

TASMAN PULP AND PAPER COMPANY ENABLING BILL

EXPLANATORY NOTE

THE purpose of this Bill is to empower the Tasman Pulp and Paper Company Limited to take such water as it requires for its undertaking from the Tarawera River and to require the company to discharge its trade wastes (that is, liquid remaining after its use in the industrial processes of the company) into the river.

The company will be required to 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 any conditions imposed by the Pollution Advisory Council established under the Waters Pollution Act 1953.

The company will be required to notify the Council as to the general nature and volume of trade wastes proposed to be discharged by it, and the Council will thereupon notify the company of any conditions imposed by it.

The company will be given all rights necessary to carry out its powers under the proposed Act.

The owner of any land injuriously affected by the exercise by the company of any of its powers will be entitled to full compensation to be assessed and paid in accordance with the Public Works Act. Any person suffering damage for which no compensation can be given in accordance with the Public Works Act will have a common law right to damages.

Provided the company exercises its powers in accordance with the provisions of the proposed Act, it will not, in respect of the discharge of trade wastes, be liable to prosecution under any Act relating to nuisance or the pollution of waters. The company will also be exempt from the "offensive trades" provisions of the Health Act. If, however, the company fails to comply with the provisions of the proposed Act, it will be liable to the same penalties as if it had committed a breach of the Waters Pollution Act 1953.

Hon. Mr Watts

TASMAN PULP AND PAPER COMPANY ENABLING

ANALYSIS

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A BILL INTITULED

AN ACT to confer certain powers on the Tasman Pulp and Paper Company Limited and to provide for matters incidental thereto. Title.

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

1. This Act may be cited as the Tasman Pulp and Paper Company Enabling Act 1954. Short Title.

10 2. In this Act, unless the context otherwise requires,— Interpretation.
“Company” means the Tasman Pulp and Paper Company Limited; and includes any company associated with or subsidiary to the Tasman Pulp and Paper Company Limited prescribed by the Governor-General, by Order in Council, in that behalf:

15 “Council” means the Pollution Advisory Council established by the Waters Pollution Act 1953: 1953, No. 104

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“River” means the Tarawera River:

“Trade wastes” means any liquid, with or without matter in suspension or solution therein, which is or may be discharged from the premises of the company at Kawerau in the course of any trade or industrial process or operation carried on by the company; and includes any effluent remaining after the treatment of domestic sewage discharged from those premises. 5

Company authorized to take water from Tarawera River.

3. (1) The company may take from the river such quantity of water as it may require for the purposes of its undertaking not exceeding fifty cubic feet per second or such greater amount as may from time to time be authorized by the Minister of Works. 10

(2) No water shall be taken under this section except from between such points on the river as the Minister of Works approves in that behalf. 15

Company to discharge trade wastes into river.

4. (1) Subject to the provisions of this Act, the company shall discharge all trade wastes into the river.

(2) Any such trade wastes shall be discharged only at such point or points on the river as may be approved in that behalf by the Minister of Works. 20

(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 any conditions imposed by the Council, and from time to time notified by the Council to the company. 25

As to notification and imposition of conditions.

5. (1) The company shall, as soon as practicable after the commencement of this Act, give notice to the Council specifying the general nature of the industrial processes proposed to be carried on by it at Kawerau and the volume, composition, and rate of discharge of trade wastes proposed to be discharged by it under this Act. 30

(2) The Council, as soon as practicable after receiving the notice referred to in subsection *one* of this section, shall notify the company of any conditions imposed by it in accordance with subsection *three* of section *four* of this Act. 35 40

(3) Where at any time the company proposes to make any substantial alteration in the volume, composition, or rate of discharge of trade wastes discharged by it, the company shall notify the Council to that effect.

5 (4) The Council, upon receiving any notice under subsection *three* of this section, may vary, in such manner as it thinks fit, any conditions imposed by it as aforesaid.

(5) If the company discharges trade wastes at a substantially different rate or of substantially different composition or volume from those previously discharged by it without notifying the Council in accordance with subsection *three* of this section, it commits an offence against this Act.

15 (6) Nothing in this section shall be construed to prevent the Council from varying any conditions imposed by it under this section if it is satisfied that the circumstances justify any such variation.

20 6. (1) For the purposes of this Act, the Council may at any time, by notice in writing, require the company to furnish such information or such further information as may be specified in the notice and the company shall comply with any such requirement.

Furnishing of information by company.

25 (2) Any person authorized in writing by the Council may at any reasonable time or times enter the premises of the company and inspect any machinery or plant used in connection with the creation or discharge of trade wastes and may take such samples as he considers necessary.

