

TASMANIA.

THE LATROBE WATER ACT 1943.

ANALYSIS.

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TASMANIA.

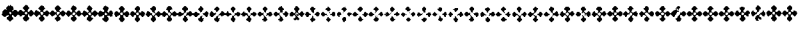


1943.

ANNO SEPTIMO

GEORGII VI. REGIS.

No. 12.



AN ACT to consolidate and amend the law relating to the supply of water for the Town of Latrobe and its environments. [2 June, 1943.]

A.D.
1943.

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.
PRELIMINARY.

- 1—(1) This Act may be cited as the *Latrobe Water Act* 1943.
- (2) This Act shall be incorporated and read as one with the *Local Government Act* 1906.

Short title and incorporation with the *Local Government Act* 1906.

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A.D. 1943. **2** The Acts enumerated in the first schedule are hereby repealed.

Repeal.

Interpretation. **3** In this Act, unless the contrary intention appears—

“Domestic purposes” means any purpose associated with the occupation of a dwelling house or portion of a dwelling house, and includes flushing private closets and fixed baths in or used in connection therewith, but does not include any trade or business whatsoever or irrigation or supplying machinery or steam-engines or supplying plant for warming a dwelling house or building or washing carriages or vehicles (whether drawn or propelled by animals or machinery) or watering gardens or supplying fountains or other ornamental devices or flushing sewers or drains:

“Room” includes all living-rooms, sleeping-rooms, kitchens, pantries, bathrooms, wash-houses, offices, shops, warehouses, stores, places of business, public and private halls and schools, stables, coach-houses, motor sheds, and outbuildings:

“Street” extends to and includes any public and common highway, road, main road, land, footway, bridge, square, court, passage, alley, thoroughfare, and public way and public place in the Municipality:

“Water District” means district defined in the second schedule, and includes every water district forming part of the Municipality which hereafter may be defined or constituted under the *Local Government Act 1906*:

“Waterworks” or “Works” extends to and includes all wells, reservoirs, cisterns, tanks, aqueducts, watercourses, tunnels, feeders, drains, channels, cuts, floodgates, sluices, conduits, filters, troughs, dams, weirs, embankments, pumps, culverts, pipes, pipebreaks, engines, buildings, piers, supports, and all other works of what nature and kind soever which are from time to time necessary or used for effecting the purposes of this Act.

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PART II.

POWER TO CONSTRUCT WORKS.

4 The Council, subject to the provisions of this Act, is hereby empowered and authorised to take, divert, and appropriate such quantity of the waters of the River Mersey and other rivulets and streams as may at any time be required by the Council for any of the purposes of this Act; and to enter upon the said river, rivulets, and streams, and upon the banks and beds thereof, and to construct and erect on and in any portion of any of such banks and beds such works as shall be necessary for the purposes of such taking and diversion or appropriation.

Power to take and use.

5 The Council is hereby empowered to purchase, lease, or acquire, upon any terms or conditions it deems advisable, any land or any corporeal or incorporeal hereditaments, or any chattel or interest whatsoever whether within or without the Municipality which it deems advisable for the purposes of this Act, and which it may think proper to purchase, lease, or acquire, including any water-power and power-producing machinery and any rights and privileges accessory to the same, and to dispose of the same or any part thereof by sale, lease, or otherwise, to any person for any purpose whatsoever.

Acquisition of land.

6 The Council is hereby empowered to purchase compulsorily any land and to acquire compulsorily any rights and easements, including water rights, which it may consider necessary for the purpose of this Act, whether the same be within or without the Municipality.

Compulsory purchase of land and acquisition of easements.

7 When the Council has served such notice of its intention to take land for any of the purposes hereinbefore set forth, and the compensation in respect thereof is determined as in cases of disputed compensations, if the Council deems it inexpedient to pay the amount of compensation as determined, it may, within twenty-one days after notice of the amount of compensation so determined, withdraw the firstmentioned notice on payment of all costs of reference and award, and shall, after such withdrawal, cease to be liable for the payment of compensation in respect of such land.

If compensation excessive, Council may give up land.

8 All land acquired or held by the Council under the authority of this Act, and used for the purposes of this Act shall, unless the Governor by order-in-council otherwise orders, cease to be subject to the powers of compulsory acquisition conferred by the *Lands Clauses Act 1857*, or any Act incorporating the whole or any portion of that Act.

Land acquired under this Act not subject to *Lands Clauses Act 1857*.

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Power to enter and construct.

