

Northern Rivers County Council (Undertaking Acquisition) Act 1981 No 95

[1981-95]



New South Wales

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Provisions in force

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Northern Rivers County Council (Undertaking Acquisition) Act 1981 No 95



New South Wales

An Act to make provision with respect to the acquisition by the Northern Rivers County Council of the electricity undertaking in the Shire of Tweed.

1 Name of Act

This Act may be cited as the *Northern Rivers County Council (Undertaking Acquisition) Act 1981*.

2 Interpretation

(1) In this Act:

agreement means the indenture dated 15 July 1958, made between The Southern Electric Authority of Queensland and the Council of the Shire of Tweed, as varied by:

- (a) the assignment dated 27 May 1977, and made between The Southern Electric Authority of Queensland and The South East Queensland Electricity Board,
- (b) section 10 of the *County Districts Reconstitution Act 1979*, and
- (c) any other agreement made between The South East Queensland Electricity Board and the County Council.

appointed day means the day that is 1 month after the day fixed pursuant to the agreement for the acquisition of the undertaking by the County Council.

County Council means the Northern Rivers County Council.

previous service, in relation to a transferred servant, means service during the employment of the transferred servant in the electricity supply industry within the meaning of section 346 of the Queensland Act.

the Queensland Act means the *Electricity Act 1976*, of the Parliament of the State of Queensland, as amended by subsequent Acts of that Parliament.

transferred servant means a person who, pursuant to section 4 (2), is transferred to

the service of the County Council.

undertaking means the electricity undertaking which under the agreement may be acquired by the County Council.

- (2) This Act shall be construed with and as part of the [Local Government Act 1919](#), but this Act has effect notwithstanding anything in the [Local Government Act 1919](#) or the agreement.

3 County Council may act in Queensland to acquire etc undertaking

The County Council shall have, and shall be deemed always to have had, the power to do anything necessary to be done in the State of Queensland (including the purchase of land in that State) for the purposes of acquiring and of controlling and managing the undertaking.

4 Servants may elect to transfer

- (1) The persons who, on the day fixed pursuant to the agreement for the acquisition of the undertaking by the County Council:

(a) are servants of The South East Queensland Electricity Board, and

(b) are wholly or principally employed on or in connection with the undertaking,

may, by a notice in writing served on the County Council before the appointed day, elect to transfer to the service of the County Council.

- (2) A person who elects to transfer to the service of the County Council in accordance with subsection (1) shall, on the appointed day:

(a) be transferred to the service of the County Council,

(b) become a servant of the County Council, and

(c) subject to this Act, be deemed to have been appointed and employed by the County Council.

- (3) A transferred servant shall, on and from the appointed day and until otherwise directed by the County Council, continue to perform the duties which attached to his employment immediately before the appointed day.

5 Remuneration of transferred servants

A transferred servant shall, subject to Part 5 of the [Industrial Arbitration Act 1940](#), be remunerated by the County Council on terms not less advantageous than those on which he was remunerated by The South East Queensland Electricity Board immediately before the appointed day.

6 Mobility of transferred servants

- (1) Subject to subsection (2), a transferred servant may not, without his consent, be required by the County Council to be based, as a servant of the County Council, at a place which is outside the State of Queensland and outside the Shire of Tweed.
- (2) Where a transferred servant has once given an unconditional consent for the purposes of subsection (1), that subsection ceases to apply to him.

7 Redundancy of transferred servants

The employment of a transferred servant may not be terminated by the County Council on the ground of redundancy arising from the acquisition of the undertaking.

8 Awards and agreements relating to transferred servants

Subject to this Act, where any condition of employment of any transferred servant is, immediately before the appointed day, regulated by an award or industrial agreement (whether under the law of the State of New South Wales or not), the condition shall continue to be so regulated until it is varied or altered by an award that is made by a competent tribunal and that binds the County Council or by an industrial agreement to which the County Council is a party.

9 Previous service and accrued leave of transferred servants

- (1) The period of previous service of a transferred servant shall, upon his transfer to the service of the County Council, be counted as service with the County Council 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 County Council shall not affect any right to leave (including long service leave) of absence accrued prior to the appointed day.

10 Gratuity for transferred servants

- (1) If:
 - (a) the employment of any transferred servant is terminated by the County Council, otherwise than for misconduct, within the period of 2 years after the appointed day, or
 - (b) any transferred servant resigns his position with the County Council within the period commencing 1 year after, and ending 2 years after, the appointed day and the County Council has prior to the date on which his resignation was tendered failed to offer him in writing continuous employment at a salary or wage at least equal to that received by him immediately prior to the appointed day, and that

failure is not occasioned by his misconduct,

the County Council shall grant to the transferred servant a gratuity equivalent to the amount of 4 weeks' salary or wages for each year of his previous service and of his service with the County Council, such salary or wages being reckoned on the average of the weekly salary or wages paid to that servant during the 52 weeks immediately preceding the appointed day.

- (2) Nothing in subsection (1) shall require the County Council to offer any transferred servant employment beyond the date fixed for retirement by the *Local Government Act 1919*.
- (3) The amount of any gratuity payable under subsection (1) to a transferred servant shall not in any case exceed an amount being the equivalent of the salary and wages (reckoned on the average of the weekly salary or wages paid to the transferred servant during the 52 weeks immediately preceding the appointed day) which the transferred servant would have received if he had continued in his previous service until the age of 65 years.
- (4) This section shall not apply to a transferred servant unless he has been employed continuously in his previous service for a period of not less than 1 year immediately preceding the appointed day.
- (5) Nothing in this section affects the operation of sections 6 and 7.

