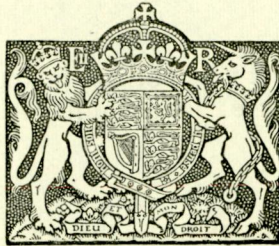


New South Wales



ANNO QUARTO

ELIZABETHÆ II REGINÆ

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.]

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 construction.

Gas and Electricity (Amendment).

(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. Part III of the Principal Act is amended—

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

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

Sec. 6.
(Standard
rates of
dividend.)

(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

Gas and Electricity (Amendment).

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 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.

(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

Gas and Electricity (Amendment).

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) 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

Gas and Electricity (Amendment).

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.
- (b) by omitting from subsection one of section seven the words “one-half of”;
- Sec. 7.
(Special purposes account.)
- (c) (i) by inserting in section eight after the words “not exceeding” the words “the aggregate of”;
- Sec. 8.
(Depreciation.)
- (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”;
- (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
- Sec. 13.
(Issue of additional shares.)
- inserting**

Gas and Electricity (Amendment).

- inserting in lieu thereof the words "or The City of Newcastle Gas and Coke Company (Limited)";
- (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) 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)

Gas and Electricity (Amendment).

- (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) 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”.

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

Gas and Electricity (Amendment).

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:—

Specific gravity.

(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:—

Pressure.

(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) 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)

Gas and Electricity (Amendment).

- (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.
- (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";
- (d) (i) by inserting in subsection two of section twenty-five after the word "purity" the words ", specific gravity";
- Sec. 25.
(Appointment of gas examiners.)
- (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";
- (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.)

Gas and Electricity (Amendment).

Further amendment of Act No. 42, 1935.
Part I—Preliminary.

(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*".

Amendment of Act No. 42, 1935.
Part VIII—General.

(3) Part VIII of the Principal Act is amended by omitting section eighty-four.

Further amendment of Act No. 42, 1935.
(Schedule Two.)

(4) The Principal Act is further amended by omitting 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.

Further amendment of Act No. 42, 1935.
Part VIII—General.

5. Part VIII of the Principal Act is further amended—

Subst. sec. 82.

(a) by omitting section eighty-two and by inserting in lieu thereof the following section:—

Person superintending gas works to be qualified.

82. After the commencement of the Gas and Electricity (Amendment) Act, 1955, a person shall not be appointed by a gas company, other 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";

(c)

Gas and Electricity (Amendment).

(c) (i) by omitting paragraph (g) of subsection one of section eighty-five; Sec. 85.
(Regulations.)

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

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

By Authority.

A. H. PETTIFER, Government Printer, Sydney, 1955.

Section 100 of the Constitution

Section 100 of the Constitution provides that the Governor may, in his discretion, refer any question of law to the Council of Ministers for their opinion.

It is submitted that the power conferred upon the Governor by Section 100 is a discretionary power and is not subject to any control or supervision by the Council of Ministers.

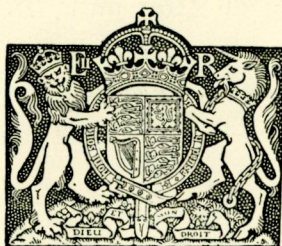
The Council of Ministers, established by the Government Act, 1952, is a body of Ministers who are appointed by the Governor. The Council of Ministers is responsible to the Governor and is empowered to advise him in the exercise of his functions. The Council of Ministers is also empowered to advise the Governor in the exercise of his powers under Section 100 of the Constitution. It is submitted that the Council of Ministers is not empowered to control or supervise the exercise of the power conferred upon the Governor by Section 100.

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

H. ROBBINS,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 31 March, 1955.*

New South Wales



ANNO QUARTO

ELIZABETHÆ II REGINÆ

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.]

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."

(2) Short title, citation and construction.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. BOOTH,
Chairman of Committees of the Legislative Assembly.

Gas and Electricity (Amendment).

(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.