9 It shall be lawful for the Council to construct, maintain, lay down, alter, and discontinue such reservoirs, embankments, cisterns, aqueducts, pipes, conduits, mains, culverts, and other works, appliances, and buildings, whether within or, with the consent of the Governor, without the Municipality, as may be necessary to provide a supply of water for any of the purposes herein provided; and it shall be lawful for the Council, for the purpose of constructing, inspecting, maintaining, altering, relaying, or discontinuing any such waterworks or appliances or buildings as aforesaid, to enter upon any lake, dam, rivulet, stream, or the beds and banks thereof, or lands, whether within, or, with such consent as aforesaid, without, the Municipality, with vehicles and workmen, and to take levels of the same, and to set out such part of the same as the Council thinks necessary, and to dig, cut, trench, and break up the soil of such land, and to remove all earth, stones, trees, and other things dug or obtained out of the same, and to use such materials in the construction or maintenance of any of the works authorised by this Act, and also to enter into any contract concerning the same that it may deem advisable.

Power to break up streets, &c.

10 For any of the purposes of this Act the Council, subject to the provisions of section thirteen of the *Roads and Jetties Act 1935*, may enter and break up the soil and pavement of any street within the Municipality and erect or lay down in and upon or under such streets, and maintain such pipes, service pipes, and other works and engines, and at any time alter, repair, or discontinue the same as may be necessary or convenient for any of the purposes of this Act.

Streets broken up to be reinstated without delay.

11 Whenever the Council opens or breaks up any such street, sewer, drain, or tunnel under the authority of this Act, it shall, with all convenient speed, complete the work for which the same was broken up, and fill in the ground and reinstate and make good the street, sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby, and shall at all times whilst any such street is so opened or broken up cause the same to be fenced and guarded, and a light sufficient for the warning of passengers to be set up and kept against the same every night.

Council to do as little damage as possible.

12 In the exercise of the powers conferred by this Act, the Council shall do as little damage as may 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 are taken away or interrupted by the Council.

Council to compensate for diverted, &c., water rights, &c.

13—(1) The Council shall make compensation to all persons having a right to the use of any water taken or diverted or appropriated by the Council under the authority of this Act; or having a lawful interest in any land other than land purchased by the Council in or upon which any waterworks

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may hereafter be constructed, or which may be injuriously affected by the construction and maintenance of the water-works under this Act; or otherwise by the execution by the Council of the powers hereby conferred for all damage sustained by reason of the exercise as to such land or water of the powers vested in the Council by this Act. A.D. 1943.

(2) Any person claiming such compensation shall prefer his claim by notice served upon the Council Clerk, and such notice shall specify—

- I. The place of abode of the claimant:
- II. The particular act occasioning the damage for which compensation is claimed:
- III. The nature and amount of such damage: and
- IV. The nature of the title or interest of such claimant in or to the water or land, as the case may be, in respect of which the claim is preferred.

(3) If the Council, by notice served upon any person, requires him to make claim for compensation for any damage occasioned by the exercise previously to such service of any of the powers conferred on the Council by this Act, such person shall not be entitled to compensation for any damage sustained by reason of the exercise of any such powers previously to such service unless he prefers his claim, in manner aforesaid, within three months after such service.

(4) If the claimant and the Council do not agree as to the amount of such compensation the claim shall be determined by arbitration in the manner provided by the *Lands Clauses Act 1857*.

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PART III.

SUPPLY OF WATER.

Supply within water district for domestic purposes.

14 The Council shall, at the request of the owner or occupier of any dwelling house or room situated within the water district, and which is within fifty feet of any main or other pipe laid down by the Council, furnish to such person by means of communication pipes and other necessary and proper apparatus, to be provided, laid down and maintained by the Council at the cost of such person, a supply of water sufficient for his domestic purposes.

Council may supply water outside water district.

15 The Council, in its absolute discretion, may cause pipes to be laid down, and water to be brought to such places beyond the water district as the Council sees fit upon the application of any owner or occupier of any house, building, or other premises in any such places, on payment of the expenses of providing and laying down such pipes.

Supply of water for non-domestic purposes.

16—(1) The Council may furnish to any person a supply of water for such non-domestic purposes as it may determine, and at such charges and upon such terms and conditions as may be prescribed, or, in the absence of any appropriate by-law, as may be agreed upon between the Council and such person desiring the same.

(2) The charge for such supply of water shall be uniform to all persons in the same circumstances and requiring the same extent of supply.

Specification for pipes, &c.

17 The description of pipes and other apparatus by means of which water is laid on, distributed, or supplied within the outer boundary of any premises shall be such as the Council determines, either generally or in classes of cases or in any particular case, and the Council shall not be bound to supply water in any case in which the required description of pipes or other apparatus is not provided; and the Council may cut off the pipes or turn off the water from any premises supplied with water until the required description of pipes or other apparatus is provided.

