

BROKEN HILL AND  
SUBURBAN GAS  
COMPANY (LIMITED).

An Act to enable the "Broken Hill and Suburban Gas Company (Limited)" to construct Gas-works within the Town and Suburbs of Broken Hill. [13th December, 1888.]

Preamble.

WHEREAS it is expedient that the Town of Broken Hill and its suburbs, in the Colony of New South Wales, should be supplied and lighted with gas. And whereas for the carrying out of the works necessary for such supply of gas, a Joint Stock Company, called the "Broken Hill and Suburban Gas Company (Limited)," has by a memorandum of association and articles of association lately been established at Broken Hill aforesaid, in accordance with and subject to the provisions of the "Companies Act," thirty-seventh Victoria number nineteen. Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Authority to erect  
gasometers, break up  
streets, roads, &c.

1. The "Broken Hill and Suburban Gas Company (Limited)" is hereby fully authorized and empowered by its servants, contractors, agents, workmen, and others, from time to time, to make, erect, sink, lay, place, fit, maintain, and repair, such retorts, gasometers or gas-holders, meters, receivers, cisterns, engines, machines, cuts, drains, sewers, water-courses, pipes, reservoirs, buildings, and other works, and devices of such construction and in such manner as the "Broken Hill and Suburban Gas Company (Limited)" shall think necessary or proper for the purpose of carrying out the operations of the "Broken Hill and Suburban Gas Company (Limited)" in respect of and incidental to the making and supplying of gas in conformity with this Act, and the said memorandum and articles of association; and also for all such purposes to open and break up the pavement, stone, or other material of the several streets and bridges, or other public place or thoroughfare, within the limits of the town and suburbs aforesaid, and to open and break up any sewers, drains, or tunnels, within or under such streets and bridges, public places or thoroughfares, and to erect posts, pillars, lamps, lampirons, and other apparatus in or upon the same streets and bridges, or against any wall or walls, erected on or adjoining to any of them, and to dig and sink trenches and drains, and to lay mains and pipes, and put stop-cocks, siphons, plugs or branches from such mains or pipes in, under, across, or along such streets and bridges; and also with such consent as hereinafter mentioned to do the like in, under, across, or along any private roads, ways, lanes, passages, buildings, and places, and from time to time to cut, stop, remove, alter, repair, replace, and relay such main, pipes, stop-cocks, siphons, plugs, branches, or other apparatus: Provided always that nothing herein shall authorize or empower the Company, their servant, contractors, agents, or workmen, to enter into or upon any private lands, buildings, or places, for any of the purposes aforesaid, or thereon to carry out any of the operations of the Company without the previous consent in writing of the owners and occupiers thereof, except that the Company may at any reasonable time by its servants, agents, or workmen, enter upon any land or place wherein any pipe has already been lawfully laid down or placed, in pursuance of this Act, and repair or alter the existing pipe, or lay or place any new pipe in the stead thereof; and provided

Before entering upon  
private lands consent  
of owner in writing  
to be obtained.

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provided also that the Company shall, unless in case of accident or other emergency, give forty-eight hours notice in writing to the Council Clerk of the Municipality of Broken Hill, prior to the opening or breaking up as aforesaid of any street, bridge, or other public place or thoroughfare, sewer, drain, or tunnel, within the said municipality, and in cases of accident or other emergency, so soon as is possible after the beginning of the work or the necessity for the same have arisen, and in the case of opening or breaking up of any street, road, pavement, sewer, drain, or tunnel outside of the said municipality, such notice shall be given to the officer of the Roads Department, or other officer in charge of such street, road, pavement, sewer, drain, or tunnel: Provided further that if in carrying out any of the operations of the Company it shall be deemed necessary by the Company to enter upon, under, across, or along any public or private railway or tramway it shall be sufficient for the Company to obtain the consent of the Minister of Works for the time being of the Colony of New South Wales, anything hereinbefore contained to the contrary notwithstanding.

Notice to Council  
Clerk before breaking  
up any public place.

