

Electricity Commission (Transfer of Reticulation Works) Act 1957 No 43

[1957-43]



New South Wales

Status Information

Currency of version

Repealed version for 3 December 1999 to 30 June 2003 (accessed 24 December 2024 at 5:20)

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The Act was repealed by the [Pacific Power \(Dissolution\) Act 2003 No 17](#), Sch 2 with effect from 1.7.2003.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

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File last modified 1 July 2003

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Electricity Commission (Transfer of Reticulation Works) Act 1957 No 43



New South Wales

An Act to transfer certain works of electricity reticulation to the Sydney County Council and the Prospect County Council; for this and other purposes to amend the *Electricity Commission Act 1950*, the *Gas and Electricity Act 1935*, and certain other Acts in certain respects; and for purposes connected therewith.

1 Name of Act

This Act may be cited as the *Electricity Commission (Transfer of Reticulation Works) Act 1957*.

2 Definitions

In this Act unless the context or subject matter otherwise indicates or requires:

Appointed day means a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Commission means The Electricity Commission of New South Wales.

County Councils means the Sydney County Council and the Prospect County Council.

3 (Repealed)

4 Transfer of certain reticulation works to the Sydney County Council

Upon and after the appointed day the works of electricity reticulation which immediately before the appointed day were operated by the Commission for the distribution and supply of electricity to persons for use within the Municipality of Ashfield, that part of the City of Sydney which immediately before the first day of January, one thousand nine hundred and forty-nine, was included in the area as then constituted of the Municipality of Newtown, those parts of the Municipality of Leichhardt which immediately before the first day of January, one thousand nine hundred and forty-nine, were included in the areas as then constituted of the Municipality of Balmain and the Municipality of Leichhardt and that part of the Municipality of Marrickville which immediately before the first day of January, one thousand nine hundred and forty-nine, was included in the area as then constituted of

the Municipality of Petersham shall be transferred from the Commission to the Sydney County Council under and in accordance with the provisions of this Act.

5 Transfer of certain reticulation works to the Prospect County Council

Upon and after the appointed day the works of electricity reticulation which immediately before the appointed day were operated by the Commission for the distribution and supply of electricity to persons for use within those parts of the City of Parramatta which immediately before the first day of January, one thousand nine hundred and forty-nine, were included in the areas as then constituted of the City of Parramatta, the Municipality of Granville and the Municipality of Dundas, shall be transferred from the Commission to the Prospect County Council under and in accordance with the provisions of this Act.

6 Transfer of assets etc

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

- (a) All real and personal property (other than money or securities for money) 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 the Commission and is held or used by it for or in connection with the reticulation works transferred by this Act to the Sydney County Council and the Prospect County Council shall vest in and belong to the Sydney County Council and the Prospect County Council respectively.
- (b) All contracts, agreements and undertakings entered into or deemed to have been entered into with, and all securities lawfully given or deemed to have been given to or by the Commission for or in connection with the reticulation works transferred by this Act to the Sydney County Council and the Prospect County Council 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 Sydney County Council and the Prospect County Council respectively.
- (c) All moneys, liquidated and unliquidated claims which immediately before the appointed day are payable to or recoverable by the Commission in relation to the reticulation works transferred by this Act to the Sydney County Council and the Prospect County Council shall be moneys, liquidated and unliquidated claims payable to or recoverable by the Sydney County Council and the Prospect County Council respectively.
- (d) All suits, actions and proceedings pending immediately before the appointed day at the suit of the Commission in respect of any matter or claim which relates to the reticulation works transferred by this Act to the Sydney County Council and the Prospect County Council shall be suits, actions and proceedings pending at the suit of the Sydney County Council and the Prospect County Council respectively.
- (e) The Sydney County Council and the Prospect County Council 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 the Commission might have done but for this Act.