Council may attach meters at any time.

18 The Council at any time may attach a meter to the pipe supplying water to any person, and thereupon all water supplied to such person shall be drawn only through such meter; and there shall be payable by such person to the Council, besides the amount of any water rate or charge for water supplied to such person, such sums of money as rent for the use of such meter, and at such times as may be prescribed.

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19—(1) The Council may let or hire to any consumer of water supplied by measure any meter or instrument for measuring the quantity of water supplied and consumed, and any pipes and apparatus for the conveyance, reception, or storage of water for such remuneration in money as may be agreed upon between the Council and the consumer, which shall be recoverable in the same manner as the rates due to the Council for water. A.D. 1943.
Council may let meters.

(2) Any meter let for hire as aforesaid shall be attached and affixed to the pipe to which the same is intended to be attached and affixed by or under the superintendence of such officer or servant of the Council as it shall appoint for such purpose, and not otherwise.

20 Any person acting under the authority of the Council may, at all reasonable times, enter any house, room, buildings, or lands, to, through, or into which water is supplied by the Council by measure in order to inspect meters for the purpose of ascertaining the quantity of water supplied or consumed, and at any reasonable time enter any house, buildings, or lands for the purpose of removing any meter or apparatus the property of the Council, and if anyone hinders such person from entering or making such inspection, or effecting such removal, or if anyone, not being an officer or in the employ of the Council, in any manner injures or interferes with any meter placed for the purposes herein named, he shall be liable to a penalty of five pounds in addition to the amount of damage or injury done. Officers of the Council may inspect meters.

21—(1) No instruments, meters, or other apparatus belonging to the Council shall be subject to distress for rent of the premises where the same are used, and the same shall not be attached or taken in execution under any process of any court. Council's meters not distrainable.

(2) No person shall acquire any interest or property in any such instruments, meters, or apparatus under or in pursuance of any adjudication or order in bankruptcy or other legal proceedings against or affecting the consumer of water or the occupier of the premises or other person in whose possession the meters, pipes, instruments, or other apparatus may be.

22—(1) Every person requiring to remove or alter the position of any meter shall give two days' notice in writing to that effect to the Council. Notice of removal of or change in meter.

(2) The Council shall cause a registration of the quantity of water used to be taken, and such removal or alteration to be made and the expense thereof shall be paid by such person, and no alteration shall be made except by or under the direction of an officer of the Council nor until the permission of the Council has been obtained.

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Council's
authority to
agents.

23 Wherever by this Act authority is given to the Council to enter upon any land, or to break up streets or to do any act for the purposes of this Act in or relating to the construction, maintenance, or repair of works or any part thereof, or the cutting off of any supply of water, the same authority shall extend to and may be used by any person acting by the direction of the Council or under the authority of any such agreement as hereinbefore mentioned, and to all necessary agents, assistants, servants, workmen of the Council, or such person as aforesaid, and to the use of any means or appliances necessary for the purpose.

PART IV.

RATING.

Separate local
rate limited
to two
shillings and
sixpence.

24—(1) Any rate made and levied in any year by the Council under the *Local Government Act 1906*, for the purposes of this Act, shall be such an amount not exceeding two shillings and sixpence in the pound as the Council may determine.

Flat rate
alternative.

(2) In lieu of making and levying in any year such a rate as aforesaid, the Council may make and levy a flat rate for every room in every house, building, or premises within the water district of such amount not exceeding seven shillings and sixpence, as the Council may determine, provided, however, that the total amount receivable for such year in respect of each such house, building, or tenement shall be not less than one pound five shillings.

Rate or flat
rate leviable
outside water
district.

(3) The Council may make and levy in any year such rate or such flat rate upon any properties outside the water district to which water is supplied or made available by the Council as to the Council may seem meet.

Residential
parts of
properties
outside water
area may be
separately
rated, &c.

(4) Such rate under the *Local Government Act 1906*, made and levied upon properties outside the water district, may, if the Council so determines, be imposed on what the Council determines to be the residential portions only of such properties, which, accordingly, shall be assessed separately, and any person affected by any such assessment may appeal therefrom as from an assessment within the water district.

One-fourth of
rate payable
if no water
supplied or
available.

(5) No person shall be liable to the payment of the said rate or flat rate in a greater proportion than upon one-fourth part only of the amount thereof unless the property upon which it is made is actually supplied with water for domestic or other purposes, or unless the mains or other pipes of the Council are laid down and properly supplied with water within fifty feet from an outer boundary of such property.