30 (3) If the company fails or refuses to comply with any requirement of the Council under subsection *one* of this section, or wilfully gives any false or misleading information in response to any such requirement, or wilfully obstructs any person in the exercise of his powers under subsection *two* of this section, it commits an offence against this Act.

35 7. For the purposes of carrying out the powers conferred on it by this Act the company may—

Company may enter land and construct works.

40 (a) Enter and re-enter from time to time on any land with such assistants, gear, appliances, and equipment as it thinks fit:

(b) Erect, construct, provide, use, and maintain on, over, through, or under any land, or under any road or railway, such works and appliances as may be necessary for the exercise of any of the powers conferred on it by this Act.

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Works and
appliances to
remain
property of
company.

8. All works, plant, machinery, and appliances constructed, supplied, or placed on any land under the authority of this Act shall be and remain the property of the company, and the company may, subject to the provisions of this Act, enter on any land and remove and take away any such works, plant, machinery, and appliances. 5

Entry on
private land.

9. Where it is necessary for the purposes of carrying out any of the powers conferred on the company by this Act to enter on any land, other than Crown land, occupied by another person, reasonable notice shall, if practicable, be given by the company to the owner and the occupier of the land. 10

Damage to be
repaired.

10. Where the company exercises any of the powers conferred on it by this Act, it shall with all convenient speed and in a proper and workmanlike manner carry out the works undertaken by it pursuant to those powers, and shall— 15

- (a) Fill in the ground and reinstate the surface of the ground disturbed by the work; and 20
- (b) Not unnecessarily interfere with any traffic on any road or railway; and
- (c) Reinststate and make good, to the satisfaction of the authority having control thereof, the surface of any road opened or broken up; and 25
- (d) Remove and carry away all surplus materials, rubbish, and debris occasioned by the operations of the company; and
- (e) Fence in and guard any excavation, obstruction to traffic, or other source of danger created in the course of the exercise of its powers under this Act; and 30
- (f) Indemnify any person or authority concerned in respect of all claims which may arise as a result of any accident to any person or any damage to any property arising from the exercise by the company of its powers under this Act. 35

Compensation.

11. (1) Every person who has any estate or interest in any land injuriously affected by the exercise by the company of any powers conferred on it by this Act shall be entitled to full compensation for any such injury. 40

(2) In any claim for compensation under this section the company shall be the respondent, and any such claim may be made and determined in the same way as a claim for compensation under the Public Works Act 1928, and the provisions of that Act shall, as far as they are applicable and with the necessary modifications, apply to any claim under this section.

See Reprint
of Statutes,
Vol. VII,
p. 622

12. (1) Notwithstanding the provisions of any Act, no prosecution or other proceedings shall be commenced against the company under any Act, other than this Act, relating to nuisance or the pollution of waters in respect of the discharge by the company of trade wastes in accordance with this Act.

Prosecutions
against
company.

(2) Nothing in the Health Act 1920 relating to the establishment or carrying on of offensive trades shall apply to any trade established or carried on by the company in the premises from which trade wastes may be discharged under this Act.

See Reprint
of Statutes,
Vol. VI,
p. 1061

13. Except as expressly provided by this Act, nothing in this Act shall affect any right which any person may have under any rule of law to obtain damages from the company in respect of any loss suffered by that person:

Common law
rights to
damages
preserved.

Provided that no action shall be commenced in any Court in respect of any injury or loss for which a claim for compensation is available under section *eleven* of this Act.

14. (1) If the company contravenes or fails to comply with any provision of this Act or with any term, condition, or obligation to which any power or authority granted under this Act is subject, it commits an offence against this Act.

Offences by
company.

(2) Subject to the provisions of subsection *three* of this section, if the company commits an offence against this Act it shall be liable on summary conviction to a fine not exceeding one hundred pounds and, if the offence is a continuing one, to a further fine not exceeding ten pounds for every day or part of a day during which the offence continues.

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(3) Where the company has been convicted of an offence against this Act and at any time within three years is found guilty of a further offence, which is substantially a repetition of the earlier offence, it shall be liable on summary conviction for the further offence to a fine not exceeding five hundred pounds and to a further fine not exceeding fifty pounds for every day during which the offence continues after the further conviction. 5

Regulations.

15. (1) The Governor-General may from time to time, by Order in Council, make all such regulations as in his opinion may be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof. 10

(2) All regulations made under this section shall be laid before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the commencement of the next ensuing session. 15