

(Reprint No. 1)

SOUTH AUSTRALIA

ELECTRICITY TRUST OF SOUTH AUSTRALIA ACT, 1946

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 1 July 1991.

It should be noted that the Act has not been revised (for obsolete references, etc.) by the Commissioner of Statute Revision since its last reprinting on 6 February 1989.

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ELECTRICITY TRUST OF SOUTH AUSTRALIA ACT, 1946

being

Electricity Trust of South Australia Act, 1946, No. 3 of 1946
[Royal Assent proclaimed 8 August 1946]¹

as amended by

Electricity Trust of South Australia Act Amendment Act, 1946, No. 25 of 1946 [Assented to 29 November 1946]
Electricity Trust of South Australia Act Amendment Act, 1949, No. 44 of 1949 [Assented to 1 December 1949]
Electricity Trust of South Australia Act Amendment Act, 1952, No. 22 of 1952 [Assented to 13 November 1952]
Electricity Trust of South Australia Act Amendment Act, 1954, No. 53 of 1954 [Assented to 23 December 1954]
Electricity Trust of South Australia Act Amendment Act, 1966, No. 8 of 1966 [Assented to 24 February 1966]
Electricity Trust of South Australia Act Amendment Act, 1971, No. 2 of 1971 [Assented to 18 March 1971]
Electricity Trust of South Australia Act Amendment Act, 1973, No. 22 of 1973 [Assented to 20 September 1973]
Statute Law Revision Act, 1973, No. 77 of 1973 [Assented to 6 December 1973]
Electricity Trust of South Australia Act Amendment Act (No. 2), 1973, No. 83 of 1973 [Assented to 6 December 1973]
Electricity Trust of South Australia Act Amendment Act, 1975, No. 37 of 1975 [Assented to 3 April 1975]²
Electricity Trust of South Australia Act Amendment Act, 1980, No. 85 of 1980 [Assented to 27 November 1980]³
Electricity Trust of South Australia Act Amendment Act, 1985, No. 44 of 1985 [Assented to 2 May 1985]⁴
Statutes Amendment (Energy Planning) Act, 1985, No. 103 of 1985 [Assented to 7 November 1985]
Statutes Amendment (Finance and Audit) Act, 1987, No. 13 of 1987 [Assented to 9 April 1987]⁵
Electricity Trust of South Australia Act Amendment Act, 1988, No. 38 of 1988 [Assented to 28 April 1988]⁶
Electricity Trust of South Australia Act Amendment Act, 1990, No. 70 of 1990 [Assented to 20 December 1990]⁷

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.

An Act to establish a body to be known as The Electricity Trust of South Australia, to define the powers and duties of that Trust, to vest in that Trust the undertaking of The Adelaide Electric Supply Company Limited, and for incidental purposes.

The Parliament of South Australia enacts as follows:

PART I PRELIMINARY

Short title

1. This Act may be cited as the *Electricity Trust of South Australia Act, 1946*.

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¹ Came into operation 30 August 1946: *Gaz.* 30 August 1946, p. 387.

² Came into operation 1 July 1975: s. 2.

³ Came into operation 14 May 1981: *Gaz.* 14 May 1981, p. 1405.

⁴ Came into operation 1 July 1985: *Gaz.* 6 June 1985, p. 1910.

⁵ Came into operation 1 October 1987: *Gaz.* 17 September 1987, p. 886.

⁶ Came into operation (except s. 4) 1 November 1988: *Gaz.* 28 October 1988, p. 1615; s. 4 came into operation 1 January 1989, being the day on which the Local Government Act Amendment Act, 1988, came into operation: *Gaz.* 22 December 1988, p. 2094: s. 2(2).

⁷ Came into operation 1 February 1991: *Gaz.* 17 January 1991, p. 182.

Interpretation

3. In this Act, unless the contrary intention appears—

“bush fire” means a fire that originates in, or spreads through, forest, scrub, grass or other vegetation:

“cable” includes any kind of electrical conductor:

“chairman” means chairman of the Trust:

* * * * *

“distribution system” means—

- (a) the network of cables by which the Trust transmits and distributes electricity;
- (b) the associated transformers and equipment of an electrical or other kind;
- (c) structures for the support of any such cables, transformers or equipment,

and includes any cable, transformer, equipment or structure used on a temporary basis for purposes related to the maintenance, repair or replacement of any part of the distribution system:

“member” means member of the Trust, and includes the chairman:

“naturally occurring vegetation” means vegetation that has not been planted or nurtured by any person:

“to nurture” in relation to vegetation means actively to assist the growth of the vegetation:

“the principles of vegetation clearance” means the regulations dealing with the clearance of vegetation from public and private supply lines:

“private land” means—

- (a) land alienated or contracted to be alienated from the Crown in fee simple;
 - (b) land occupied under a lease or licence from the Crown;
- or
- (c) land dedicated to a particular purpose and placed under the care, control and management of any person (whether or not that person is a Minister, agency or instrumentality of the Crown),

except any such land vested in, or under the care, control or management of, a municipal or district council and dedicated to, or held for, a public purpose:

“private supply line” means a part of the distribution system—

- (a) designed to carry electricity at a voltage of 19 kV or less;
 - (b) situated on, above or under private land;
- and
- (c) supplying, or intended to supply, electricity to some point on the land:

“public supply line” means any part of the distribution system except a private supply line:

“shareholder” includes stockholder:

“shares” includes stock:

“the Trust” means The Electricity Trust of South Australia established by this Act.

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PART II

THE ELECTRICITY TRUST OF SOUTH AUSTRALIA

Constitution of Trust

5. (1) The *Electricity Trust of South Australia* is established.

(1a) The Trust is subject to control and direction by the Minister.

(2) The Trust is a body corporate with perpetual succession and a common seal and, subject to this Act, has power in its corporate name to take, hold, and dispose of property of every kind and be a party to legal proceedings.

(3) A court or person acting judicially must take judicial notice of the seal of the Trust and presume that it was properly affixed to any document on which it appears.

Members of Trust

6. (1) The Trust consists of seven members appointed by the Governor.

(2) A person who is—

(a) an undischarged bankrupt;

* * * * *

(c) a member of a House of Parliament of the State or the Commonwealth,

* * * * *

cannot be appointed to the Trust.

Chairman and deputy chairman

7. (1) The Governor will appoint one of the members to be the chairman of the Trust, and one to be the deputy chairman of the Trust.

(2) If for any reason the chairman is unable to act, the deputy chairman may act in his or her place and while so acting has all the powers of the chairman.

Term of office

8. (1) Subject to this Act, a member of the Trust holds office for a term of three years.

* * * * *

(2) A retiring member of the Trust is eligible for reappointment.

(3) A person appointed to a casual vacancy on the Trust holds office for the balance only of the term of his or her predecessor.

* * * * *

Casual vacancies

9. (1) The office of a member becomes vacant, if the member—

(a) dies;

(b) resigns by notice in writing posted or delivered to the Minister;

(c) is absent from six consecutive meetings of the Trust without leave granted by the Minister;

- (d) becomes bankrupt or executes an assignment of property or a deed of arrangement for the benefit of creditors or compounds with creditors for less than one hundred cents in the dollar;
- (e) becomes a member of a House of Parliament of the State or the Commonwealth;
- (f) is removed from office as provided in this Act.

(2) The Trust must keep and mark punctually and regularly a roll showing the attendances of the members.

Removal of members of Trust

10. (1) The Governor may remove a member of the Trust from office if an address praying for such removal is presented to the Governor by the House of Assembly and the Legislative Council.

(2) The Governor may suspend a member from office for incapacity, mismanagement, misbehaviour or neglect or failure to carry out any duties as a member of the Trust; and a full statement of the cause of such a suspension must be laid before each House of Parliament within the seven sitting days of that House next after the suspension.

(3) Unless within one month after the day when any such statement is laid before it and during the same session, the House of Assembly and the Legislative Council present an address to the Governor praying for the removal from office of the member so suspended, that member must be restored to office, without loss of salary in respect of the period of suspension.

(4) If such an address is so presented to the Governor within that month, the Governor may remove the member so suspended from office, and thereupon the office of the member becomes vacant.

Validity of acts of Trust

11. An act or proceeding of the Trust is not invalid or illegal by reason only of the fact that at the time of the act or proceeding there was a vacancy in the office of any member.

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Quorum and majority

12. (1) Any four members of the Trust form a quorum.

(2) All business coming before the Trust must be decided at meetings of the Trust and a decision of the Trust is not valid unless at least four members concur in it.

Payment of members of Trust

13. Each member of the Trust must be paid out of the funds of the Trust such remuneration for services and such travelling and other allowances (if any) as the Governor approves.

