

**ELECTRICITY COMMISSION (BALMAIN ELECTRIC
LIGHT COMPANY PURCHASE) ACT.**

Act No. 40, 1950.

An Act to provide for the determination by the Land and Valuation Court of the value of the undertaking of the Balmain Electric Light Company; to make provision with respect to the transfer to the Electricity Commission of New South Wales of the undertaking of that company and of the undertaking of the Parramatta and Granville Electric Supply Company Limited; to amend the Electricity Commission Act, 1950, and certain other Acts in certain respects; to repeal the Borough of Balmain Electric Lighting Act, 1906; and for purposes connected therewith. [Assented to, 23rd November, 1950.]

George VI,
No. 40, 1950.

BE

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Company Purchase) Act.**

No. 40, 1950.

BE it enacted by the King'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:—

Short
title and
commence-
ment.

1. (1) This Act may be cited as the "Electricity Commission (Balmain Electric Light Company Purchase) Act, 1950."

(2) This Act shall be deemed to have commenced upon the first day of November, one thousand nine hundred and fifty.

(3) This Act shall be read as one with the Electricity Commission Act, 1950.

Definitions.

2. (1) In this Act, unless the context or subject matter otherwise indicates or requires,—

"Balmain Electric Light Company" means the Electric Light and Power Supply Corporation Limited.

"Court" means the Land and Valuation Court constituted under the Land and Valuation Court Act, 1921, as amended by subsequent Acts.

"Principal Act" means the Electricity Commission Act, 1950.

(2) A reference in this Act to "the two companies" shall be construed as a reference to the Balmain Electric Light Company and the Parramatta and Granville Electric Supply Company Limited.

Court to
value
undertaking
of Balmain
Electric
Light
Company.

3. (1) On the date upon which His Majesty's assent to this Act is signified the valuation as at the thirty-first day of October, one thousand nine hundred and fifty, of the undertaking of the Balmain Electric Light Company as a going concern, shall, by virtue of this section, be referred to the Court.

(2) The Court shall have jurisdiction to hear and determine the matter referred to it under subsection one of this section and for that purpose the Court and the
judge

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judge of the Court shall have all the powers, rights and privileges conferred on the Court and such judge respectively by the Land and Valuation Court Act, 1921, as amended by subsequent Acts. No. 40, 1950.

(3) The determination by the Court of the valuation referred to in subsection one of this section shall be made as soon as practicable after the commencement of this Act.

(4) The Commission and the Balmain Electric Light Company shall be deemed to be the parties in the proceedings for the hearing and determination by the Court of the matter referred to it by subsection one of this section.

4. (1) Upon a day to be appointed by the Governor and notified by proclamation published in the Gazette (which day shall not be earlier than the date on which the valuation referred to in subsection one of section three of this Act is determined by the Court and not later than six months thereafter) all the issued shares of the two companies shall vest in and belong to the Commission. Vesting of
shares in the
Commission.

The day appointed by the Governor pursuant to this subsection is in this Act referred to as "the appointed day."

(2) The value of each share in the Balmain Electric Light Company vested in the Commission by subsection one of this section shall for the purposes of section five of this Act be a sum ascertained by dividing the amount determined by the Court as the valuation of the undertaking of that company pursuant to section three of this Act by the total number of the issued shares of that company.

(3) The value of each of the four hundred and nineteen shares in the Parramatta and Granville Electric Supply Company Limited held immediately before the commencement of this Act by any shareholder other than the Balmain Electric Light Company, shall, for the purposes of section five of this Act, be deemed to be the sum ascertained under subsection two of this section.

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Purchase
price to
be paid to
share-
holders.

5. (1) As soon as practicable after the appointed day the Commission shall subject to the provisions of subsection three of this section issue to each person, who immediately before that day was a shareholder in the Balmain Electric Light Company, and to each person who immediately before that day was the holder of one or more of the four hundred and nineteen shares in the Parramatta and Granville Electric Supply Company Limited referred to in subsection three of section four of this Act, debentures having an aggregate face value equivalent to the aggregate value of the shares held by him immediately before the appointed day, which aggregate value shall be calculated on the basis of the value of each share as prescribed in section four of this Act.

(2) (a) Every debenture issued under this section shall have a face value of ten pounds or a multiple of ten pounds.

(b) Every such debenture shall, subject to paragraph (c) of this subsection, mature on the thirty-first day of October, one thousand nine hundred and sixty-five.

(c) The Commission may if it thinks fit elect to redeem such debentures at any time after the thirty-first day of October, one thousand nine hundred and sixty.