2. When and so often as the Company, its servants, contractors, agents, or workmen, shall have opened, broken up, or removed the soil, pavement, stone, or other material of any street or bridge, or other public place or thoroughfare as aforesaid, or shall have opened, or broken up, any sewers, drains, or tunnels, within or under any such streets or bridges, or other public place or thoroughfare, the Company shall make all reasonable despatch in performance of the work to be done and shall on completion of such work forthwith carry away all rubbish and waste or surplus materials, and reinstate such pavement, stone, or other material, and render such street or bridge or other public place or thoroughfare, and every such sewer, drain, and tunnel, within or under the same as nearly as possible in the same condition as it was in previously to the disturbance thereof, and during the continuance of such work and until such reinstatement the Company shall set up sufficient barriers and keep lights burning at night in order to prevent accidents. And also when and so often as

Materials of streets  
&c. broken to be  
replaced.

any gas, pitch, waste, tar, waste liquid, or other things shall escape to be kept up.

Nuisance.

or flow from any pipe, receivers, or drain, being part of or incidental to the works to be erected under this Act, so as to contaminate the air or any stream, spring, or other watercourses or body of water, natural or artificial, and render the same unhealthy or offensive or unfit for use, it shall be lawful for any person to give notice thereof in writing to the Company who shall immediately take the most speedy and effectual measures to prevent and remedy the same, and if the Company shall not within forty-eight hours next after such notice in writing being given effectually stop and prevent such escape or flow as aforesaid, and wholly and satisfactorily remove the cause of complaint, then and in every such case it shall be lawful for any person to lodge complaint thereof before any Justice of the Peace, who may summons the Company before the nearest Court of Petty Sessions, and on proof of such escape or flow as aforesaid, and of such notice as aforesaid having been given, and of such escape or flow not having been stopped and prevented, or such cause or complaint not having been removed, the said Court of Petty Sessions shall order and direct that all such works shall be done and executed, or procured to be done and executed by the Company within a reasonable time to be named by such Court as shall be necessary for such stopping, preventing, or removal as aforesaid, or on default by the Company, by the complainant, or such other person as the said Court shall direct, and in default of compliance with such order by the said Company, any Justice of the Peace, on proof of such default on the part of the said Company,

and

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and on proof that the complainant or such other person as aforesaid has done or executed, or procured to be done or executed the said works, and of the costs, charges, and expenses attending the same, shall issue a distress warrant against the goods and chattels of the Company for any amount not exceeding the said charges and expenses, and the cost of prosecuting such complaint to be paid to such complainant or other such person as aforesaid, doing or executing, or procuring to be done or executed the said works as aforesaid.

To make contracts for supply of gas and furnish and let or hire apparatus.

3. It shall be lawful for the Company to contract with any person or body, whether corporate or individual for supplying with gas any person or body, or any street, way, lane, passage, manufactory, shop, warehouse, public or private house, building, or place, and for such purpose from time to time to lay down, carry, fit up, connect, and furnish any pipe, branch, or burner, lamp, meter, or other apparatus, from or in connection with any main pipe, or to lay down any new main which for such purposes may be required, and to let any such apparatus for hire for such remuneration in money as may be agreed upon between the said Company and the person to whom the same may be so let, which remuneration may be recovered in like manner as any rent or remuneration for the supply of gas are recoverable under this Act, and such apparatus shall not be subject to distress for rent of the premises where the same may be used, nor be taken in execution under any process of a Court of Law or Equity, or under any proceedings in Bankruptcy or Insolvency, save so far as any process or proceedings against the Company are concerned. Provided always that in all cases where damage may be done by the Company, its agents, workmen, or others in the course of laying on or removing apparatus the said damage shall be made good at the expense of the said Company, and in case the Company shall delay within a reasonable time to make good such damage, the owner or occupier of such premises may make good the same and recover the expenses thereof from the Company in the same manner as is herein provided for the recovery of any sum of money payable under the provisions of this Act.

Such apparatus not to be subject to distress for rent.

Company to make good any damage done in laying on or removing apparatus.