- (f) The Sydney County Council and the Prospect County Council may enforce and realise any security or charge existing immediately before the appointed day in favour of the Commission in respect of the reticulation works transferred by this Act to the Sydney County Council and the Prospect County Council respectively as if such security or charge were existing in favour of the Sydney County Council and the Prospect County Council respectively.
- (g) All debts due and moneys payable by the Commission immediately before the appointed day under any contract, agreement or undertaking referred to in this section, and all claims liquidated and unliquidated recoverable against the Commission immediately before such day under any such contract, agreement or undertaking shall be debts due and moneys payable by and claims recoverable against the Sydney County Council or the Prospect County Council according as to whether the contract, agreement or undertaking related to the reticulation works transferred by section four or section five of this Act.
- (h) No attornment by a lessee of any land vested in the Sydney County Council or the Prospect County Council by this section shall be necessary.

7 Division of assets and liabilities

- (1) The Commission and the Sydney County Council and the Prospect County Council shall as soon as practicable after the day upon which the Assent of Her Majesty to this Act has been signified arrange and agree upon a division of the assets, debts and liabilities of the Commission in respect of the reticulation works transferred by this Act to the Sydney County Council and the Prospect County Council, so that the assets, debts and liabilities to be so transferred shall be defined.
- (2) For the purposes referred to in subsection one of this section two joint committees shall be constituted and shall be called respectively the "Technical Joint Committee" and the "Finance Joint Committee".
- (3)
 - (a) The Technical Joint Committee shall consist of five members as follows:
 - (i) the chairman, who shall be appointed by the Minister from a panel of names of engineers prepared by the President of the Institution of Engineers, Australia, and who shall convene all meetings of the Technical Joint Committee and preside at such meetings,
 - (ii) one member who shall be appointed by the Sydney County Council to be the representative of that Council,

- (iii) one member who shall be appointed by the Prospect County Council to be the representative of that Council,
 - (iv) two members who shall be appointed by the Commission to be representatives of the Commission.
 - (b) In the case of any difference between the representatives of the County Councils and the representatives of the Commission, such difference shall be determined as the chairman shall direct.
 - (c) The functions of the Technical Joint Committee shall be:
 - (i) to determine what assets, being land, works, motor vehicles, furniture, fittings and stores of the Commission, are to be transferred by this Act to the County Councils,
 - (ii) to determine what books, documents, records and papers held by the Commission, being books, documents, records and papers which relate to the assets referred to in subparagraph (i) of this paragraph, and which are necessary or expedient in order to enable the County Councils to continue the distribution and supply of electricity to persons for use from the land and works of the Commission, are to be handed over to the County Councils,
 - (iii) to determine whether any land or works of the Commission not transferred by this Act to the County Councils shall be made available by the Commission for use by the County Councils and the terms and conditions of such user,
 - (iv) to determine whether any land or works of the Commission not transferred by this Act to the County Councils shall be made available by the Commission for joint use by the Commission and the County Councils and the terms and conditions of such user.
 - (d) Where a determination has been made under this subsection on the matters referred to in paragraph (c) of this subsection (whether by agreement, or in the case of any difference, as directed by the chairman) such determination shall be binding on the Commission and the County Councils and shall be final and conclusive.
 - (e) A sufficient record of any such determination shall be filed in the offices of the County Councils and the Commission and a copy transmitted to the Minister for record purposes.
- (4)
- (a) The Finance Joint Committee shall consist of five members as follows:
 - (i) the Auditor-General (or his nominee) who shall be chairman and who shall convene all meetings of the Finance Joint Committee and preside at such

- meetings,
- (ii) one member who shall be appointed by the Sydney County Council to be the representative of that Council,
 - (iii) one member who shall be appointed by the Prospect County Council to be the representative of that Council,
 - (iv) two members who shall be appointed by the Commission to be representatives of the Commission.
- (b) In the case of any difference between the representatives of the County Councils and the representatives of the Commission, such difference shall be determined as the Auditor-General shall direct.
- (c) The functions of the Finance Joint Committee shall be:
- (i) to determine in accordance with subsection five of this section the purchase price of the reticulation works to be paid by the County Councils to the Commission,
 - (ii) to determine the amount to be credited to the County Councils for:
 - (a) liabilities to be assumed by the County Councils in respect of allowances upon retirement or death of servants of the Commission transferred by this Act to the service of the County Councils,
 - (b) liabilities to be assumed by the County Councils in respect of accrued leave due to servants of the Commission transferred by this Act to the service of the County Councils,
 - (c) liabilities to be assumed by the County Councils in respect of customers' deposits and accrued interest thereon,
 - (iii) to determine what books, documents, records and papers, in addition to those referred to in subparagraph (ii) of paragraph (c) of subsection three of this section are to be handed over to the County Councils,
 - (iv) to determine the amount to be debited to the County Councils in respect of electricity, goods and services supplied by the Commission prior to the appointed day to persons for use in the areas referred to in sections four and five of this Act for which payment has not been made to the Commission by such persons as at the appointed day,
 - (v) to determine the value as at the appointed day of motor vehicles, furniture, fittings and stores transferred to the County Councils.
- (d) Where a determinations has been made under this subsection on the matters

