

GAS AND ELECTRICITY (AMENDMENT) ACT.

Act No. 21, 1955.

An Act to make further provision in relation to the standard rates of dividend applicable to certain gas companies and to the issue of additional shares by such companies; for these and other purposes to amend the Gas and Electricity Act, 1935, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 26th April, 1955.]

Elizabeth II,
No. 21, 1955.

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:—

1. (1) This Act may be cited as the "Gas and Electricity (Amendment) Act, 1955."

Short title,
citation and
construc-
tion.

(2) The Gas and Electricity Act, 1935, as amended by subsequent Acts and by this Act, may be cited as the Gas and Electricity Act, 1935-1955.

(3) The Gas and Electricity Act, 1935, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

2. Part I of the Principal Act is amended by omitting from the definition of "Gas unit" in section three the word "gross".

Amendment
of Act No.
42, 1935.
Part I—
Preliminary.
Sec. 3.
(Definitions.)

3.

No. 21, 1955. 3. Part III of the Principal Act is amended—

Amendment
of Act No.
42, 1935.
Part III—
Regulation of
Gas Companies.

Sec. 6.
(Standard
rates of
dividend.)

(a) by omitting subsection one of section six and by inserting in lieu thereof the following subsections:—

(1) (a) The profits of a gas company available for distribution among the holders of its share capital in any year shall not, except as hereinafter provided, exceed the following rates (in this Act referred to as the standard rates of dividend), that is to say—

on the ordinary share capital of the company—in respect of every one hundred pounds actually paid up or issued as paid up of that capital, a rate being two pounds in excess of the effective annual rate of interest payable in respect of the cash or conversion loan, not being a loan for a term of less than ten years nor a compulsory loan nor a tax free loan, last issued by the Commonwealth of Australia before the declaration of the dividend to be paid on that capital by the company in that year; and

on the preference capital of the company—the rate of five pounds ten shillings in respect of every one hundred pounds actually paid up or issued as paid up of that capital.

(b) In determining the effective annual rate of interest payable in respect of any such cash or conversion loan for the purpose of ascertaining the standard rate of dividend on the ordinary share capital of a gas company, there shall be taken into account any discount given or premium payable in respect of any subscription to the loan and any rebate of taxation

taxation in excess of that allowed, at the commencement of the Gas and Electricity (Amendment) Act, 1955, by section 160_{AB} of the Income Tax Assessment Act, 1936, as amended by subsequent Acts, of the Parliament of the Commonwealth. No. 21, 1955.

(1A) (a) Where a gas company fails in any year after the commencement of the Gas and Electricity (Amendment) Act, 1955, to pay the standard rate of dividend on its ordinary share capital, the profits of the company available for distribution among the holders of that capital in any subsequent year may exceed the standard rate payable in that subsequent year but not by more than one pound in respect of every one hundred pounds actually paid up or issued as paid up of that capital.

Nothing in the foregoing provisions of this paragraph authorises the company to declare in any year a rate of dividend on its ordinary share capital such that the aggregate of—

- (i) the total amount of dividends payable pursuant to that declaration; and
- (ii) the total amount of all dividends paid on its ordinary share capital after the commencement of the Gas and Electricity (Amendment) Act, 1955, but before that declaration,

would exceed the aggregate of—

- (iii) the total amount of dividends that would be payable pursuant to that declaration if the declaration were made at the standard rate payable in that year; and
- (iv) the total amount that would have been paid since that commencement had all the dividends paid on its ordinary share capital since that commencement but before that declaration been paid at the appropriate standard rate.

(b)

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(b) Where a gas company fails in any year after the commencement of the Gas and Electricity (Amendment) Act, 1955, to pay the standard rate of dividend on its preference capital, the profits of the company available for distribution among the holders of that capital in any subsequent year may exceed that standard rate but shall not exceed the rate of six pounds ten shillings in respect of every one hundred pounds actually paid up or issued as paid up of that capital.

Nothing in the foregoing provisions of this paragraph authorises the company to declare in any year a rate of dividend on its preference capital such that the aggregate of—

- (i) the total amount of dividends payable pursuant to that declaration; and
- (ii) the total amount of all dividends paid on its preference capital after the commencement of the Gas and Electricity (Amendment) Act, 1955, but before that declaration,

would exceed the aggregate of—

- (iii) the total amount of dividends that would be payable pursuant to that declaration if the declaration were made at the standard rate; and
- (iv) the total amount that would have been paid since that commencement had all the dividends paid on its preference capital since that commencement but before that declaration been paid at the standard rate.