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25 If any person liable to pay any amount of water rate neglects to pay the same within due time after the same has been lawfully demanded, the Warden may, after twenty-four hours' notice, stop the supply of water to the premises in respect of which rate is payable by cutting off the pipes to the said premises, or by such other means as he may think fit, and the expense of cutting off the water may be recovered in the same manner as the water rate is recoverable.

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If rate in arrear supply of water may be stopped.

PART VI.

WASTE AND MISUSE OF WATER.

26 In case any person, when required by the Council to do so, fails to keep the pipes and other apparatus by means of which his premises are supplied with water in good repair, the Council may cut off the pipe or turn off the water from such premises until such pipes and other apparatus are sufficiently repaired.

Service pipes to be kept in repair.

27 The Council may repair any such pipe or apparatus so as to prevent any waste of water, and the expenses of such repair shall be paid to the Council by the person allowing the same to become out of repair.

Council may repair service pipes.

28 Every cistern or other receptacle for water which the Council may permit to be used, and every closet, soil pan, and private bath supplied with water by the Council shall be constructed and used in such manner as may be prescribed so as effectually to prevent the waste, mis-use, or undue consumption of water and the flow or return of foul air or other noisome or impure matter into the mains or pipes of the Council, or into any pipes connected or communicating therewith; and the Council may cut off the pipe attached, or turn off the water supplied, to any cistern or other receptacle for water so permitted to be used, or any closet, soil pan, or private bath which is not constructed or used as prescribed until such cistern or other receptacle for water, or such closet, soil pan, or private bath is constructed and used as prescribed.

Cisterns, &c., to be constructed as to prevent waste.

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Inspection of
premises for
waste.

29 Any person acting under the authority of the Council may, at any reasonable time by night or by day, enter into any house or premises supplied with water under the authority of this Act in order to examine if there is any waste or misuse of such water, and the condition or state of repair of the pipes or works by which such water is supplied to such house or premises, and may, for the latter purpose, break the surface of the ground under which the surface pipes are laid; and if such person is at any such time refused admission into such house or premises for the purpose aforesaid, or is prevented from making such examination as aforesaid, the Council may turn off the water from such house or premises.

PART VII.

OFFENCES.

Injuring
waterworks.**30** No person shall—

- I. Destroy or injure any of the waterworks:
- II. Remove, or injure, or destroy any survey peg or landmark inserted or made in connection with any work constructed under the authority of this Act:
- III. In any manner prevent or obstruct the flow of water in or through any waterwork: or
- IV. Otherwise injure or obstruct the passage of the water in a pure and wholesome state through any waterwork.

Penalty: Fifty pounds.

Fouling
water.**31** No person shall—

- I. Bathe in any reservoir or other waterwork, or wash, throw, or cause to enter therein any dog or other animal alive or dead:
- II. Throw any rubbish, dirt, filth, or other noisome thing into any creek, rivulet, or stream from which the Council is lawfully diverting water, and above any reservoir or waterwork, or into any reservoir or other waterwork, or wash or cleanse therein any cloth, wool, leather, or skin of any animal, or any clothes or other thing: or

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- IV. Cause or permit the water of any sink, sewer, or drain, steam engine, boiler, or other filthy water belonging to him, or under his control to run or to be brought into any such creek, rivulet, or stream above any reservoir or waterwork or into any reservoirs or other waterworks, or do or permit to be done any other act whereby the water of the waterworks for supplying the same is fouled. A.D. 1943.

Penalty: Ten pounds.

32 No person shall—

- I. Being the owner or occupier of any premises supplied with water under this Act supply any other person, or wilfully permit him to take any of such water from any cistern, or pipe, or service, or on such premises, except for the purpose of extinguishing any fire, or unless such other person is a person supplied with water by the Council from the waterworks, and the pipes belonging to him are without his default out of repair:
- II. Without due authority, take any water from any reservoir, watercourse, or conduit belonging to the Municipality, or any pipe leading to any such reservoir, watercourse, or conduit, or from any cistern or other like place containing water belonging to the Municipality, other than water which is provided for the gratuitous use of the public:
- III. Make any pipe to communicate with any waterwork or pipe of the Municipality without the authority of the Council in that behalf:
- IV. Wilfully or carelessly break, injure, or open any lock, cock, valve, pipework, or engine belonging to the Municipality, or flush or draw off the water from the reservoirs or other waterworks of the Municipality, or do any other wilful act whereby such water is wasted: or
- V. Foul the water supplied by the Council by making or supplying gas.