referred to in paragraph (c) of this subsection (whether by agreement, or in the case of any difference, as directed by the Auditor-General) such determination shall be binding on the Commission and the County Councils and shall be final and conclusive.

(e) A sufficient record of any such determination shall be filed in the offices of the County Councils and the Commission and a copy transmitted to the Minister for record purposes.

(5) The purchase price to be paid by the County Councils to the Commission for the reticulation works transferred by sections four and five of this Act shall, for the purposes of subparagraph (i) of paragraph (c) of subsection four of this section, and subject to any reduction or increase as provided by subsection six of this section, be determined at a sum comprising:

- (a) the amount which bears to the total expenditure incurred by the Commission in relation to the acquisition as a going concern of the Electric Light and Power Supply Corporation Limited and the Parramatta and Granville Electric Supply Company Limited the same proportion that the book value as at the thirty-first day of October, one thousand nine hundred and fifty, of the assets (other than money, securities for money, book debts, motor vehicles, furniture, fittings and stores) held or used by such companies, solely for reticulation purposes on that date within the area now included in the Sydney County District and the Prospect County District, bears to the book value on that date of all assets (other than money, securities for money, book debts, motor vehicles, furniture, fittings, and stores) held or used by such companies on that date for the generation, transmission, distribution, supply and use of electricity,
- (b) the amount being the book value as at the appointed day, of all works of reticulation constructed or carried out by the Electric Light and Power Supply Corporation Limited and the Parramatta and Granville Electric Supply Company Limited and by the Commission within the Sydney County District and the Prospect County District subsequent to the thirty-first day of October, one thousand nine hundred and fifty and before the appointed day, and
- (c) the amount being the book value as at the appointed day of motor vehicles, furniture, fittings and stores transferred by this Act to the County Councils.

In this subsection the expression “the total expenditure incurred by the Commission in relation to the acquisition as a going concern of the Electric Light and Power Supply Corporation Limited and the Parramatta and Granville Electric Supply Company Limited” means the sum of two million four hundred thousand pounds together with the value of the shares (as ascertained under subsection three of section four of the *Electricity Commission (Balmain Electric Light Company Purchase) Act 1950-1956*) in the Parramatta and Granville Electric Supply Company Limited held at the thirty-first

day of December, one thousand nine hundred and fifty-six, by shareholders other than the Electric Light and Power Supply Corporation Limited and the amount by which the liabilities assumed by the Commission from the Electric Light and Power Supply Corporation Limited and the Parramatta and Granville Electric Supply Company Limited, in pursuance of the provisions of section nine of the *Electricity Commission (Balmain Electric Light Company Purchase) Act 1950-1956*, exceeded the moneys, securities for money, book debts and stocks on hand of the Electric Light and Power Supply Corporation Limited and the Parramatta and Granville Electric Supply Company Limited at the thirty-first day of October, one thousand nine hundred and fifty.

- (6) The purchase price as determined under subsection five of this section shall be reduced or increased as the case may require by the amounts referred to in subparagraphs (ii) and (iv) of paragraph (c) of subsection four of this section.
- (7) The expenses of the Technical Joint Committee and Finance Joint Committee shall be charged as to one half to the Commission and as to the other half to the County Councils in equal shares.