Remedy for recovery of rents of gas.

Right of officer to enter premises.

4. In case any person who shall contract with the Company, or agree to take, or shall take or use the gas of the Company in any building, tenement, or place, or otherwise shall refuse or neglect to pay the sum or sums of money then due, under his or their contract for the same, to the Company according to the terms and stipulations thereof, it shall be lawful for the Company, without prejudice to any other remedy, to make complaints of such refusal or neglect before any Justice of the Peace, who may cause to be issued a summons to the party or parties so refusing or neglecting, calling on him or them to show cause before the Court of Petty Sessions, in the Police District in which such building, place, or tenement is situated, or such user took place, why he or they refuses or refuse to pay such sum or sums, and thereupon the said Court shall proceed to the adjudication of the said complaint and enforcement of the said demand, and costs, charges, and expenses incurred in the prosecution thereof by distress and sale of the goods and chattels of the person so refusing or neglecting to pay.

5. The secretary, engineer, or any other officer of the said Company, may at all reasonable times enter any building, tenement, or place to which gas is supplied by the said Company under the provisions of this Act, in order to inspect the pipes, burners, lamps, meters, or other apparatus of or connected with the works of the said Company, to regulate the supply of gas, or to ascertain the quantity of gas consumed or supplied, and if any person shall hinder any such officer as aforesaid, from so entering or making such inspection as aforesaid at any reasonable time, such person shall for every such offence

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offence forfeit and pay to the Company a sum of money not exceeding five pounds, to be awarded and recovered by the Company in like manner as the penalties hereinafter mentioned.

6. It shall be lawful for the Company to cut off and take away <sup>Power to cut off</sup> <sub>defaulter.</sub> the supply of gas from the building, tenement, or other place of every person making default in payment of charges for the supply of gas after giving twenty-four hours notice to the occupier, and thenceforth to discontinue the supply of gas contracted for with the Company by such person, and to enter by itself, its agents, or workmen, into such building, tenement, or place, between the hours of nine in the forenoon and four in the afternoon, and remove and carry away any pipe, burners, lamp, meter, or other apparatus the property of the Company, and the Company shall have the like powers with regard to cutting off, taking away, and discontinuing the supply of gas in the case of the building, tenement, or place of any person who shall have been lawfully convicted as hereinafter provided of any fraudulent injury to any meter or apparatus on such premises, or fraudulent use of the gas of the said Company.

7. If any person shall place or lay any pipe to communicate with any main, pipe, meter, or other apparatus already laid, placed, or erected by the said Company, or shall use additional burner or burners of larger dimensions or of other kind or description than that he has contracted with the Company to use, or shall keep the gas supplied by the Company burning for a longer time than he has contracted with the Company to pay for, or shall supply any person with any of the gas supplied to him by the Company without the Company's consent in writing first obtained, or if any person shall wantonly or maliciously hinder or interrupt any of the contractors, workmen, agents, or servants of the Company in legally doing or performing any of the acts aforesaid or in exercising any of the powers and authorities by this Act given or if any person shall wilfully or negligently or accidentally do or cause to be done any injury or damage to any of the buildings, machinery, pipes, burners, lamps, meters, or apparatus of the Company or remove the same or cause a waste or improper use of gas supplied by the Company it shall be lawful for the Company to make a complaint thereof before any Justice of the Peace, who may cause to be issued a summons to the person so offending to appear before the Court of Petty Sessions nearest to the place where such offence shall be committed, and being thereof lawfully convicted such person shall forfeit and pay to the Company any sum not exceeding five pounds over and above all damages done and over and above all costs, such sum to be ascertained by such Court, and to be enforced by distress.