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

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 III—
Regulation of
Gas Companies.

3. Part III of the Principal Act is amended—

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

Gas and Electricity (Amendment).

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 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.

(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

Gas and Electricity (Amendment).

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) 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

Gas and Electricity (Amendment).

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.
- (b) by omitting from subsection one of section seven the words “one-half of”;
- Sec. 7.
(Special purposes account.)
- (c) (i) by inserting in section eight after the words “not exceeding” the words “the aggregate of”;
- Sec. 8.
(Depreciation.)
- (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”;
- (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
- Sec. 13.
(Issue of additional shares.)

Gas and Electricity (Amendment).

inserting in lieu thereof the words "or The City of Newcastle Gas and Coke Company (Limited)";

- (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) 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)

Gas and Electricity (Amendment).

- (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) by omitting from subsection one of section Sec. 17. seventeen the words “thirty-first day of (Annual statement of accounts.) March” and by inserting in lieu thereof the words “thirtieth day of April”.

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 Sec. 23. twenty-three and by inserting in lieu (Heating power.) thereof the following subsection:—

(1) The standard of heating power of the gas supplied by a gas company shall be not less than that prescribed. Such standard may

Gas and Electricity (Amendment).

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:—

Specific gravity.

(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:—

Pressure.

(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) 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)

Gas and Electricity (Amendment).

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

Defect in
specific
gravity.

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

Sec. 27.
(Gas to be
supplied
through
meter.)

Gas and Electricity (Amendment).

Further amendment of Act No. 42, 1935. Part I—Preliminary.

(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*".

Amendment of Act No. 42, 1935. Part VIII—General.

(3) Part VIII of the Principal Act is amended by omitting section eighty-four.

Further amendment of Act No. 42, 1935. (Schedule Two.)

(4) The Principal Act is further amended by omitting 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.

Further amendment of Act No. 42, 1935. Part VIII—General.

5. Part VIII of the Principal Act is further amended—

Subst. sec. 82.

(a) by omitting section eighty-two and by inserting in lieu thereof the following section:—

Person superintending gas works to be qualified.

82. After the commencement of the Gas and Electricity (Amendment) Act, 1955, a person shall not be appointed by a gas company, other 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";

(c)

Gas and Electricity (Amendment).

- (c) (i) by omitting paragraph (g) of subsection one of section eighty-five; Sec. 85.
(Regulations.)
- (ii) by omitting from subsection two of the same section the word "ten" and by inserting in lieu thereof the word "fifty".

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

In the name and on behalf of Her Majesty I assent to this Act.

J. NORTHCOTT,
Governor.

*Government House,
Sydney, 26th April, 1955.*

1907

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

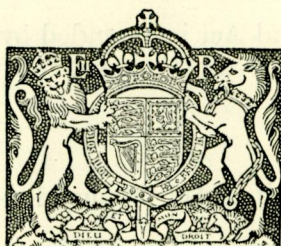
...

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

H. ROBBINS,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 31 March, 1955.*

New South Wales



ANNO QUARTO

ELIZABETHÆ II REGINÆ

Act No. , 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.

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.

7461 186—A

(2)

Gas and Electricity (Amendment).

(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.)

10 3. Part III of the Principal Act is amended—

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

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

Sec. 6. (Standard rates of dividend.)

15 (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—

20 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
25 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
30 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

Gas and Electricity (Amendment).

5 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.

10 (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
15 taxation in excess of that allowed, at the
commencement of the Gas and Electricity
(Amendment) Act, 1955, by section 160AB of the
Income Tax Assessment Act 1936, as amended
by subsequent Acts, of the Parliament of the
Commonwealth.

20 (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
25 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
30 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—

- 35 (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

Gas and Electricity (Amendment).

commencement of the Gas and Electricity (Amendment) Act, 1955, but before that declaration,

would exceed the aggregate of—

5 (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

10 (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
15 at the appropriate standard rate.

