

**ABERDARE COUNTY COUNCIL (DISSOLUTION) ACT,
1982, No. 74**

New South Wales



ANNO TRICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 74, 1982.

An Act to provide for the dissolution of the Aberdare County Council and to make provision with respect to the acquisition by the Newcastle Gas Company Limited and the Energy Authority of New South Wales of the gas undertaking conducted by the Council. [Assented to, 21st May, 1982.]

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BE it 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:—

Short title.

1. This Act may be cited as the "Aberdare County Council (Dissolution) Act, 1982".

Commencement.

2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Interpretation.

3. In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"AGL Superannuation Fund" means The Australian Gas Light Company's Employees' Superannuation Fund;

"AGL Superannuation Fund Trustees" means the Trustees of the AGL Superannuation Fund;

"appointed day" means the day appointed and notified under section 2 (2);

"Authority" means the Energy Authority of New South Wales;

"Company" means the Newcastle Gas Company Limited;

"Council" means the Aberdare County Council;

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“Local Government Superannuation Board” means the body corporate constituted by section 16 of the Local Government and Other Authorities (Superannuation) Act, 1927;

“Local Government Superannuation Scheme” means a scheme of superannuation or retirement benefits established by, or pursuant to, the Local Government and Other Authorities (Superannuation) Act, 1927;

“prescribed day” means the day that is 2 months after the appointed day;

“servant of the Council” means a person who, immediately before the appointed day, was a servant or employee of the Council and includes a person who is employed by the Council after that day pursuant to an offer of employment made by the Council to that person before that day;

“transferred servant” means a person who, pursuant to section 13 (1), is transferred to the service of the Company.

Operation of Act.

4. Except in so far as this Act otherwise provides, this Act has effect notwithstanding any provision of any other Act or of any regulation, ordinance, by-law, rule, order or proclamation made under an Act and notwithstanding any industrial award or agreement or any other agreement.

Certain acts of Council prohibited.

5. The Council shall not, on or after the appointed day—
- (a) without the consent of the Minister, dispose of an estate or interest in property;
 - (b) borrow money or increase the amount of any money actually borrowed before that day;
 - (c) employ a person to whom an offer of employment has not been made by the Council before that day; or

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- (d) without the consent of the Minister—
- (i) alter the duties of a servant of the Council; or
 - (ii) increase the amount of any salary or wages paid or payable to a servant of the Council.

Furnishing of list to Company.

6. The Council shall, within 7 days after the appointed day, furnish to the Company a list containing the name and address of each servant of the Council, his qualifications (if any), the amount of his remuneration, his right to leave (including long service leave) of absence (if any) and a statement of his duties as a servant of the Council.

Offer of employment.

7. (1) The Company shall, not less than 1 month after the appointed day, make an offer of employment, in writing, to each servant of the Council.

(2) The offer of employment made under subsection (1) shall include—

- (a) an offer, subject to Part V of the Industrial Arbitration Act, 1940, to remunerate the servant of the Council, as a servant of the Company, on terms determined by the Company and specified in the offer, being terms not less advantageous than those on which a comparable servant of the Company, The Australian Gas Light Company or a subsidiary of The Australian Gas Light Company which is a gas company was remunerated by his employer immediately before the appointed day; and
- (b) a statement, prepared by the Company and the AGL Superannuation Fund Trustees, notifying the servant of the Council of—
 - (i) the existence and nature of the AGL Superannuation Fund, the benefits provided to contributors to that Fund and the amount of contributions required to be made by the servant and the conditions required to be satisfied by him in order to be entitled to the receipt of those benefits should he elect to become a contributor to that Fund in accordance with section 8 (1); and

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- (ii) the particular entitlement that will be constituted in relation to that servant as a consequence of the making of any payment in respect of him under section 18 (1).

Acceptance of offer of employment, etc.**8. (1)** A servant of the Council—

- (a) may, by notice in writing served on the Company before the prescribed day, accept the offer of employment made to him under section 7 (1); and
- (b) may, where he accepts that offer and was, immediately before the appointed day, a participant in a Local Government Superannuation Scheme—
 - (i) elect, by the same or a different notice in writing served on the Company before the prescribed day, to become a contributor to the AGL Superannuation Fund; or
 - (ii) continue to be such a participant during the period of his employment with the Company.