8. If any owner or occupier of any building, tenement, or place, or any person acting for him, shall refuse reasonable access in pursuance of the provisions of this Act to the contractors, agents, workmen, or servants of the Company, for the purpose of removing any pipe, burner, meter, or apparatus placed or introduced into any such building tenement or place by the Company, or shall prevent or obstruct such removal then the said owner, occupier, or person acting for him shall immediately make payment to the Company for such pipe, burner, meter, or apparatus, and in default of his so doing within three days after demand thereof made at the same building, tenement, or place, or the residence or last known residence of the party, it shall be lawful for the Company to make complaint thereof to any Justice of the Peace, who may cause to be issued a summons to the person so making default, calling on him to show cause before the nearest Court of Petty Sessions to where the building, tenement, or place is situated why he refuses to pay such demand, and thereupon the said Court shall proceed to the adjudication and enforcement of such demand, in the manner

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manner herein set forth, and all proceedings under this Act not herein expressly provided for shall be regulated and conducted in accordance with the provisions of the law in force for the time being respecting summary proceedings before Justices of the Peace, and all such provisions shall, so far as the same are applicable, be enforced and observed in all proceedings under this Act not herein expressly provided for.

**Price, purity, and illuminating power of the gas.**

9. The price for the gas shall at no time exceed fifteen shillings per thousand cubic feet, and the gas supplied shall be absolutely free from sulphuretted hydrogen, and shall be of such minimum quality as to produce from an Argand burner having fifteen holes and a seven-inch chimney consuming five cubic feet of gas per hour a light equal in intensity to the light produced by seventeen sperm candles of six in the pound burning one hundred and twenty grains per hour.

**Provision for testing.**

10. The Company shall within twelve calendar months after receiving notice from the Municipal Council put up at some testing place to be provided by the said Council within the Municipality, suitable apparatus for the purposes following:—

- (I) For testing the illuminating power of the gas supplied;
- (II) For testing the presence of sulphuretted hydrogen in the gas supplied the said apparatus shall be in accordance with the Schedule hereunto annexed and shall at all times be kept and maintained in good repair and working order by the Company.

**Appointment of gas examiner.**

11. The Municipal Council may from time to time appoint a competent and impartial person to be gas examiner to test the gas at the testing place who shall test the illuminating power and purity of the gas supplied on any or every day, and the Company may be represented at the testing if they shall think fit, but shall not be entitled either by themselves or their representatives to interfere in the testing.

**Gas examiner to report, &c.**

12. The gas examiner shall on the day immediately following that on which the testing was made by him deliver to the Municipal Council a report of such testing, and shall deliver a copy thereof to the said Company, and such report shall be receivable in evidence.

**Gas examiner how paid.**

13. Any gas examiner appointed by the Municipal Council shall be paid a salary not exceeding one hundred pounds per annum, which shall be paid one moiety by the Council and the other moiety by the Company.

**Meters.**

14. No meter shall be used for ascertaining the quantity of gas sold by the Company unless the same shall have its measuring capacity at one revolution or complete action of the meter, and also the quantity per hour it is intended to measure in cubic feet or multiples or decimal parts of a cubic foot denominated or marked on the outside thereof in legible letters or figures, and shall have been tested and stamped as correct by the English Warden of Standards or by the inspector of meters appointed from time to time by the said Municipal Council or other the person or persons who may hereafter be appointed by an Act or Acts of the Parliament of New South Wales, or in pursuance thereof in that behalf to test and stamp gas meters or other lawful authority.

**Borough Council may appoint inspector of meters.**

15. An inspector of meters may from time to time be appointed by the Municipal Council, and the said inspector shall at all times when authorized by the Council on the application and at the expense of any consumer of gas supplied by the Company be entitled to inspect and test the meters erected by the Company in the premises of the person making such request after giving forty-eight hours notice of such intended inspection to the Company, and before such inspection the person requiring the same shall deposit in the hands of the inspector all money due or appearing to be due by such person to the Company on account delivered, and in case such deposit shall be in excess of the sum found to be due to the Company such excess shall be returned to the consumer.

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16. No meter which shall have been fixed by the Company for Regulation of meters. use before the expiration of one year of the time when this Act comes into operation shall be allowed to remain in use after the expiration of five years from that time unless it shall have been tested and stamped as by this Act directed, and no meter once tested and stamped under the provisions of this Act shall be allowed to remain in use for more than five years from the time when it shall have been last so stamped, unless and until it shall have been retested and restamped in manner aforesaid, and whenever the Company shall knowingly allow any meter to be used in contravention of this section they shall be liable to a penalty not exceeding forty shillings for every such offence.