8 Apportionment of transferred assets and liabilities between councils

- (1) The Sydney County Council and the Prospect County Council shall as soon as practicable after the determinations referred to in section seven of this Act have been made arrange and agree upon an apportionment of the assets, debts and liabilities transferred to them under this Act, so that the respective assets, debts and liabilities to be vested in and assumed by each such Council shall be defined.
- (2) For the purposes referred to in subsection one of this section two joint committees shall be constituted and shall be called respectively "the Joint Council Technical Committee" and "the Joint Council Finance Committee".
- (3)
 - (a) The Joint Council Technical Committee shall consist of three members as follows:
 - (i) the chairman, who shall be appointed by the Minister from a panel of names of engineers prepared by the President of the Institution of Engineers, Australia, and who shall convene all meetings of the Joint Council Technical Committee and preside at such meetings,
 - (ii) one member who shall be appointed by the Sydney County Council to be the representative of that Council,
 - (iii) one member who shall be appointed by the Prospect County Council to be the representative of that Council.
 - (b) In the case of any difference between the representatives of the County Councils, such difference shall be determined as the chairman shall direct.

- (c) The functions of the Joint Council Technical Committee shall be to determine the apportionment between the County Councils of the assets, being land, works, motor vehicles, furniture, fittings and stores, and books, documents, records and papers transferred to the County Councils under this Act.
- (d) Where a determination has been made under this subsection on the matters referred to in paragraph (c) of this subsection (whether by agreement, or in the case of any difference, as directed by the chairman) such determination shall be binding on each such County Council and shall be final and conclusive.
- (e) A sufficient record of any such determination shall be filed in the offices of the County Councils and the Commission and a copy transmitted to the Minister for record purposes.

(4)

- (a) The Joint Council Finance Committee shall consist of three members as follows:
 - (i) the Auditor-General (or his nominee) who shall be chairman and who shall convene all meetings of the Joint Council Finance Committee and preside at such meetings,
 - (ii) one member who shall be appointed by the Sydney County Council to be the representative of that Council,
 - (iii) one member who shall be appointed by the Prospect County Council to be the representative of that Council.
- (b) In the case of any difference between the representatives of the County Councils, such difference shall be determined as the Auditor-General shall direct.
- (c) The functions of the Joint Council Finance Committee shall be to determine the apportionment between the County Councils of the purchase price of the reticulation works transferred to the County Councils as determined under section seven of this Act.

In making this apportionment the Joint Council Finance Committee shall have regard to the assets, being land, works, motor vehicles, furniture, fittings and stores, and books, documents, records and papers which are transferred to each of the County Councils, to the determinations made under paragraph (c) of subsection four of section seven of this Act and to the depreciation which might reasonably be allowed in respect of any assets so transferred.

- (d) Where a determination has been made under this subsection on the matters referred to in paragraph (c) of this subsection (whether by agreement, or in the case of any difference, as directed by the chairman) such determination shall be binding on each County Council and shall be final and conclusive.

(e) A sufficient record of any such determination shall be filed in the offices of the County Councils and the Commission, and a copy thereof shall be transmitted to the Minister for record purposes.

(5) The expenses of the Joint Council Technical Committee and the Joint Council Finance Committee shall be charged in equal shares to the County Councils.

9 Payment of purchase price

(1) The purchase price to be paid by the Sydney County Council and the Prospect county council as aforesaid shall be deemed to be an ordinary loan raised by the Sydney County Council and the Prospect County Council respectively under the provisions of the *Local Government Act 1919*, as amended by subsequent Acts, in respect whereof there shall, as soon as practicable after the appointed day, be executed by the Sydney County Council and the Prospect County Council respectively in favour of the Commission mortgage-deeds in the form prescribed under that Act, as so amended, containing terms and conditions for its repayment as set forth in subsections four and five of this section.

(2) The Commission is hereby authorised to accept payment of the purchase price in the manner referred to in subsection one of this section.

(3) The provisions of sections one hundred and eighty-two, one hundred and eighty-eight and one hundred and ninety-three to one hundred and ninety-six, both sections inclusive, of the *Local Government Act 1919*, as amended by subsequent Acts, shall apply to and in respect of such loan.