(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
20 pounds ten shillings in respect of every one
25 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
30 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

Gas and Electricity (Amendment).

commencement of the Gas and Electricity (Amendment) Act, 1955, but before that declaration,

would exceed the aggregate of—

- 5 (iii) the total amount of dividends that would be payable pursuant to that declaration if the declaration were made at the standard rate; and
- 10 (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.
- 15 (b) by omitting from subsection one of section seven the words “one-half of”; Sec. 7.
(Special purposes account.)
- (c) (i) by inserting in section eight after the words “not exceeding” the words “the aggregate of”; Sec. 8.
(Depreciation.)
- 20 (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”;
- 25
- 30
- 35 (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 Sec. 13.
(Issue of additional shares.)

Gas and Electricity (Amendment).

- inserting in lieu thereof the words "or The City of Newcastle Gas and Coke Company (Limited)";
- 5 (ii) by omitting from paragraph (b) of the same subsection the word "twenty-eight" and by inserting in lieu thereof the word "fourteen";
- 10 (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";
- 15 (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;
- 20 (v) by omitting paragraph (g) of the same subsection;
- 25 (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:
- 30
35 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)

Gas and Electricity (Amendment).

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

5 (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
10 such persons, in such manner and upon such terms and conditions as the directors of the company may determine:

15 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,
20 exceeding the standard rate of dividend applicable thereto.

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

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.

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

Sec. 23. (Heating power.)

35 (1) The standard of heating power of the gas supplied by a gas company shall be not less than that prescribed. Such standard may

Gas and Electricity (Amendment).

may be of general operation or of specially limited operation in relation to any specified gas companies, times or circumstances.

- 5 (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:—
- 10 (2A) The specific gravity of the gas ^{Specific} supplied by a gas company shall not exceed ^{gravity.} that prescribed.
- (iv) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection:—
- 15 (3) A gas company shall supply gas at ^{Pressure.} 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
- 20 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.
- 25 (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
- 30 inserting in lieu thereof the words "specific gravity, and pressure of gas shall be made in accordance with such methods as are prescribed";
- (c) (i) by omitting from subsection one of section ^{Sec. 24.} twenty-four the words "The average of the ^{(Penalties.} testings made at a testing place on any two ^{Defect in} consecutive days shall be deemed to ^{heating} represent the heating power of the gas ^{power.)} tested on the first of such days at such testing place";
- 35 (ii)

Gas and Electricity (Amendment).

- (ii) by omitting from subsection two of the same section the word "ten" and by inserting in lieu thereof the word "fifty";
- 5 (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 10 fifty pounds. One penalty only shall be incurred by a gas company in respect of defect of specific gravity on any one day.
- (iv) by omitting from subsection three of the same section the words "that prescribed" and by inserting in lieu thereof the words 15 "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 20 the word "fifty";
- (d) (i) by inserting in subsection two of section twenty-five after the word "purity" the words ", specific gravity"; Sec. 25.
(Appoint-
ment of gas
examiners.)
- 25 (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";
- 30 (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 35 twenty-seven the word "five" and by inserting in lieu thereof the word "fifty". Sec. 27.
(Gas to be
supplied
through
meters.)

Gas and Electricity (Amendment).

- (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.
- 5 (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 10 (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.
- 15 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.
- 20 82. After the commencement of the Gas and Electricity (Amendment) Act, 1955, a person shall not be appointed by a gas company, other 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 25 that commencement under this Act.
- Person superintending gas works to be qualified.
- (b) by omitting from subsection one of section eighty-three the word "ten" and by inserting in lieu thereof the word "fifty";
- Sec. 83.
(Penalties.)
- (c)

Gas and Electricity (Amendment).

(c) (i) by omitting paragraph (g) of subsection one of section eighty-five; Sec. 85.
(Regulations.)

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

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

10 "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

15 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

20 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

25 subsection".

Dear Mother

I received your letter of the 10th and was
glad to hear from you. I am well and
hope these few lines will find you the same.