Disqualification of members by interest

14. A person who has a direct or indirect interest in a contract made with the Trust cannot be appointed as, or continue to be, a member of the Trust; but a person is not so disqualified by reason only of the fact that he or she—

- (a) holds debentures issued by the Trust;

(b) is a shareholder in a company with at least 20 members which has a contract with the Trust;

or

(c) has a contract with the Trust for the supply of electricity by the Trust on the Trust's usual terms.

Relation of Trust to Crown

15. (1) The Trust holds all its assets for and on account of the Crown.

(2) The Trust must administer this Act in such manner as it considers, in its discretion, to be in the best interests of the general public.

Rates and land tax

16. (1) Notwithstanding any other Act—

(a) land and buildings of the Trust are ratable property within the meaning of the *Local Government Act, 1934*;

(b) the Trust is liable to pay rates under the *Local Government Act, 1934*, the *Waterworks Act, 1932*, and the *Sewerage Act, 1929*, and land tax under the *Land Tax Act, 1936*.

(2) For rating purposes under the *Local Government Act, 1934*, the following does not constitute ratable property:

(a) plant or equipment used by the Trust in connection with the generation, transmission or distribution of electricity (whether or not the plant or equipment is situated on land owned by the Trust);

(b) easements, rights of way or other similar rights (including such rights arising by virtue of a licence) granted in favour of the Trust in connection with the generation, transmission or distribution of electricity.

Staff of Trust

17. (1) The Trust may appoint such officers and other employees as it requires for the purpose of carrying out its duties and functions. The terms and conditions of every such appointment will, subject to any law, be such as the Trust determines.

(2) The Trust may delegate to any manager, sub-manager or other responsible officer any of its powers under this section, and may revoke any such delegation.

(3) An officer or employee of the Trust is not, as such, subject to Part III of the *Government Management and Employment Act, 1985*.

Additional benefits on retirement, etc.

18. On termination of the employment of an employee of the Trust, the Trust may provide benefits to, or in relation to, the former employee in addition to any benefits provided under Part IVB.

Borrowing powers of Trust and debentures

19. (1) The Trust may borrow money from the Treasurer, or with the consent of the Treasurer, from any other authority or person or from the public—

* * * * *

(b) to provide capital for any work, scheme, undertaking or purchase which the Trust is authorized to carry out;

(c) to satisfy any liability of the Trust;

(d) to enable the Trust to make any loan or grant which it is authorized by this Act to make.

(2) The Trust may issue debentures for any money borrowed by it.

(3) Any such debentures may confer on the holder a mortgage or charge over any assets of the Trust.

Government guarantee of debentures

20. (1) The Treasurer must out of the General Revenue of the State make good any default of the Trust in meeting any liability of the Trust to any person, other than the Treasurer, under any debenture issued by the Trust or on which the Trust is liable.

(2) The amount of General Revenue required for the purposes of this section is appropriated to the necessary extent.

(3) The Trust must, on demand, pay to the Treasurer the amount of any payment made pursuant to subsection (1).

Inscribed debenture stock

20a. (1) In any case where the Trust has power to issue debentures it may issue inscribed debenture stock instead of debentures.

(2) On the application of the owner of any debentures issued by the Trust, the Trust may convert them into inscribed debenture stock.

(3) The Trust must keep a register of inscribed debenture stock ("the Register").

(4) Inscribed debenture stock will be taken to have been issued, and debentures will be taken to have been converted into inscribed debenture stock, when the name of the owner, and the amount and description of the stock, and any other particulars determined by the Trust, are entered in the Register.

(5) A person whose name is inscribed in the Register as the owner of inscribed debenture stock will be taken to be the owner of that stock and may dispose of and transfer it in the manner prescribed by this section and may give effectual receipts for any money paid by way of consideration for the stock.

(6) The Trust may, if it thinks reasonable cause exists for doing so, issue to any person a certificate stating that any person was on a day and at an hour mentioned in the certificate inscribed in the Register as the owner of a specified amount of inscribed debenture stock.

Such a certificate is *prima facie* evidence of the fact stated in it.

(7) The legal ownership of inscribed debenture stock is not transferred from the owner whose name is inscribed in the Register to any other person until—

(a) that owner and the transferee have executed a transfer in a form fixed by the Trust, and the name of the transferee and the amount of the stock have been entered in the Register;

or

(b) a person to whom the title to the stock has passed on death or bankruptcy or otherwise by operation of law has produced to the Trust such reasonable evidence of title as the Trust requires, and that person's name has been entered in the Register as the owner of the stock.