(2) Where a servant of the Council elects to become a contributor to the AGL Superannuation Fund in accordance with subsection (1), the Company shall forthwith send a copy of the notice by which the election was made to the AGL Superannuation Fund Trustees and to the Local Government Superannuation Board.

Effect on superannuation rights, etc., of failure to accept offer of employment.

9. Nothing in this Act affects the Local Government and other Authorities (Superannuation) Act, 1927, in so far as it applies to a servant of the Council who does not accept the offer of employment made to him under section 7 (1) and who was, immediately before the appointed day, a participant in a Local Government Superannuation Scheme.

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Dissolution of the Council.

10. On the prescribed day, the Council is dissolved.

Vesting of property, etc.

11. (1) Except as provided by subsection (2), on and from the prescribed day—

- (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, was vested in or belonged to the Council shall vest in or belong to the Company;
- (b) all debts, moneys and claims, liquidated and unliquidated, that, immediately before that day, were due or payable to, or recoverable by, the Council shall be debts due and moneys payable to and claims recoverable by the Company;
- (c) all suits, actions and proceedings pending immediately before that day at the suit of the Council shall be respectively suits, actions and proceedings pending at the suit of the Company and all suits, actions and proceedings so pending at the suit of any person against the Council shall be respectively suits, actions and proceedings pending at the suit of that person against the Company;
- (d) all contracts, agreements, arrangements and undertakings entered into with and all securities lawfully given to or by the Council and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the Company;
- (e) the Company may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of moneys and claims referred to in this section and for the prosecution of suits, actions and proceedings so referred to as the Council might have done but for the enactment of this Act;

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- (f) the Company may enforce and realise any security or charge existing immediately before that day in favour of the Council and may exercise any powers thereby conferred on the Council as if the security or charge were a security or charge in favour of the Company;
- (g) all debts, moneys and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, the Council shall be debts due and moneys payable by and claims recoverable against the Company; and
- (h) all liquidated and unliquidated claims for which the Council would, but for the enactment of this Act, have been liable shall be liquidated and unliquidated claims for which the Company shall be liable.

(2) Where, immediately before the prescribed day—

- (a) the Council had borrowed an amount pursuant to Division 4 of Part VII of the Local Government Act, 1919, being an amount which had not, as at that day, been repaid in full; and
- (b) there existed a reserve for loan repayment in respect of the borrowing referred to in paragraph (a),

subsection (1) shall apply to and in respect of the borrowing and the reserve for loan repayment as if a reference in that subsection to the Company were a reference to the Authority.

(3) For the purposes only of this section, the Authority shall have and may exercise and perform, in relation to the borrowing referred to in subsection (2) (a) and the reserve for loan repayment referred to in subsection (2) (b), the powers, authorities, duties and functions, under Division 4 of Part VII of the Local Government Act, 1919, of a council within the meaning of that Act.

(4) Any instrument, within the meaning of the Stamp Duties Act, 1920, executed only for—

- (a) a purpose ancillary to, or consequential on, the operation of subsection (1) or (2); or
- (b) the purpose of giving effect to either or both of those subsections,

is not chargeable with stamp duty.

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References.

12. (1) On and from the prescribed day, a reference to the Council in a provision of any other Act or in any by-law, regulation, statutory instrument or other document, whether of the same or of a different kind, shall be read and construed as a reference to—

- (a) in respect of any property or other thing to which section 11 (1) applies—the Company; and
- (b) in respect of any property or other thing to which section 11 (2) applies—the Authority.

(2) On and from the prescribed day, a reference in any other Act or in any by-law, regulation, statutory instrument or other instrument, whether of the same or of a different kind, to any servant of the Council shall be read and construed—

- (a) in respect of any property or other thing to which section 11 (1) applies—
 - (i) if there is a position in the staff establishment of the Company that corresponds to the position occupied by that servant, as a reference to the person occupying that position in the staff establishment of the Company; or
 - (ii) if there is no such corresponding position, as a reference to such position in the staff establishment of the Company as may be determined by the Minister; and
- (b) in respect of any property or other thing to which section 11 (2) applies—
 - (i) if there is a position in the staff establishment of the Authority that corresponds to the position occupied by that servant, as a reference to the person occupying that position in the staff establishment of the Authority; or
 - (ii) if there is no such corresponding position, as a reference to such position in the staff establishment of the Authority as may be determined by the Minister.

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Transfer of servants.