I have not much news to write at present.
Everything is quiet here.

I must close for this time. Write soon.

Your affectionate son,
John Smith

No. , 1955.

A BILL

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.

[MR. RENSHAW;—30 *March*, 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
5 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.

7461 186—A

(2)

Gas and Electricity (Amendment).

(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.)

10 3. Part III of the Principal Act is amended—

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

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

Sec. 6. (Standard rates of dividend.)

15 (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—

20 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
25 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
30 the Commonwealth of Australia before the declaration of the dividend to be paid on that capital by the company in that year; and

on

Gas and Electricity (Amendment).

5 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.

10 (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
15 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.

20 (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
25 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
30 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—

- 35 (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

Gas and Electricity (Amendment).

commencement of the Gas and Electricity (Amendment) Act, 1955, but before that declaration,

would exceed the aggregate of—

- 5 (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
- 10 (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
- 15 at the appropriate standard rate.

(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.

20

25

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—

30

- (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

Gas and Electricity (Amendment).

commencement of the Gas and Electricity (Amendment) Act, 1955, but before that declaration,

would exceed the aggregate of—

- 5 (iii) the total amount of dividends that would be payable pursuant to that declaration if the declaration were made at the standard rate; and
- 10 (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.
- 15 (b) by omitting from subsection one of section seven the words “one-half of”; Sec. 7.
(Special purposes account.)
- (c) (i) by inserting in section eight after the words “not exceeding” the words “the aggregate of”; Sec. 8.
(Depreciation.)
- 20 (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”;
- 25
- 30
- 35 (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 Sec. 13.
(Issue of additional shares.)

Gas and Electricity (Amendment).

- inserting in lieu thereof the words "or The City of Newcastle Gas and Coke Company (Limited)";
- 5 (ii) by omitting from paragraph (b) of the same subsection the word "twenty-eight" and by inserting in lieu thereof the word "fourteen";
- 10 (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:—
- 15 (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;
- 20 (v) by omitting paragraph (g) of the same subsection;
- 25 (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:
- 30
- 35 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)

Gas and Electricity (Amendment).

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

5 (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
10 such persons, in such manner and upon such terms and conditions as the directors of the company may determine:

15 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,
20 exceeding the standard rate of dividend applicable thereto.

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

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
30 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.)

35 (1) The standard of heating power of the gas supplied by a gas company shall be not less than that prescribed. Such standard may

Gas and Electricity (Amendment).

may be of general operation or of specially limited operation in relation to any specified gas companies, times or circumstances.

5 (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:—

10 (2A) The specific gravity of the gas ^{Specific} supplied by a gas company shall not exceed ^{gravity.} that prescribed.

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

15 (3) A gas company shall supply gas at ^{Pressure.} 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

20 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.

25 (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

30 inserting in lieu thereof the words "specific gravity, and pressure of gas shall be made in accordance with such methods as are prescribed";

(c) (i) by omitting from subsection one of section ^{Sec. 24.} twenty-four the words "The average of the ^{(Penalties.} testings made at a testing place on any two ^{Defect in} consecutive days shall be deemed to ^{heating} represent the heating power of the gas ^{power.)} tested on the first of such days at such testing place";

(ii)

Gas and Electricity (Amendment).

- (ii) by omitting from subsection two of the same section the word "ten" and by inserting in lieu thereof the word "fifty";
- 5 (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.
- 10 (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";
- 15 (v) by omitting from the same subsection the word "ten" and by inserting in lieu thereof the word "fifty";
- 20 (d) (i) by inserting in subsection two of section twenty-five after the word "purity" the words ", specific gravity"; Sec. 25. (Appointment of gas examiners.)
- 25 (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";
- 30 (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 meters.)
- 35

Gas and Electricity (Amendment).