(8) No notice of any trust, express, implied or constructive, affecting inscribed debenture stock, may be received by the Trust or entered in the Register or any other book kept by the Trust.

(9) Subject to the provisions of this section relating to the transfer and transmission of inscribed debenture stock and notice of trusts, equitable interests may be enforced against the owners of inscribed debenture stock.

(10) Section 20 applies in relation to inscribed debenture stock in the same way as it applies to debentures.

Reserves

21. The Trust may at the end of any financial year set aside out of its revenue such sums as it thinks proper as payments to reserves or sinking funds, and may invest any such reserves or sinking funds or use them in its undertaking.

Power of the Treasurer to lend money to the Trust

22. (1) The Treasurer may lend money to the Trust upon such terms and conditions as are agreed between the Treasurer and the Trust.

(2) Where any loan made by the Treasurer to the Trust is intended to be applied by the Trust—

(a) for extending or improving supplies of electricity in rural areas;

or

(b) for granting a subsidy pursuant to section 36(2) to any supplier of electricity for the purpose of enabling the supplier to improve or extend supplies of electricity in rural areas,

the loan may be on such special terms and conditions as are approved by the Governor.

(3) The Treasurer may arrange for the borrowing on behalf of the State, and in accordance with the Financial Agreement, of such sums of money as the Treasurer requires for the purpose of making loans to the Trust under this section.

(4) This section without further appropriation is sufficient authority for lending money so borrowed to the Trust.

Accounts

23. (1) The Trust must keep proper accounts showing accurately and in detail all its financial transactions, assets and liabilities, and must in each year not later than 31 October prepare a profit and loss account for the preceding financial year and a balance sheet showing its assets and liabilities as at the preceding 30 June.

(2) The profit and loss account and the balance sheet must be included in the annual report of the Trust.

Audit

24. (1) The Auditor-General must, in respect of each financial year of the Trust, audit the accounts of the Trust.

(2) Every member and officer of the Trust must afford the Auditor-General and his or her officers proper and adequate facilities for conducting the audit, and must furnish the Auditor-General or any such officer, upon request, with information relating to the affairs of the Trust.

Annual report

25. The Trust must within four months after the end of each financial year prepare and present to the Minister a report on its operations during that financial year and the Minister must cause that report to be laid before both Houses of Parliament as soon as practicable after its receipt.

Special reports

26. (1) Whenever the Governor considers it expedient to do so, the Governor may appoint a person or persons to inquire into and report upon the management and operations of the Trust.

(2) The person or persons so appointed constitute a royal commission within the meaning of the *Royal Commissions Act, 1917*, and that Act applies in relation to that person or those persons and the inquiry and the persons from whom evidence, information or documents are sought.

Electricity districts

26a. The Governor may by notice in the *Gazette*—

- (a) declare any part of the State to constitute an Electricity District;
- (b) alter any Electricity District;
- (c) assign a name to any Electricity District.

Electricity District Committees

26b. (1) The Governor may appoint a committee for any Electricity District.

(2) The name of each committee is The Electricity Advisory Committee, the blank space being filled by the name of the district for which the committee is appointed.

(3) A committee consists of such number of members as the Governor determines.

(4) The Governor must appoint a member of each committee to be its chairman.

(5) Subject to this Act, a member of a committee holds office for four years calculated as from the first day of July in the year in which he or she was appointed, except a member appointed to a casual vacancy who holds office for the balance of the term of the member in whose place he or she was appointed.

(6) The Governor may dismiss a member of a committee from office if the member has been guilty of any act or conduct which, in the Governor's opinion, shows him or her to be unfit to be a member of the committee.

(7) The office of a member of a committee becomes vacant if the member—

- (a) dies;
- (b) resigns by notice in writing addressed to the Treasurer;

(c) is dismissed from office by the Governor.

(8) A member of a committee is not subject to Part III of the *Government Management and Employment Act, 1985*, by reason only of membership of the committee.

(9) The Trust may pay to members of a committee allowances for travelling to and from meetings of the committee at such rates as the Trust thinks proper. Such allowances will be paid out of the revenue of the Trust.

Duties and functions of committees

26c. (1) It is the duty of a committee to investigate and report to the Trust on any matter which relates to the supply of electricity within the district of the committee and is referred to the committee by the Trust.

(2) A committee may of its own motion make reports and recommendations to the Trust on any matter relating to the supply of electricity within the committee's district.

Business of committees

26d. (1) Subject to any regulations made under this Act, the business of a committee will be conducted in such manner and at such times and places as the committee determines.