11 Compensation payable for termination under previous service

- (1) Where:
 - (a) a transferred servant was, in respect of his previous service, engaged under a contract of service which provides for payment of compensation in the event of the termination of his employment, and
 - (b) the employment of the transferred servant is, before the expiration of the period of the contract, terminated by the County Council otherwise than in accordance with the terms of the contract,

the County Council shall pay to the transferred servant the amount of compensation provided for in the contract, and if the amount of the compensation is less than the amount that would be payable to the transferred servant under section 10, shall also pay to the transferred servant a gratuity equal to the difference.

- (2) A transferred servant who is entitled to receive any compensation or compensation and gratuity under subsection (1) shall not be entitled to receive a gratuity under section 10.

12 Transferred servants to be notified of provisions relating to superannuation

- (1) The Local Government Superannuation Board shall, as soon as practicable after the date of assent to this Act and before the appointed day, inform each person who, in its opinion, is wholly or principally employed by The South East Queensland Electricity Board on or in connection with the undertaking of his entitlements under section 14 should he elect to come under the provisions of Part 3D of the *Local Government and Other Authorities (Superannuation) Act 1927*.
- (2) Nothing done or omitted to be done pursuant to subsection (1) prejudices any determination to be made by the Local Government Superannuation Board under section 14.

13 Transferred servants electing to remain in Queensland superannuation scheme

Where a transferred servant elects, pursuant to clause 12A of the Fifth Schedule to the Queensland Act, to continue to contribute to the Queensland Electricity Supply Industry Employees' Superannuation Scheme or to remain a member of a fund referred to in that Schedule:

- (a) the County Council shall, while the transferred servant remains in its employ and so far as the law of the State of Queensland permits, comply in all respects with the obligations of an employer under the rules of and the terms and conditions relating to that Scheme or that fund, as the case may be, and
- (b) the *Local Government and Other Authorities (Superannuation) Act 1927* does not apply to or in respect of the transferred servant while he remains in the employ of the County Council.

14 Transferred servants not electing to remain in Queensland superannuation scheme

- (1) Where a transferred servant, within 1 month after the appointed day or within such further period as the Local Government Superannuation Board may allow:
 - (a) makes an election under section 15AN (2) of the *Local Government and Other Authorities (Superannuation) Act 1927* to come under the provisions of Part 3D of that Act, and
 - (b) pays to, or directs the Queensland Electricity Supply Industry Superannuation Board to pay to, the Local Government Superannuation Board the total amount that is paid to him, or payable on his account, by reason of his withdrawal from the Queensland Electricity Supply Industry Employees' Superannuation Scheme or from a fund referred to in the Fifth Schedule to the Queensland Act,

the provisions of this section apply to and in respect of the transferred servant notwithstanding anything to the contrary in the *Local Government and Other Authorities (Superannuation) Act 1927*.

- (2) A transferred servant referred to in subsection (1) becomes a contributor to the Local Government Pension Fund on a day to be determined by the Local Government Superannuation Board.
- (3) The Local Government Superannuation Board may, under section 15AN (8) of the *Local Government and Other Authorities (Superannuation) Act 1927*, determine that a transferred servant referred to in subsection (1) is:
 - (a) qualified for full additional benefits,
 - (b) qualified for partial, but not full, additional benefits, or
 - (c) not qualified for either such benefits,after considering any details of the medical and personal history of the transferred servant that are supplied to it by the Queensland Electricity Supply Industry Superannuation Board.
- (4) The amount paid by, or in pursuance of a direction given by, a transferred servant under subsection (1) (b) shall be credited to the Local Government Pension Fund in the following manner:
 - (a) that part of the amount that the Local Government Superannuation Board determines to be the previous contributions, and any interest thereon, of the transferred servant shall be credited to the transferred servant's account in that Fund,
 - (b) that part of the amount that the Local Government Superannuation Board determines to be the previous contributions, and any interest thereon, of the transferred servant's employer shall be credited to the general reserve in that Fund.
- (5) A transferred servant referred to in subsection (1) shall be deemed to have accrued under section 15BE of the *Local Government and Other Authorities (Superannuation) Act 1927* such additional number of pension points as the Local Government Superannuation Board determines having regard to the amount paid by, or in pursuance of a direction given by, the transferred servant under subsection (1) (b).
- (6) A transferred servant referred to in subsection (1) shall, for the purposes of section 15AU (1) (b) of the *Local Government and Other Authorities (Superannuation) Act 1927*, be deemed to be a contributor referred to in that paragraph.
- (7) The previous service of a transferred servant referred to in subsection (1), or such period thereof as the Local Government Superannuation Board determines, shall be deemed to be approved service for the purposes of such of the provisions of Part 3D of the *Local Government and Other Authorities (Superannuation) Act 1927* as that Board determines.

- (8) The County Council and the Local Government Superannuation Board may make such agreements with the Queensland Electricity Supply Industry Superannuation Board as are necessary to facilitate a transferred servant's election to come under the provisions of Part 3D of the *Local Government and Other Authorities (Superannuation) Act 1927*.
- (9) Without affecting the generality of section 16, the Governor may make such regulations as he considers necessary to facilitate a transferred servant's election to come under the provisions of Part 3D of the *Local Government and Other Authorities (Superannuation) Act 1927*.

15 Staff committee

- (1) The Minister shall appoint a staff committee to report to the County Council on any matter arising from the operation of this Act in relation to servants of the County Council.
- (2) For the purposes of subsection (1), a staff committee shall comprise:
- (a) a chairman nominated by the Minister,
 - (b) 2 persons nominated by the County Council, and
 - (c) 2 persons nominated by the Minister, after consulting such persons as he thinks fit, to represent servants of the County Council.
- (3) The Minister may constitute a staff committee under this section by appointing different persons according to the subject-matter with which it is at any time, or from time to time, required to deal.

16 Regulations

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.