At least three months' notice of the intention of the Commission to exercise the election referred to in this paragraph and of the date upon which the Commission proposes to redeem the debentures shall be given by advertisement published in the Gazette and in such other manner as may be prescribed by regulations made under the Principal Act.

(d) Every debenture issued by the Commission under this section shall bear interest at the rate of three and one-half per centum per annum, and such interest shall be calculated as on and from the first day of November, one thousand nine hundred and fifty.

(e)

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(e) The provisions of Division 2 of Part V of No. 40, 1950. the Principal Act shall apply, mutatis mutandis, to and in respect of the debentures issued under this section, and for the purposes of that Division such debentures shall be deemed to be issued in respect of money borrowed by the Commission.

Without prejudice to the generality of the foregoing provisions of this paragraph nothing contained in paragraph (b) or paragraph (c) of this subsection shall affect the provisions of subsection four of section forty-one of the Principal Act.

(3) (a) Where the aggregate value of the shares held by any person referred to in subsection one of this section is less than ten pounds such person shall elect either—

- (i) to accept payment in cash from the Commission of the amount which represents the aggregate value of his shares; or
- (ii) to receive a debenture having a face value of ten pounds upon payment by him to the Commission of the amount which represents the difference between the aggregate value of his shares and ten pounds.

(b) Where the aggregate value of the shares held by any person referred to in subsection one of this section exceeds ten pounds but does not exceed twenty pounds, such person shall elect either—

- (i) to receive a debenture having a face value of ten pounds in which case he shall be entitled to receive payment in cash from the Commission of the amount which represents the difference between the aggregate value of his shares and ten pounds; or
- (ii) to receive debentures having an aggregate face value of twenty pounds upon payment by him to the Commission of the amount which represents the difference between the aggregate value of his shares and twenty pounds.

(c)

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(c) Where the aggregate value of the shares held by any person referred to in subsection one of this section exceeds twenty pounds but is not a multiple of ten pounds, such person shall elect either—

- (i) to receive debentures having an aggregate face value equivalent to that multiple of ten pounds which is next below the aggregate value of his shares, in which case he shall be entitled to receive payment in cash from the Commission of the amount which represents the difference between the aggregate value of his shares and the aggregate face value of those debentures; or
- (ii) to receive debentures having an aggregate face value equivalent to that multiple of ten pounds which is next above the aggregate value of his shares, upon payment by him to the Commission of the amount which represents the difference between the aggregate value of his shares and the aggregate face value of those debentures.

Dividends.

6. (1) The Balmain Electric Light Company shall be deemed to have declared on the thirty-first day of October, one thousand nine hundred and fifty, the interim dividend of three per centum in respect of the half-year ending on that date.

(2) The Parramatta and Granville Electric Supply Company Limited shall be deemed to have declared on the thirty-first day of October, one thousand nine hundred and fifty—

- (a) the dividend of six per centum in respect of the year ending on the thirtieth day of June, one thousand nine hundred and fifty; and
- (b) the interim dividend of two per centum in respect of the period commencing on the first day of July, one thousand nine hundred and fifty and ending on the thirty-first day of October, one thousand nine hundred and fifty.

(3) After the thirty-first day of October, one thousand nine hundred and fifty, no dividend shall be declared by either of the two companies.

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7. (1) On and after the first day of November, one thousand nine hundred and fifty, the Directors of the Balmain Electric Light Company and the Directors of the Parramatta and Granville Electric Supply Company Limited shall in the exercise and discharge of their powers, authorities, duties and functions be subject in all respects to the control and direction of the Commission.

No. 40, 1950.

Control and
direction
by Commis-
sion.

(2) Nothing in subsection one of this section shall limit or otherwise affect the powers, authorities, duties and functions of the Directors of the Balmain Electric Light Company in relation to the hearing and determination of the matter referred to the Land and Valuation Court under subsection one of section three of this Act.

8. On the appointed day each of the two companies shall by virtue of this Act be dissolved.

Dissolution
of the
two
companies
on the
appointed
day.

9. On and from the appointed day the following provisions shall have effect:—

Rights,
liabilities
and
property.

- (a) All real and personal property (whether situated in New South Wales or elsewhere) and all right and interest therein, and all management and control of any land or thing, which immediately before the appointed day is vested in or belongs to either of the two companies, shall vest in and belong to the Commission and be held by it under and subject to the provisions of the Principal Act.
- (b) All moneys, liquidated and unliquidated claims, which immediately before the appointed day are payable to or recoverable by either of the two companies, shall be moneys, liquidated and unliquidated claims, payable to or recoverable by the Commission.
- (c) All suits, actions and proceedings pending immediately before the appointed day at the suit of either of the two companies shall respectively be suits, actions and proceedings pending at the suit of the Commission.