(2) A decision of a committee is valid if concurred in by a majority of the members of the committee.

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PART IV

POWERS, DUTIES AND IMMUNITIES

DIVISION I—GENERAL POWERS AND DUTIES OF THE TRUST

General powers of the Trust

36. (1) The Trust is empowered—

- (a) to generate, transmit and supply electricity within and beyond the State;
- (b) to do anything incidental or ancillary to that purpose including—
 - (i) the purchase, leasing, or hire of power stations, sub-stations, transmission lines and distribution systems;
 - (ii) the interconnection of the Trust's mains with those of other authorities and the receipt, supply or interchange of electricity;
 - (iii) the acquisition of undertakings for the generation, transmission or supply of electricity;
 - (iv) the entering into, and carrying out, of any transaction necessary for, or incidental to, any of the above purposes;
 - (v) the acquisition of land, or any interest in, over or affecting land, in accordance with the *Land Acquisition Act, 1969*;
 - (vi) the exercise of any power under the *Adelaide Electric Supply Company's Acts, 1897 to 1931*.

(2) The Trust may, with the Minister's approval, grant loans or subsidies to other electricity suppliers in the State.

(3) The provisions of the *Adelaide Electric Supply Company's Acts, 1897 to 1931* (apart from sections 32, 33 and 38 of the *South Australian Electric Light and Motive Power Company's Act, 1897*) apply to and in relation to the Trust as if references to the Company were references to the Trust.

The Trust's duties with regard to electricity supply

37. (1) Subject to this section, the Trust will as far as practicable maintain the electricity supply through the distribution system.

(2) If it is reasonable and economic to do so, the Trust will, on the application of any person, and payment of the appropriate fees and charges fixed by the Trust, provide a supply of electricity to any land or premises occupied by that person.

(3) The Trust may cut off the supply of electricity to any region, area or premises if it is, in the Trust's opinion, necessary to do so—

- (a) to avert danger to any person or property;
 - (b) to prevent damage to any part of the distribution system through overloading;
- or
- (c) to allow for the maintenance or repair of any part of the distribution system.

(4) If the Trust proposes to cut off a supply of electricity in order to avert danger of a bush fire, the Trust should, if practicable, consult with the Country Fire Services Board or a delegate of that Board, before doing so.

(5) Where—

- (a) the Trust renders a proper account to the occupier of premises for electricity supplied to premises;
- (b) the account is not paid on or before a date for payment specified in the final notice of the account (which must be a date falling a least 7 days after the date of the notice),

the Trust may, after giving not less than 48 hours notice in writing to the occupier, cut off the supply of electricity to the premises.

Electricity distribution system

38. The distribution system must be constructed and maintained in accordance with standards and practices generally accepted as appropriate internationally, or throughout Australia, by the electricity supply industry.

DIVISION II—VEGETATION CLEARANCE

Vegetation clearance

39. (1) The Trust has a duty to take reasonable steps—

- (a) to keep vegetation of all kinds clear of public supply lines;
- and

- (b) to keep naturally occurring vegetation clear of private supply lines,

in accordance with the principles of vegetation clearance.

(2) The occupier of private land has (subject to the principles of vegetation clearance) a duty to take reasonable steps to keep vegetation (other than naturally occurring vegetation) clear of any private supply line on the land in accordance with the principles of vegetation clearance.

(3) A person acting with the Trust's authorization may, subject to the terms of the authorization—

- (a) enter land and inspect private or public supply lines on the land;

- (b) enter land and carry out—

- (i) work that the Trust is required or authorized to carry out under this section;
- (ii) work that the occupier of the land should have (but has not) carried out in pursuance of the duty imposed by this section;

or

- (iii) work that the occupier has requested the Trust to carry out on his or her behalf (being work that the occupier is obliged to carry out under this section).

(4) Reasonable notice should be given (either orally or in writing) to the occupier of land of an intention to enter the land under this section and, where work is to be carried out on the land, at least 60 days written notice, specifying the nature of the work, should be given, but notice is not required in an emergency.

(5) An authorized person may use reasonable force in the exercise of a power conferred by this section.

(6) No statutory authorization beyond this section is required for the carrying out of work required in pursuance of a duty imposed by this section.

(7) If vegetation is planted or nurtured in proximity to a public supply line contrary to the principles of vegetation clearance, the Trust may remove that vegetation and may recover the cost of so doing as a debt from the person by whom the vegetation was planted or nurtured.