Sec. 7.
(Special
purposes
account.)

(b) by omitting from subsection one of section seven the words “one-half of”;

Sec. 8.
(Deprecia-
tion.)

(c) (i) by inserting in section eight after the words “not exceeding” the words “the aggregate of”;

(ii)

(ii) by inserting in the same section after the words "throughout the year" the words "and, where any such plant, building or equipment is scrapped at any time in that year, an amount not exceeding the book value as at that time (after deducting depreciation or allowing for any amount in the depreciation reserve as the case may require) of plant, building or equipment so scrapped less the proceeds of sale, if any, of the materials resulting from the scrapping of the plant, building or equipment";

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(d) (i) by omitting from subsection one of section thirteen the words "The City of Newcastle Gas and Coke Company (Limited) or the Manly Gas Company Limited" and by inserting in lieu thereof the words "or The City of Newcastle Gas and Coke Company (Limited)";

Sec. 13.
(Issue of additional shares.)

(ii) by omitting from paragraph (b) of the same subsection the word "twenty-eight" and by inserting in lieu thereof the word "fourteen";

(iii) by inserting at the end of paragraph (d) of the same subsection the words "but any person may purchase or tender for one or more lots";

(iv) by omitting paragraph (e) of the same subsection and by inserting in lieu thereof the following paragraph:—

(e) where, in the case of a sale by tender, two or more persons tender the same sum the purchaser shall be determined by lot;

(v) by omitting paragraph (g) of the same subsection;

(vi)

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- (vi) by omitting from paragraph (h) of the same subsection the words "shall be again offered for sale by public auction or by tender in accordance with the provisions of this section and any such shares or stock then remaining unsold may be otherwise disposed of at such price and in such manner as the directors of the company may determine for the purpose of realising the best price obtainable" and by inserting in lieu thereof the words "may be sold to such persons, in such manner and upon such terms and conditions as the directors of the company may determine:

Provided that such shares or stock shall not be sold at less than the reserve price notified to the Minister under paragraph (c) of this subsection";

- (vii) by inserting next after the same subsection the following new subsection:—

(1A) Notwithstanding the provisions of this or any other Act or of any memorandum or articles of association the directors of any of the three companies mentioned in subsection one of this section may, with the approval of the Minister, issue any shares at, above or below par to such persons, in such manner and upon such terms and conditions as the directors of the company may determine:

Provided that those terms and conditions shall not, except in the circumstances and subject to the restrictions mentioned in subsection (1A) of section six of this Act, include a right to receive a rate of dividend on the ordinary share capital or preference capital, as the case may be, exceeding the standard rate of dividend applicable thereto.

(e)

- (e) by omitting from subsection one of section seventeen the words "thirty-first day of March" and by inserting in lieu thereof the words "thirtieth day of April".

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Sec. 17.
(Annual statement of accounts.)

4. (1) Part IV of the Principal Act is amended—

Amendment of Act No. 42, 1935. Part IV—Gas.

- (a) by inserting in the heading to Division 1 after the word "*purity*" the words "*, specific gravity*";

Div. 1—Heading.

- (b) (i) by omitting subsection one of section twenty-three and by inserting in lieu thereof the following subsection:—

Sec. 23.
(Heating power.)

(1) The standard of heating power of the gas supplied by a gas company shall be not less than that prescribed. Such standard may be of general operation or of specially limited operation in relation to any specified gas companies, times or circumstances.

- (ii) by inserting at the end of subsection two of the same section the words "or ammonia";

- (iii) by inserting next after the same subsection the following new subsection:—

(2A) The specific gravity of the gas supplied by a gas company shall not exceed that prescribed.

- (iv) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection:—

(3) A gas company shall supply gas at such a pressure as will balance a column of water not less than three inches and not greater than six inches in height between the hours of five a.m. and nine p.m., and a column of water not less than two inches and not greater than six inches in height between the hours of nine p.m. and five a.m.

Such pressure shall be measured at such point or points as may be prescribed.