(4) The purchase price together with interest thereon at the rate of five pounds five shillings per centum per annum from the appointed day shall be paid:

(a) as to so much of the purchase price as is related to the amount referred to in paragraph (a) of subsection five of section seven of this Act by equal and consecutive half-yearly instalments of principal and interest combined not later than the thirty-first day of October, one thousand nine hundred and sixty-five,

(b) as to the balance of such purchase price by equal and consecutive half-yearly instalments of principal and interest combined within such period and in such manner as may be directed by the Governor and notified by proclamation published in the Gazette.

(5)

(a) If any such instalment is not paid by the County Council liable therefor on or before the due date for payment thereof there shall be added thereto a sum equal to ten per centum thereof and such instalment together with such additional sum may be recovered by the Commission.

- (b) The Commission may on cause shown remit the whole or any part of such additional sum.

10 Transfer of servants

- (1) Upon and after the appointed day the servants of the Commission referred to in subsection three of this section shall become and be servants of the County Councils. The servants who are to become and be servants of the Sydney County Council and the servants who are to become and be servants of the Prospect County Council shall be such servants as the Governor may direct.
- (2) For the purposes of this section there shall be constituted a Staff Joint Committee which shall consist of five members, as follows:
 - (a) the chairman, who shall be nominated by the Minister and who shall convene all meetings of the joint committee and preside at such meetings,
 - (b) one member who shall be appointed by the Sydney County Council to be the representative of that Council,
 - (c) one member who shall be appointed by the Prospect County Council to be the representative of that Council,
 - (d) two members who shall be appointed by the Commission to be representatives of the Commission.
- (3) The Staff Joint Committee shall determine which servants of the Commission should be transferred to the service of the County Councils.
- (4) In the case of any difference between the representatives of the County Councils and the representatives of the Commission such difference shall be determined as the chairman of the Staff Joint Committee shall direct.
- (5) The expenses of the Staff Joint Committee shall be charged as to one half to the Commission and as to the other half to the County Councils in equal shares.
- (6)
 - (a) The Sydney County Council and the Prospect County Council shall confer with one another and agree upon an arrangement as to the transfer to their service of the servants referred to in subsection three of this section.
 - (b) Where the County Councils have not so agreed within a period of fourteen days from the making of the determination referred to in subsection three of this section there shall be constituted a Joint Council Staff Committee which shall consist of three members as follows:
 - (i) the chairman who shall be nominated by the Minister and who shall convene all

- meetings of the Joint Council Staff Committee and preside at such meetings,
- (ii) one member who shall be appointed by the Sydney County Council to be the representative of that Council,
 - (iii) one member who shall be appointed by the Prospect County Council to be the representative of that Council.
- (c) The Joint Council Staff Committee shall consider and make recommendations to the Governor as to which of the servants referred to in subsection three of this section should be transferred to the service of each County Council.
- (d) In the case of any difference between the representatives of the County Councils such difference shall be determined as the chairman of the Joint Council Staff Committee shall direct.
- (e) The expenses of the Joint Council Staff Committee shall be charged in equal shares to the County Councils.

11 Transferred servants

- (1) This section shall apply to and in respect of every person referred to in subsection one of section ten of this Act who becomes a servant of the Sydney County Council or the Prospect County Council and shall so apply to him on and after the date upon which he becomes such servant.
- (2) The servant shall be deemed to have been appointed and employed under the provisions of the *Local Government Act 1919*, as amended by subsequent Acts, by the County Council of which he becomes a servant as aforesaid, and shall be paid salary or wages at a rate not less than the rate at which he was employed immediately before such date until such salary or wages is or are varied or altered by the said County Council: Provided that such salary or wages shall not be reduced for a period of at least two years from such date except to the extent necessary to give effect to any fluctuation in the basic wage for adult males or the basic wage for adult females as defined in the *Industrial Arbitration Act 1940*, as amended by subsequent Acts.
- (3) The servant shall have and enjoy the same rights and privileges, if any, with regard to annual, sick, deferred and extended leave, as if he had continued to be a servant of the Commission. And for the purposes of this subsection service with the Electric Light and Power Supply Corporation Limited and the Parramatta and Granville Electric Supply Company Limited or either of those companies and the County Council of which he becomes a servant as aforesaid shall be deemed to be service with the Commission.
- (4)
 - (a) The servant shall be entitled to retain the rights and privileges, if any, in relation

to payments on retirement or death to which he would have been entitled if he had continued to be a servant of the Commission.