13. (1) A person who, in accordance with section 8 (1), accepts the offer of employment made to him under section 7 (1) shall, on the prescribed day—

- (a) be transferred to the service of the Company;
- (b) become a servant of the Company; and
- (c) subject to this Act, be deemed to have been appointed and employed by the Company.

(2) A transferred servant shall, on and from the prescribed day and until otherwise directed by the Company, continue to perform the duties which attached to his employment immediately before the prescribed day.

Redundancy of transferred servants.

14. The employment of a transferred servant may not be terminated by the Company on the ground of redundancy arising from the operation of this Act.

Previous service and accrued leave of transferred servants.

15. (1) The period of service of a transferred servant with the Council or lawfully attributed to a transferred servant by the Council shall, upon his transfer to the service of the Company, be counted as service with the Company for the purposes of any Act or of any ordinance, regulation or by-law or of the terms and conditions of any staff agreement or of any award or agreement made under the Industrial Arbitration Act, 1940.

(2) The transfer of a transferred servant to the service of the Company shall not affect any right to leave (including long service leave) of absence accrued prior to the prescribed day.

(3) Where, at the time any payment in relation to a period of service or right to leave to which this section applies is made by the Company to a transferred servant or his lawful representative, the salary or wages of the transferred servant as a servant of the Company is or are less than the salary

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or wages paid to him by the Council immediately before the prescribed day, the payment shall be made as if the transferred servant were being paid the same salary or wages by the Company as was or were paid to him by the Council immediately before the prescribed day.

Effect of election to contribute to the AGL Superannuation Fund.

16. (1) Where a servant of the Council elects to become a contributor to the AGL Superannuation Fund in accordance with section 8 (1), he shall, on the prescribed day—

- (a) cease to be a participant in the Local Government Superannuation Scheme in which he participated immediately before the prescribed day; and
- (b) become a contributor to the AGL Superannuation Fund,

and shall commence to contribute to that Fund on and from a later date determined by the AGL Superannuation Fund Trustees and notified to the Company.

(2) A person who, pursuant to subsection (1), becomes a contributor to the AGL Superannuation Fund ceases to be entitled to any rights, benefits or privileges that, but for this section, would have accrued to him under or in connection with the Local Government Superannuation Scheme in which, pursuant to that subsection, he ceases to participate, except to the extent that he benefits under this Act.

Procedure on making of election.

17. (1) Where a servant of the Council who elects to become a contributor to the AGL Superannuation Fund in accordance with section 8 (1) is a person to whom Part II of the Local Government and Other Authorities (Superannuation) Act, 1927, applies, the provisions of section 4 (4) (f) of that Act apply to and in respect of that person as if—

- (a) immediately before the prescribed day he had ceased to be employed as referred to in those provisions;
- (b) he had advised the Local Government Superannuation Board that he did not wish to take over or to continue any policy on his life effected under that Act; and

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- (c) any money that would, but for this paragraph, be payable to him pursuant to those provisions were payable instead to the Company.

(2) Where a servant of the Council who elects to become a contributor to the AGL Superannuation Fund in accordance with section 8 (1) is a person to whom Part III of the Local Government and Other Authorities (Superannuation) Act, 1927, applies, the provisions of section 15 of that Act apply to and in respect of that person as if—

- (a) immediately before the prescribed day he had ceased to be employed as referred to in those provisions; and
- (b) any money that would, but for this paragraph, be payable to him pursuant to those provisions were payable instead to the Company.

(3) Where a servant of the Council who elects to become a contributor to the AGL Superannuation Fund in accordance with section 8 (1) is a person to whom Part III B of the Local Government and Other Authorities (Superannuation) Act, 1927, applies, the provisions of section 15v of that Act apply to and in respect of that person as if—

- (a) immediately before the appointed day he had ceased to be employed as referred to in those provisions; and
- (b) any money that would, but for this paragraph, be payable to him pursuant to those provisions were payable instead to the Company.

(4) Where a servant of the Council who elects to become a contributor to the AGL Superannuation Fund in accordance with section 8 (1) is a person to whom Part III D of the Local Government and Other Authorities (Superannuation) Act, 1927, applies, the Local Government Superannuation Board shall, on a day agreed upon between that Board, the Company and the AGL Superannuation Fund Trustees, pay to the Company—

- (a) from the general reserve account in the Pension Fund established under that Act—an amount equal to the amount that would be transferred in respect of that person under section 15BC of that Act if section 15AW (1) (b) of that Act had not been enacted and if that person were, within the meaning of that Part, a servant of a general employer who, on the prescribed day, became a servant of a special employer; and

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- (b) from that person's servant's account maintained under section 15BB of that Act in that Pension Fund—the amount standing to the credit of that account immediately before the prescribed day.