- (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.
- 5 (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.)
- 10 (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.
- 15 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.
- 20 82. After the commencement of the Gas and Electricity (Amendment) Act, 1955, a person shall not be appointed by a gas company, other 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 Person superintending gas works to be qualified.
- 25 of qualification as a gas engineer issued before that commencement under this Act.
- (b) by omitting from subsection one of section eighty-three the word "ten" and by inserting in lieu thereof the word "fifty"; Sec. 83.
(Penalties.)
- (c)

Gas and Electricity (Amendment).

(c) (i) by omitting paragraph (g) of subsection one of section eighty-five; Sec. 85.
(Regulations.)

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

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

10 "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

15 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

20 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

25 subsection".

to the Secretary of State

(1) by amending subsection (1) of subsection 4 of section 1032 to read as follows:

(1) The board of directors of a corporation shall have the authority to issue any and all classes of shares of the corporation, including shares with such special rights, preferences, privileges and conditions as may be provided in the certificate of incorporation or in any resolution of the board of directors passed after the filing of the certificate of incorporation.

15. The board of directors of a corporation shall have the authority to issue any and all classes of shares of the corporation, including shares with such special rights, preferences, privileges and conditions as may be provided in the certificate of incorporation or in any resolution of the board of directors passed after the filing of the certificate of incorporation.

Section 1032

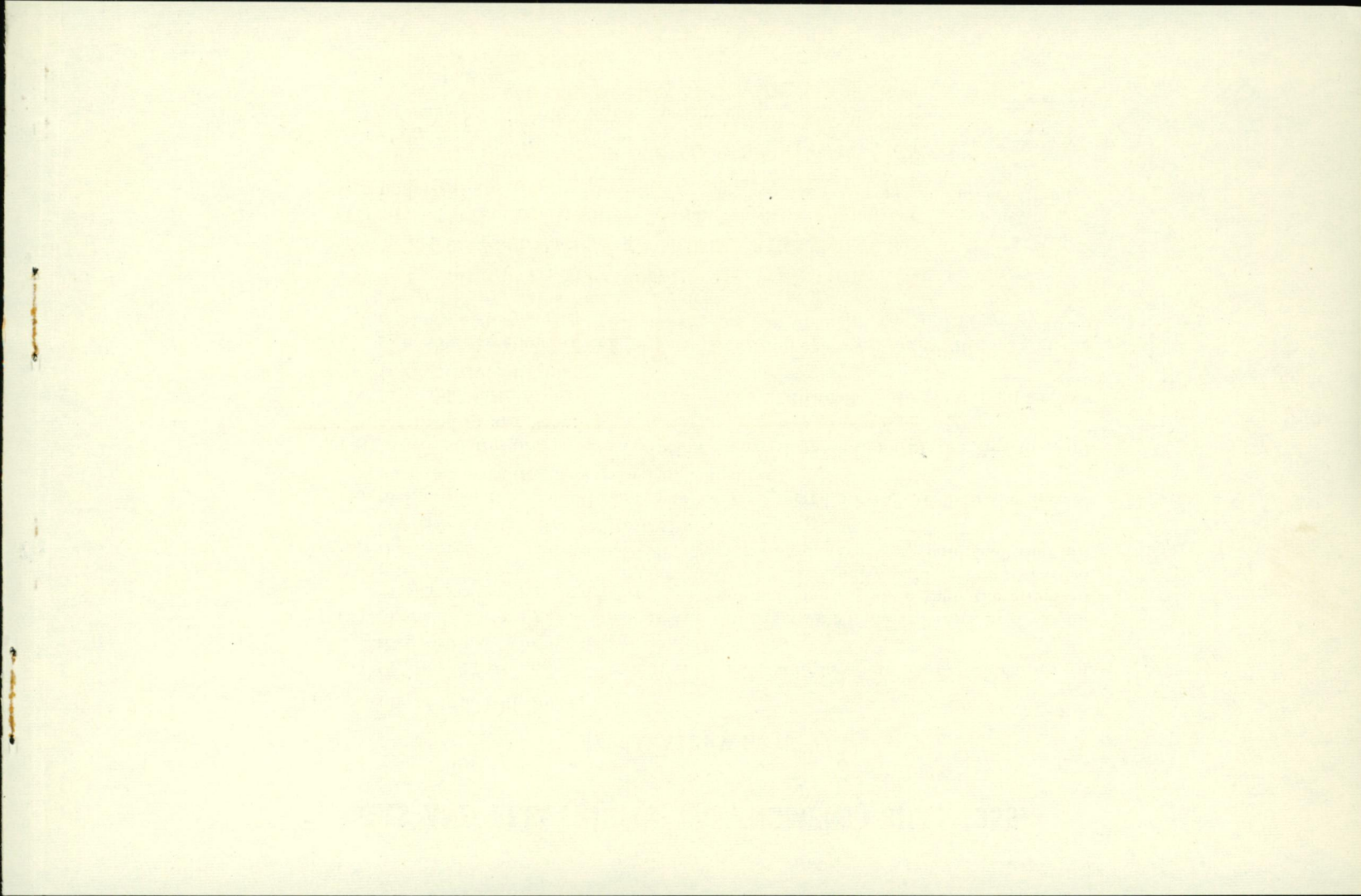
[2]