(v)

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(v) by omitting from subsection four of the same section the words "and pressure of gas shall be made in accordance with the provisions of Schedule Two" and by inserting in lieu thereof the words ", specific gravity, and pressure of gas shall be made in accordance with such methods as are prescribed";

Sec. 24.
(Penalties.
Defect in
heating
power.)

(c) (i) by omitting from subsection one of section twenty-four the words "The average of the testings made at a testing place on any two consecutive days shall be deemed to represent the heating power of the gas tested on the first of such days at such testing place";

(ii) by omitting from subsection two of the same section the word "ten" and by inserting in lieu thereof the word "fifty";

(iii) by inserting next after the same subsection the following new subsection:—

(2A) Where at any time the specific gravity of gas tested at any testing place exceeds that prescribed, the company supplying such gas shall be liable upon summary conviction to a penalty not exceeding fifty pounds. One penalty only shall be incurred by a gas company in respect of defect of specific gravity on any one day.

Defect in
specific
gravity.

(iv) by omitting from subsection three of the same section the words "that prescribed" and by inserting in lieu thereof the words "the minimum or greater than the maximum pressure prescribed in respect of that time";

(v) by omitting from the same subsection the word "ten" and by inserting in lieu thereof the word "fifty";

Sec. 25.
(Appoint-
ment of gas
examiners.)

(d) (i) by inserting in subsection two of section twenty-five after the word "purity" the words ", specific gravity";

(ii)

- (ii) by omitting from the same subsection the words "Reasonable notice of a proposed testing shall be given to the company concerned and a person appointed by it may be present at the testing"; No. 21, 1955.
- (iii) by omitting from subsection four of the same section the word "ten" and by inserting in lieu thereof the word "fifty";
- (e) by omitting from subsection three of section twenty-seven the word "five" and by inserting in lieu thereof the word "fifty". Sec. 27.
(Gas to be supplied through meter.)
- (2) Part I of the Principal Act is further amended by inserting in the matter relating to Division 1 of Part IV after the word "*purity*" the words "*, specific gravity*". Further amendment of Act No. 42, 1935.
Part I—Preliminary.
- (3) Part VIII of the Principal Act is amended by omitting section eighty-four. Amendment of Act No. 42, 1935.
Part VIII—General.
- (4) The Principal Act is further amended by omitting Schedule Two. Further amendment of Act No. 42, 1935.
(Schedule Two.)
- (5) The amendments made by paragraphs (a) and (b) and subparagraphs (iii) and (iv) of paragraph (c) of subsection one, and the amendments made by subsections two, three and four, of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.
- 5.** Part VIII of the Principal Act is further amended— Further amendment of Act No. 42, 1935.
Part VIII—General.
- (a) by omitting section eighty-two and by inserting in lieu thereof the following section:— Subst. sec. 82.
82. After the commencement of the Gas and Electricity (Amendment) Act, 1955, a person shall not be appointed by a gas company, other than Person superintending gas works to be qualified.

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than a local authority, to superintend its gas works unless he holds a certificate issued under section 90B of the Local Government Act, 1919, as amended by subsequent Acts, or a certificate of qualification as a gas engineer issued before that commencement under this Act.

Sec. 83.
(Penalties.)

(b) by omitting from subsection one of section eighty-three the word "ten" and by inserting in lieu thereof the word "fifty";

Sec. 85.
(Regulations.)

(c) (i) by omitting paragraph (g) of subsection one of section eighty-five;

(ii) by omitting from subsection two of the same section the word "ten" and by inserting in lieu thereof the word "fifty".

**Amendment
of Act No.
41, 1919.**
Sec. 564.
(Powers.)

6. The Local Government Act, 1919, as amended by subsequent Acts, is amended by inserting in subsection three of section five hundred and sixty-four after the word "delegation" where secondly occurring the words "Notwithstanding that such a request has not been made by a majority in number of the constituent councils, or by any of them, the Governor may, by proclamation, delegate to the county council the power to exercise or perform, for the benefit of the county district, any power or duty which by law those councils or any one of them may exercise or perform in relation to the establishment, acquisition and conduct of a trading undertaking for the supply of gas, and the supply and installing of gasfittings and appliances and may include in any such delegation any power or duty, including the power to levy rates or the power to borrow, which, in the opinion of the Governor, is necessary for the exercise or performance of any such power or duty as is firstmentioned in this subsection".