(5) Where, for the purpose of making a payment pursuant to this section, a policy of assurance is to be cancelled, it shall be cancelled so that the effective date of the cancellation is the prescribed day.

Company to make certain payments.

18. (1) Where a servant of the Council elects to become a contributor to the AGL Superannuation Fund in accordance with section 8 (1), the Company shall, on the day agreed upon under section 17 (4), pay to the AGL Superannuation Fund Trustees in respect of that servant an amount calculated according to the Table specified in Schedule 1 that is applicable to his case.

(2) The AGL Superannuation Fund Trustees shall pay into the AGL Superannuation Fund each amount paid to it under subsection (1) in respect of a servant of the Council so as to constitute in relation to him the entitlement notified to him under section 7 (2) (b).

Regulations.

19. (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision made under subsection (1) may take effect as from the appointed day or a later day.

(3) To the extent to which a provision referred to in subsection (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or a public authority), the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the State or a public authority) in respect of anything done or omitted to be done before the date of its publication therein.

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(4) A provision made under subsection (1) shall, if the regulations expressly provide, have effect notwithstanding the foregoing sections of this Act (sections 14, 15 and 16–18 excepted).

SCHEDULE 1.

(Sec. 18 (1).)

TABLE 1.

Amount to be paid to AGL Superannuation Fund Trustees in respect of servant of Council to whom Part II of the Local Government and Other Authorities (Superannuation) Act, 1927, applies.

The amount calculated in accordance with the formula $\frac{A}{B} \times C$ where—

“A” represents the total of the premiums paid by the servant of the Council in respect of policies of assurance that are to be cancelled pursuant to section 17 (1) in so far as they relate to him;

“B” represents the total amount of all premiums paid in respect of those policies of assurance in so far as they relate to the servant of the Council;

“C” represents the amount that, by the operation of section 17 (1), is payable to the Company by the Local Government Superannuation Board.

TABLE 2.

Amount to be paid to AGL Superannuation Fund Trustees in respect of servant of Council to whom Part III of the Local Government and Other Authorities (Superannuation) Act, 1927, applies.

One-half of the amount that, by the operation of section 17 (2), is payable to the Company by the Local Government Superannuation Board.

TABLE 3.

Amount to be paid to AGL Superannuation Fund Trustees in respect of servant of Council to whom Parts II and III of the Local Government and Other Authorities (Superannuation) Act, 1927, apply.

The total of the amounts calculated in relation to the servant of the Council under Table 1 and Table 2.

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SCHEDULE 1—*continued.*

TABLE 4.

Amount to be paid to AGL Superannuation Fund Trustees in respect of servant of Council to whom Part IIIB of the Local Government and Other Authorities (Superannuation) Act, 1927, applies.

The total of—

- (a) one-half of the amount transferred in respect of the servant of the Council pursuant to section 15K (3) (c) of the Local Government and Other Authorities (Superannuation) Act, 1927, or section 15L (9) (a) of that Act;
- (b) such part of the proceeds of the surrender or cancellation of the insurance policies referred to in sections 15K (3) and 15L (9) of that Act as would be payable if Table 1 applied;
- (c) the amount of interest credited to the account of the servant of the Council in the Benefits Fund under that Act that is attributable to the amounts referred to in paragraphs (a) and (b) of this Table;
- (d) two-fifths of the amount of the contributions received or receivable by the Local Government Superannuation Board in respect of the servant of the Council pursuant to Part IIIB of that Act in respect of the servant of the Council; and
- (e) two-fifths of the amount of any interest credited to the account of the servant of the Council in the Benefits Fund under that Act that is attributable to the contributions referred to in paragraph (d) of this Table,

reduced by an amount equal to two-fifths of the amounts debited to the account of the servant of the Council pursuant to section 15U (2) (a) and (b) of that Act.

TABLE 5.

Amount to be paid to AGL Superannuation Fund Trustees in respect of servant of Council to whom Part IIID of the Local Government and Other Authorities (Superannuation) Act, 1927, applies.

An amount equal to the amount referred to in section 17 (4) (b) in relation to the servant of the Council.
