

# Electricity Commission (Balmain Electric Light Company Purchase) Act 1950 No 40

[1950-40]



New South Wales

## Status Information

### Currency of version

Repealed version for 3 December 1999 to 30 June 2003 (accessed 23 November 2024 at 6:24)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The Act was repealed by the [Pacific Power \(Dissolution\) Act 2003 No 17](#), Sch 2 with effect from 1.7.2003.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Electricity Commission (Balmain Electric Light Company Purchase) Act 1950 No 40



New South Wales

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.

## 1 Name of Act and commencement

- (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](#).

## 2 Definitions

- (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.

### **3 Valuation of undertaking of Balmain Electric Light Company**

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 is hereby determined at the amount of two million four hundred thousand pounds.

### **4 Vesting of shares in the Commission**

- (1) Upon the first day of January, one thousand nine hundred and fifty-seven (which day is in this Act hereinafter referred to as the ***appointed day***) all the issued shares of the two companies shall vest in and belong to the Commission.
- (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 specified in 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.

### **5 Purchase price to be paid to shareholders**

- (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 five and one-quarter 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) The provisions of Division 2 of Part 5 of 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) 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.

## **6 Dividends**

- (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.

## **7 Control and direction by Commission**

- (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.
- (2) (Repealed)

## **8 Dissolution of the two companies on the appointed day**

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

## **9 Rights, liabilities and property**

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

- (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) 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.

## 10 Use of services of employees etc

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.

## 11 Transfer of officers etc to Commission

- (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.

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.

Provided that where, on the appointed day, there is in force an award or industrial agreement which is binding upon the Commission and which regulates the conditions of employment of its servants in any status, grade or classification, then in the case of any transferred servant who upon transfer is appointed or employed in any such status, grade or classification, his conditions of employment shall, on and from the appointed day, be regulated by that award or industrial agreement.

- (5)
  - (a) Notwithstanding any of the provisions of this section Harold Graydon Conde, Esquire, shall not thereby be transferred to the service of or become or be a servant of the Commission.



- (b) Notwithstanding any of the provisions of section nine of this Act, the contract of employment between the two companies or either of them and Harold Graydon Conde, Esquire, shall terminate on the appointed day and no compensation shall be paid or be payable in respect of the determination of such contract of employment.

## **12 Balmain Electric Light Company—Staff Pension Trust Deed**

- (1) In this section **Staff Pension Trust Deed** means the Trust Deed made on the twenty-second day of October, one thousand nine hundred and fifty-six between the Electric Light and Power Supply Corporation Limited of the first part, William James Bradley and others (thereinafter called **the Board of Directors**) of the second part, William James Bradley and others (thereinafter referred to as **the Former Trustees**) of the third part, Leonard Kerr Baxter and others (thereinafter call **the Officers**) of the fourth part, The Electricity Commission of New South Wales of the fifth part, and Harold Graydon Conde and others (the trustees for the time being of the deed) of the sixth part.
- (2) Each of the parties to the Staff Pension Trust Deed is hereby authorised and empowered and shall be deemed always to have been authorised and empowered to enter into that deed and to observe and perform the covenants conditions and agreements which by the terms of that deed are to be observed and performed by him or it and to exercise and enforce the rights and powers which by the terms of that deed are conferred upon him or it.
- (3) The rights of the parties to the Staff Pension Trust Deed of the fourth part and the obligations of the Commission in relation to superannuation or the provision of allowances pensions gratuities or annuities for their benefit as servants or ex-servants of the Commission or in the case of their death for the benefit of other persons shall be regulated and determined solely by the provisions of that deed and the provisions of any other superannuation or retirement benefit scheme shall not apply to them and in particular neither the provisions of the [Superannuation Act 1916](#), as amended by subsequent Acts, nor the provisions of the [Local Government and Other Authorities \(Superannuation\) Act 1927](#), as amended by subsequent Acts, shall apply to them as servants of the Commission.
- (4) The provisions of the [Local Government and Other Authorities \(Superannuation\) Act 1927](#), as amended by subsequent Acts, shall not apply to any transferred servant who was a party to the Staff Pension 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 (thereinafter 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, and who attained the age of sixty years prior to the appointed day.

**13 (Repealed)**