17. After the expiration of one year from the time when this Legal standard. Act comes into operation the legal standard or unit or measure for the sale of the said Company's gas by meter shall be the cubic foot containing sixty-two and three hundred and twenty-one thousand, thus (62.321) pounds avoirdupois weight of distilled or rain water weighed in air at the temperature of sixty-two degrees of Fahrenheit's thermometer, the barometer being at thirty inches.

18. If any person shall forge or counterfeit or cause or procure Forging stamps. to be forged or counterfeited or knowingly act or assist in the forging or counterfeiting any stamp which may hereafter be used for the stamping of any meter under this Act, every person so offending shall for every such offence be liable to a penalty not exceeding fifty pounds or less than ten pounds, and if any person shall knowingly sell, utter, or dispose of, let, lend, or expose for sale any meter with such forged stamp thereon, every person so offending shall for every such offence be liable to a penalty not exceeding ten pounds or less than forty shillings, and all meters having forged or counterfeited stamps thereon shall be forfeited or destroyed.

19. All gas supplied by the Company shall except in case of Pressure of gas. accident be supplied at such pressure as to balance from midnight to sunset a column of water not less than six-tenths of an inch in height, and to balance from sunset to midnight a column of water not less than one inch in height.

20. Nothing in this Act contained shall be construed to prevent Indictment for nuisances. any person from indicting or otherwise proceeding either civilly or criminally against the Company for nuisance, or otherwise in respect of the works or means used or employed by the said Company in exercising privileges hereby on the Company conferred, or to prevent the Company or any person from recovering any sum of money, or otherwise proceeding in any Court of competent jurisdiction.

21. In all cases in which by any Act of Parliament in force in Power to Secretary or other officers. the Colony, or by any rule or order of or the practice of the Supreme Court or any other Court now or hereafter to be in force in this Colony, the plaintiff, complainant, or defendant in any action, suit, or other proceeding, civil, criminal, or otherwise, or any creditor of an insolvent estate, or any person being a party to or interested in any process or proceeding whatsoever, is or shall be authorized, empowered, or required to make any affidavit, deposition, or information, or to sign or present any petition, or to do any other act, it shall be lawful and competent for the Secretary or any other officer of the Company, with the consent in writing of the Directors of the Company where such Company shall be such plaintiff, complainant, defendant, or creditor, or be a party to or otherwise interested in any process or proceedings as aforesaid, for and on behalf of the Company, to make any such affidavit, deposition, complaint, or information, sign or present any such petition, or do any such other act as aforesaid for or on behalf of the Company.

22. The Directors for the time-being shall have the custody of Custody and use of the common seal of the Company, and the Directors of the Company seal. or

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or a majority of them shall have power to use such common seal or authorize the same to be used for the affairs and concerns of the Company, and under such seal to authorize and empower any person without such seal to execute any deeds and do all or any such other matters and things as may require to be executed and done for or on behalf of the Company, but it shall not be necessary to use the corporate seal in respect of any of the ordinary business of the Company, or for the appointment of any attorney or solicitor for the prosecution or defence of any action, suit, or proceeding, or of any officer or servant of the Company. And such seal may be affixed to any deed or document whatsoever, by two or more of the Directors of the Company in the presence of the Secretary for the time being, and in pursuance of a resolution of the Board to that effect, and the affixing thereof shall be attested by such two or more Directors and the Secretary.