Power users not to allow other persons to use water.

Attaching service pipe without authority.

Destroying valves, &c.

Fouling water by gas.

Penalty: Twenty pounds, and a daily penalty of two pounds after the expiration of twenty-four hours' notice of the alleged offence is served upon such person.

33 No person supplied with water by the Municipality shall suffer any pipe or other apparatus by means of which his premises are supplied with water to be out of repair so that the water supplied to him by the Municipality is wasted.

Suffering service pipe to be out of repair.

Penalty: Ten pounds.

34—(1) No person shall bathe in any part prescribed by by-law of the River Mersey or other rivulets or streams flowing through or bounding the water district above any

Bathing.

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A.D. 1943. waterworks of the Council or in any reservoir, aqueduct, or other waterwork of the Council, or wash, throw, or cause to enter therein any dog or other animal alive or dead.

Drainage.

(2) No person shall permit or suffer the drainage from any yard, pigsty, stable, cow-house, or any place to so run, drain, or percolate as calculated to render the water in the waterworks or supplying the same unwholesome.

Penalty: Ten pounds, and in the case of an offence against subsection (2) hereof, a daily penalty of two pounds after the expiration of twenty-four hours' notice of the alleged offence is served on such person.

Persons convicted of an offence may be ordered to pay a sum of money equal to value of property.

Penalties to be paid to water account.

35 Every person convicted of any offence against this Act may be ordered to pay, in addition to the penalty imposed in respect of the offence, a sum equal to the value of the property damaged or destroyed by him by reason of committing the offence.

36 All penalties in respect of offences against this Act shall be applied to the use of the Council, and shall be paid to the Treasurer of the Council, and shall be carried to the credit of the water account.

By-laws.

37—(1) The Council may make by-laws for the purposes of this Act—

- I. Regulating the charges, terms, and conditions upon which the water shall be supplied under the authority of this Act:
- II. Regulating the form, material, dimensions, description, construction, and arrangement of pipes, service pipes, and other apparatus, by means of which water may be distributed or supplied by the Council and prohibiting the use of any other such things:
- III. Preventing waste or misuse of water:
- IV. Preventing injury to any works or machinery or apparatus erected by, or belonging to, the Council for the distribution and supply of water.

(2) Any such by-law may prohibit the use of water for any purposes other than domestic purposes—

- I. Within such area: or
- II. Otherwise than on such days, if any, and during such hours, if any, as the committee of the Council named in the by-law may by resolution determine.

(3) A copy of every such resolution shall be posted outside the office of the Council.

(4) No person shall use any water in contravention of such resolution while the same remains in force.

Penalty: Ten pounds.

(5) Any such by-law may provide that it may be enforced by cutting off the pipe or service or turning off the water, or by such pecuniary penalty not exceeding in any case the sum of twenty pounds, as may be prescribed.

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THE FIRST SCHEDULE.

Regnal Year and Number.	Title of Act.	Extent of Repeal.
54 Vict. No. 52	<i>The Latrobe Water Act 1890</i>	The whole Act
55 Vict. No. 68	<i>The Latrobe Water Act Amendment Act 1891</i>	The whole Act
58 Vict. No. 11	<i>The Latrobe Water Act Amendment Act 1894</i>	The whole Act
3 Edw. VII. No. 34	<i>The Latrobe Water Act Amendment Act 1903</i>	The whole Act

THE SECOND SCHEDULE.

Commencing on Port Frederick and bounded by the Crown Reservation and by the north boundary of Lot 365 purchased by George Fry by the north and part of the east boundary by Lot 386 purchased by William Johnson the elder by the north boundary of 140 acres purchased by W. Chester by part of the west the north and east boundaries of 30 acres purchased by H. Reid by part of the north and part of the east boundary of 88 acres purchased by A. Mitchell by the north and east boundary of 20 acres and 37 perches purchased by A. Mitchell thence by an easterly line to the west boundary of Lot 1321 purchased by Donald Wescombe by the west boundary of that lot and by the west boundaries of 134½ acres purchased by James Thompson and 152 acres purchased by Rose Anna Dooley by part of the north boundary of Lot 6833 purchased by George Atkinson by the north boundary of Lot 1205 purchased by John Thomas by the east and part of the south boundary of Lot 1203 purchased by James Fenton on the east and part of the south boundary of 200 acres purchased by Joseph Bonney by the east boundaries of Lots 738 and 739 purchased by John Herps by the south boundary of the last-mentioned lot to the River Mersey and thence by that river (including Pig Island) and Port Frederick aforesaid to the point of commencement.