GAS AND ELECTRICITY (AMENDMENT) BILL, 1955.

EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to alter the standard rate of dividend payable by certain gas companies on their ordinary share capital;
- (b) to enable certain gas companies who fail to pay the standard rates of dividend in any year to pay thereafter up to one per centum more than the standard rates; but the aggregate amount of dividends actually paid is not to exceed the aggregate amount of dividends that would have been paid had they all been paid at the standard rates;
- (c) to increase the amount that may be transferred in any year to the special purposes accounts of certain gas companies;
- (d) to extend the provisions of section eight (depreciation) of the Act to plant scrapped in any year;
- (e) to enable certain gas companies to raise additional share capital under less restrictive conditions;
- (f) to enable the standards of heating power and specific gravity of gas, and the methods of testing gas for those properties and for purity and pressure, to be prescribed by regulation;
- (g) to repeal section eighty-four of the Act;
- (h) to require gas to be free of ammonia;
- (i) to enable county councils to be established for the purpose of conducting gas undertakings notwithstanding that the necessary powers in that behalf have not been delegated by constituent councils;
- (j) to increase the penalties for certain offences under the Act;
- (k) to make certain other minor amendments.



PROOF.

No. , 1955.

A BILL

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.

[MR RENSRAW;—30 March, 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.

7461 186—A

(2)

Gas and Electricity (Amendment).

(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.)

10 3. Part III of the Principal Act is amended—

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

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

Sec. 6. (Standard rates of dividend.)

15 (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—

20 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
25 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
30 the Commonwealth of Australia before the declaration of the dividend to be paid on that capital by the company in that year; and

on

Gas and Electricity (Amendment).

5 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.

10 (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
15 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.

20 (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
25 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
30 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—

- 35 (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

Gas and Electricity (Amendment).

commencement of the Gas and Electricity (Amendment) Act, 1955, but before that declaration,

would exceed the aggregate of—

- 5 (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
- 10 (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
- 15 at the appropriate standard rate.

(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.

20

25

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—

30

- (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

Gas and Electricity (Amendment).

commencement of the Gas and Electricity (Amendment) Act, 1955, but before that declaration,

would exceed the aggregate of—

- 5 (iii) the total amount of dividends that would be payable pursuant to that declaration if the declaration were made at the standard rate; and
- 10 (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.
- 15 (b) by omitting from subsection one of section seven the words “one-half of”; Sec. 7.
(Special purposes account.)
- (c) (i) by inserting in section eight after the words “not exceeding” the words “the aggregate of”; Sec. 8.
(Depreciation.)
- 20 (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”;
- 25
- 30
- 35 (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 Sec. 13.
(Issue of additional shares.)

