal has been made under subsection (5) of this section and the Board’s determination is upheld, on such date as may be determined by the Planning Tribunal.

“(7) Any direction given under subsection (4) of this section shall be deemed to be a condition of any right to which it relates imposed by the Board under section 21 of the Water and Soil Conservation Act 1967.

“(8) The combined effect of any discharge of waste pursuant to a right or authorisation to which this section applies and of all other lawful discharges of waste into the river shall be deemed to comply with paragraph (e) of the Fourth Schedule to the Water and Soil Conservation Act 1967.

“5F. **Variations of existing rights and new rights**—(1) The Board may, pursuant to section 21 of the Water and Soil Conservation Act 1967, grant to the company, or to any other holder of a right to discharge waste into the river in force immediately before the commencement of this section, a variation of any such right, or a new right to discharge waste into the river, notwithstanding that any discharge of waste

pursuant to the varied or new right will not comply with paragraph (e) of the Fourth Schedule to the Water and Soil Conservation Act 1967.

“(2) For the purposes of section 21 (3A) (b) of the Water and Soil Conservation Act 1967, the combined effect of any discharge of waste pursuant to a right varied or granted under subsection (1) of this section and of all other lawful discharges of waste into the river shall be deemed to comply with paragraph (e) of the Fourth Schedule to that Act.

“(3) Subsections (3) to (7) of section 5E of this Act, with the necessary modifications, shall apply in respect of every right varied or granted under this section.”

6. Furnishing of information by company—Section 6 (3) of the principal Act is hereby amended by adding the words “and is liable on summary conviction to a fine not exceeding \$2,000 and, if the offence is a continuing one, to a further fine not exceeding \$200 for every day or part of a day during which the offence has continued”.

7. Entry on land—The principal Act is hereby amended by repealing section 9, and substituting the following section:

“9. Where the company exercises the power to enter land conferred by section 7 or section 8 of this Act, the following provisions shall apply:

“(a) Entry shall be made only at reasonable times:

“(b) If practicable, before exercising the power of entry, the person proposing to enter shall give to the occupier of the land reasonable written or oral notice specifying—

“(i) The section of this Act under which entry is authorised; and

“(ii) How and when entry is to be made:

“(c) If entry is made on any land without notice and the occupier is not present during the period of entry, written advice of the making of entry and of the purpose of entry shall be given to the occupier as soon as practicable after entry:

“(d) Every person exercising any power of entry under this Act shall be in possession of the company’s written authority for that person to exercise the power, and evidence of identity, and shall produce them to the occupier of the land—

“(i) If practicable, on first entering the land; and

“(ii) Whenever subsequently reasonably required to do so by the occupier.”

8. Repeals—Sections 12, 14, and 15 of the principal Act are hereby repealed.

9. Expiry of principal Act—The principal Act is hereby amended by adding the following section:

“16. (1) The provisions of this Act shall cease to apply on the expiry of the 31st day of March 1995.

“(2) This Act shall be deemed to be repealed on the 1st day of April 1995.”

10. Expiry of this Act—(1) The provisions of this Act shall cease to apply on the expiry of the 31st day of March 1995.

(2) This Act shall be deemed to be repealed on the 1st day of April 1995.

11. Savings as to compensation—Notwithstanding the provisions of sections 9 and 10 of this Act, any claim for compensation under section 11 of the principal Act in respect of any matter which arose before the expiry of the principal Act may be made, continued, completed, and enforced after the expiry of the principal Act as if the principal Act had continued in force, if the claim is made within the time allowed by the Public Works Act 1981 or within 1 year after the expiry of the principal Act, whichever is sooner.

This Act is administered in the Ministry of Works and Development.