**Purchase by  
Municipal Council  
of Gas-works.**

**General penalty.**

**Right of appeal.**

**Interpretation clause.**

**Gas-works may be  
brought under  
general Act.**

**Short title.**

23. It shall be lawful for the said Municipal Council, within one month after the expiration of five years from the date of the said gas being first used within the said Municipality, by notice in writing, to require the said Company to sell, and thereupon the said Company shall sell to the said Municipal Council the Gas-works, and all lands, buildings, works, materials, and plants of the said Company, suitable to and used by the said Company for the purpose of the said Gas-works, at such price as may be agreed upon, such price in case of difference to be referred to arbitration in the manner directed by the Act thirty-one Victoria number fifteen, intituled "*An Act to make Arbitration more effectual,*" and subject to the terms and conditions therein contained.

24. If it shall be proved to the satisfaction of a Police Magistrate or any two Justices of the Peace in Petty Sessions assembled, that the Company or any of its officers, have been guilty of any default under this Act, not otherwise provided for under this Act, they shall be liable for each and every such default to a penalty not exceeding five pounds, to be recovered in a summary way.

25. Any person may appeal from the judgment or conviction under this Act, in the form and manner set forth in the Act of Council fifth William the Fourth number twenty-two.

26. The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless there be something either in the subject or the context repugnant to such construction,—“Company” shall mean “The Broken Hill and Suburban Gas Company (Limited).” The expression “Gas Works” shall mean the gas-works and the works connected therewith by this Act authorized to be constructed. The expression “Directors” shall mean the Directors for the time being of the said “Broken Hill and Suburban Gas Company (Limited).” The word “street” shall include any square, court or alley, highway, railway, tramway, lane, footpath, road, thoroughfare, or other passage, footpath or place within the limits of Broken Hill and its suburbs. The “Municipal Council” shall mean the Municipal Council of Broken Hill. “Broken Hill and its suburbs” shall comprise all the area included within a radius of five miles from the Post Office of the said town.

27. Nothing contained in this Act shall prevent the said Gas-works being brought under the provisions of any general Act which may be passed by the Parliament of New South Wales applying equally to Companies engaged in the manufacture of gas in the said Colony with reference to the manufacture and sale of gas, nor entitle the said Company to compensation from the public revenue by reason of the provisions of such general Act for the purpose aforesaid being made applicable to and binding upon the said Company.

28. This Act may be cited as the “Broken Hill and Suburban Gas Company (Limited) Act of 1888.”

## SCHEDULE.

## PART I.

1. *Regulations in respect of testing apparatus.*

The apparatus for testing the illuminating power of the gas shall consist of a known and approved form of photometer together with a proper meter, minute-clock, governor, pressure gauge, and balance. The burner to be used for testing the gas shall be an Argand burner having fifteen holes and a seven-inch chimney. The candles used for testing the gas shall be sperm candles of six to the pound, and two candles shall be used together.

2. *The Apparatus.*

For testing the presence in the gas of sulphuretted hydrogen a glass vessel containing a strip of bibulous paper moistened with a solution of acetate of lead containing sixty grains of crystallized acetate of lead dissolved in one fluid ounce of water.

## PART II.

1. *Rules as to mode of testing gas.*

*Mode of testing for illuminating power.*—The gas in the photometer is to be lighted at least fifteen minutes before the testings begin, and it is to be kept continually burning from the beginning to the end of the tests. Each testing shall include ten observations of the photometer made at intervals of a minute. The consumption of gas is to be carefully adjusted to five cubic feet per hour. The candles are to be lighted at least ten minutes before beginning each testing, so as to arrive at their normal rate of burning, which is shown when the wick is slightly bent and the tip glowing. The standard rate of consumption for the candles shall be one hundred and twenty grains each per hour. Before and after making each set of ten observations of the photometer the gas examiner shall weigh the candles, and if combustion shall have been more or less per candle than one hundred and twenty grains per hour, he shall make and record the calculations requisite to neutralize the effects of this difference. The average of each set of ten observations is to be taken as representing the illuminating power of that testing.

2. *Mode of testing.*

*For sulphuretted hydrogen.*—The gas shall be passed through the glass vessel containing the strip of bibulous paper moistened with the solution of acetate of lead for a period of three minutes or such longer period as may be prescribed, and if any discolouration of the test paper is found to have taken place this is held to be conclusive as to the presence of sulphuretted hydrogen in the gas.