Gas and Electricity (Amendment).

inserting in lieu thereof the words "or The City of Newcastle Gas and Coke Company (Limited)";

- 5 (ii) by omitting from paragraph (b) of the same subsection the word "twenty-eight" and by inserting in lieu thereof the word "fourteen";
- 10 (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";
- 15 (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;
- 20 (v) by omitting paragraph (g) of the same subsection;
- 25 (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:
- 30
35 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)

Gas and Electricity (Amendment).

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

5 (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:

15 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.

20 (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".

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.

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

Sec. 23.
(Heating power.)

35 (1) The standard of heating power of the gas supplied by a gas company shall be not less than that prescribed. Such standard may

Gas and Electricity (Amendment).

may be of general operation or of specially limited operation in relation to any specified gas companies, times or circumstances.

5 (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:—

10 (2A) The specific gravity of the gas ^{Specific} supplied by a gas company shall not exceed ^{gravity.} that prescribed.

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

15 (3) A gas company shall supply gas at ^{Pressure.} 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

20 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.

25 (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

30 inserting in lieu thereof the words "specific gravity, and pressure of gas shall be made in accordance with such methods as are prescribed";

(c) (i) by omitting from subsection one of section ^{Sec. 24.} twenty-four the words "The average of the ^{(Penalties.} testings made at a testing place on any two ^{Defect in} consecutive days shall be deemed to ^{heating} represent the heating power of the gas ^{power.)} tested on the first of such days at such testing place";

(ii)

Gas and Electricity (Amendment).

- (ii) by omitting from subsection two of the same section the word "ten" and by inserting in lieu thereof the word "fifty";
- 5 (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 10 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.
- 15 (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";
- 20 (v) by omitting from the same subsection the word "ten" and by inserting in lieu thereof the word "fifty";
- 25 (d) (i) by inserting in subsection two of section twenty-five after the word "purity" the words ", specific gravity"; Sec. 25. (Appointment of gas examiners.)
- (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";
- 30 (iii) by omitting from subsection four of the same section the word "ten" and by inserting in lieu thereof the word "fifty";
- 35 (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 meters.)

Gas and Electricity (Amendment).

- (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*".
- 5 (3) Part VIII of the Principal Act is amended by omitting section eighty-four.
- (4) The Principal Act is further amended by omitting Schedule Two.
- 10 (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.
- 15 5. Part VIII of the Principal Act is further amended—
- (a) by omitting section eighty-two and by inserting in lieu thereof the following section:—
- 20 82. After the commencement of the Gas and Electricity (Amendment) Act, 1955, a person shall not be appointed by a gas company, other 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
- 25 that commencement under this Act.
- (b) by omitting from subsection one of section eighty-three the word "ten" and by inserting in lieu thereof the word "fifty";
- (c)

Further amendment of Act No. 42, 1935.

Part I—Preliminary.

Amendment of Act No. 42, 1935.

Part VIII—General.

Further amendment of Act No. 42, 1935.

(Schedule Two.)

Further amendment of Act No. 42, 1935.

Part VIII—General.

Subst. sec. 82.

Person superintending gas works to be qualified.

Sec. 83. (Penalties.)

Gas and Electricity (Amendment).

(c) (i) by omitting paragraph (g) of subsection one of section eighty-five; Sec. 85.
(Regulations.)

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

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

10 "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

15 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

20 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

25 subsection".

(The word "ability" (readable))

(i) In reading (or writing) of a word, the number of

of action is the number of the

(ii) In reading (or writing) of a word, the number of the

of action is the number of the

of action is the number of the

4. The level of reading (or writing) of a word is the number of

of action is the number of the

of action is the number of the

of action is the number of the

of action is the number of the

of action is the number of the

of action is the number of the

of action is the number of the

of action is the number of the

of action is the number of the

of action is the number of the

of action is the number of the

of action is the number of the

of action is the number of the

of action is the number of the

of action is the number of the

[Handwritten mark]