(d).

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- (d) All contracts, agreements and undertakings entered into with and all securities lawfully given to or by either of the two companies and in force immediately before the appointed day shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Commission.
- (e) The Commission may pursue the same remedies for the recovery of any such moneys and claims, and for the prosecution of such suits, actions and proceedings as either of the two companies might have done but for this Act.
- (f) The Commission may enforce and realise any security or charge existing immediately before the appointed day in favour of either of the two companies in respect of any such moneys and claims as if such security or charge were existing in favour of the Commission.
- (g) All debts due and moneys payable by either of the two companies and all claims liquidated or unliquidated recoverable against either of the two companies shall be debts due and moneys payable by and claims recoverable against the Commission.
- (h) No attornment by a lessee of any land vested in the Commission by this section shall be necessary.
- (i) Nothing contained in this section shall be construed as conferring any rights upon any shareholder in either of the two companies in respect of his shares, other than a right to be paid any dividend declared or by section six of this Act deemed to have been declared on or before the thirty-first day of October, one thousand nine hundred and fifty, and not paid before the appointed day.

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10. During the period commencing on the first day of November, one thousand nine hundred and fifty, and ending on the appointed day the Commission may, with the approval of the company concerned, make use of the services of any officer or employee of either of the two companies, upon such terms and conditions as shall be mutually agreed upon between the company concerned and the Commission.

No. 40, 1950.

**Use of
services of
employees,
etc.**

**cf. Act No.
22, 1950, s.
58.**

11. (1) On and from the appointed day every person who was, immediately before that day, an officer or employee of either of the two companies shall be transferred to the service of and shall become and be a servant of the Commission.

**Transfer of
officers, etc.,
to
Commission.**

A person so transferred is in this Act referred to as "a transferred servant."

(2) A transferred servant shall be paid salary or wages at a rate not less than the rate which was payable to him immediately before the appointed day by the company from whose service he is transferred until such salary or wages is or are varied or altered by the Commission.

(3) A transferred servant shall have and enjoy the same rights and privileges, if any, with regard to annual, sick, deferred, extended and long service leave, as if the company from whose service he is transferred had not been dissolved and he had continued to be an officer or employee (as the case may be) of that company. And for the purposes of this subsection service with the Commission shall be deemed to be service with that company.

(4) Where any condition of employment of a transferred servant is, immediately before the appointed day, regulated by an award or industrial agreement, such condition shall continue to be so regulated until an award regulating such condition and binding the Commission is made by a competent tribunal or such condition is regulated by an industrial agreement to which the Commission is a party.

12.

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Balmain
Electric
Light
Company—
Staff
Pension
Trust
Deed.

12. (1) In this section "Staff Pension Trust Deed" means the trust deed made on the seventh day of March, one thousand nine hundred and fifty, between the Electric Light and Power Supply Corporation Limited of the first part, Robert Craig Dixson and others (hereinafter referred to as "The Board of Directors") of the second part, Robert Craig Dixson and others (the trustees for the time being of the deed) of the third part and the several persons therein referred to of the fourth part.

(2) The Commission is hereby authorised to negotiate under and in accordance with paragraph (b) of clause thirty-four of the Staff Pension Trust Deed with the trustees for the time being of that deed for the continuance by the Commission of that deed in respect to all contributory policies under that deed, and to do and perform all acts matters and things necessary for carrying out or giving effect to any agreement entered into between the Commission and the said trustees pursuant to such negotiations.

Amendment
of Act No.
22, 1950.

13. (1) This section shall commence upon the appointed day.

(2) The Principal Act is amended as follows:—

Sec. 9.
(Powers of
Commis-
sion.)

(a) (i) by omitting from subparagraph (ii) of paragraph (b) of subsection two of section nine the words "or any area supplied at the commencement of this Act by the Electric Light and Power Supply Corporation Limited";

(ii) by inserting after subparagraph (iv) of the same paragraph the following new subparagraph:—

(v) the supply of electricity to any person for use within any area in which immediately before the appointed day referred to in section four of the Electricity Commission (Balmain Electric Light Company Purchase)

Purchase) Act, 1950, electricity was supplied by the Electric Light and Power Supply Corporation Limited or the Parramatta and Granville Electric Supply Company Limited. **No. 40, 1950.**

(b) by omitting section eighteen.

Sec. 18.
(Negotiations.)

(3) The Borough of Balmain Electric Lighting Act is hereby repealed.

Repeal of Act No. 10, 1906.

(4) The Gas and Electricity Act, 1935, as amended by subsequent Acts, is amended by omitting section eighty.

Amendment of Act No. 42, 1935.
Repeal of s. 80.