- (b) Without prejudice to the generality of paragraph (a) of this subsection:
- (i) where any servant was immediately before he became such a servant an officer within the meaning of the Staff Pension Trust Deed referred to in section twelve of the *Electricity Commission (Balmain Electric Light Company Purchase) Act 1950-1956*, the provisions of that Deed shall continue to apply to such servant in all respects as if the servant had during the period of his service with the Sydney County Council or the Prospect County Council remained an officer of the Commission and the Sydney County Council or the Prospect County Council, as the case may require, shall in respect of such servant make such deductions from the salary of the servant and such payments to the trustees of the said Deed as the Commission would have made had the servant remained an officer of the Commission,
 - (ii) where any servant was immediately before he became such a servant an employee within the meaning of the *Superannuation Act 1916*, as amended by subsequent Acts, he shall retain any rights which, on the date upon which he became such a servant, have accrued or are accruing to him as such an employee and shall continue to contribute to any fund or account and shall be entitled to receive any payment, pension or gratuity as if he had continued to be an employee within the meaning of the said Act, as so amended, and the County Council of which he became such a servant shall in respect of such servant pay to the State Superannuation Board such contributions and payments as would have been payable to the Commission if such servant had remained a servant of the Commission and had been paid salary or wages at a rate paid to him by the County Council of which he became such a servant.
 - (iii) where any servant was immediately before he became such a servant a contributor to the Government Railways Superannuation Account established under Part 9 of the *Government Railways Act 1912*, as amended by subsequent Acts, he shall continue to contribute to that Account and shall be paid from such Account any pension, gratuity, allowance or other benefit which he would have received from that Account had he continued in the service of the Commission and been paid salary or wages at the rate paid to him by the County Council of which he became such a servant; and any pension, gratuity, allowance or other benefit payable to any such contributor or other person in respect of such a contributor's service, shall become due and payable in the same manner as though the contributor had continued in the service of the Commission; and the Sydney County Council or the Prospect County Council, as the case may require, shall cause proper deductions to be made from the salary or wages of any such contributor as aforesaid and pay all such amounts to the credit of the Government Railways Superannuation Account; and the

Sydney County Council and the Prospect County Council shall contribute their due proportions of any amounts necessary to supplement the revenue of the Government Railways Superannuation Account to enable the claims thereon to be met in any year; and such amount, if not agreed upon by the Sydney County Council or the Prospect County Council, as the case may be, and the Commissioner for Railways, shall be determined by the Governor.

- (c) For the purposes of subparagraph (ii) and (iii) of paragraph (b) of this subsection service with the Commission of any servant to whom this section applies shall be deemed to be service with the County Council of which he became such a servant.
- (5) The servant shall not be entitled to claim benefits under this Act as well as under any other Act, ordinance, regulation or resolution in respect of the same period of service: Provided that the provisions of the *Local Government (Superannuation) Act 1927*, as amended by subsequent Acts, shall not apply to any servant to whom subparagraph (i) or (ii) of paragraph (b) of subsection four of this section applies.
- (6) Where any condition of employment of the servant was, immediately before he became a servant of the Sydney County Council or the Prospect County Council, regulated by an award or industrial agreement such condition shall continue to be so regulated until an award regulating such condition and binding the County Council of which he became a servant is made by a competent tribunal or such condition is regulated by an industrial agreement to which the County Council of which he became a servant is a party.
- (7) The period of service of a servant with the Electric Light and Power Supply Corporation Limited and the Parramatta and Granville Electric Supply Company Limited or either of them and the Commission shall be counted as service with the County Council of which he became a servant for the purposes of the *Local Government Act 1919*, as amended by subsequent Acts, or any other 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*, as amended by subsequent Acts.

12 (Repealed)