(8) This section operates to the exclusion of common law duties, and other statutory duties, affecting the clearance of vegetation from public and private supply lines.

(9) Any costs incurred by the Trust in carrying out work on private land in pursuance of this section (other than work that the Trust is required to carry out in pursuance of a duty imposed by this section) may be recovered as a debt from the occupier of the land.

DIVISION III—STATUTORY EASEMENT

Purpose of Division

40. The purpose of this Division is—

(a) to legitimize informal arrangements under which parts of the distribution system have been established on, above or under land of which the Trust is not the owner;

and

(b) to ensure that the Trust has the necessary powers to enter any such land for the purpose of examining, repairing, modifying or replacing the relevant parts of the distribution system.

Statutory easement

41. (1) Where, at the commencement of this section, any part of the distribution system is on, above or under land (other than land belonging to the Trust in fee simple) the Trust has an easement over that land.

(2) The easement entitles the Trust—

(a) to maintain the relevant part of the distribution system on, above or under the land affected by the easement;

(b) to enter the land, by its agents or employees, at any reasonable time, for the purpose of examining, maintaining, repairing, modifying or replacing the relevant part of the distribution system;

(c) to bring onto the land any vehicles or equipment that may be reasonably necessary for any of the above purposes.

(3) The powers conferred by the easement must be exercised so as to minimize, as far as reasonably practicable, interference with the enjoyment of the land by other persons.

(4) If there is any inconsistency between this section and an instrument to which the Trust is a party, the terms of the instrument prevail to the extent of the inconsistency.

(5) An easement under this section need not be registered.

DIVISION IV—EXEMPTION OF THE TRUST FROM CERTAIN CIVIL LIABILITIES

Immunity from liability in consequence of cutting off or failure of electricity supply

42. The Trust incurs no civil liability in consequence of—

(a) cutting off the supply of electricity to any region, area or premises in pursuance of this Act;

or

(b) the failure of an electricity supply.

DIVISION V—CONTRIBUTION TO GENERAL REVENUE

Payments by the Trust

42a. (1) In this section—

“payment day” means the last working day that occurs in a quarter:

“quarter” means any period of approximately three months concluding on or about the last day of March, June, September or December in any year as may be agreed upon by the Treasurer and the Trust.

* * * * *

(2) The Trust must, on or before each payment day, out of its revenues pay to the Treasurer for the purposes of the General Revenue of the State, an amount equal to five per cent of its revenues being revenues derived from the sale of electricity during the quarter last preceding the quarter within which the payment day occurs.

(3) For the purposes of subsection (2), the amount of the revenues of the Trust derived from the sale of electricity during a quarter will be quantified by agreement between the Treasurer and the Trust or, in the absence of such an agreement, by the Auditor-General.

* * * * *

PART IVA

COAL MINING BY THE TRUST

* * * * *

Restriction on sale, letting, and mining of coal at Leigh Creek

43c. A sale or lease of any seam of coal vested in the Crown at or near Leigh Creek or a contract for any such sale or lease or a right to mine any such seam of coal cannot be made or granted by or on behalf of the Crown except pursuant to an Act specifically authorizing that sale, lease, contract or right.

Power to mine Leigh Creek coal, and incidental powers

43d. (1) The Trust may—

- (a) mine (by open or closed working) any seams of coal, vested in the Crown or the Trust, at or near Leigh Creek;
- (b) treat, grade, or otherwise prepare for sale, and use, sell or otherwise dispose of any coal so mined.

(2) The Trust may do any of the following things which it considers necessary or convenient for the purpose of carrying the provisions of this Part into effect:

- (a) erect houses, buildings and other improvements, and grant leases or tenancies of, or rights to use or occupy, any land, house or building belonging to the Trust;
- (b) construct, repair and maintain streets and roads;
- (c) plant, develop, improve and maintain public parks, squares, recreation grounds and other places of public resort;
- (d) construct, acquire, maintain and manage sewerage systems and provide sewers and drainage for any premises;
- (e) construct, acquire, maintain and manage waterworks, buy water, and sell and supply water;
- (f) generate, sell and supply electricity;
- (g) acquire or dispose of property of any kind;
- (h) construct any works;
- (i) make reasonable charges for any commodity or service sold or supplied by the Trust;
- (j) do or execute any other act, matter or thing, or enter into and carry out any transaction.

(3) The Trust may, from any main used by it to supply water to persons at Leigh Creek, sell and supply water to any other persons who can be conveniently supplied with water from that main.

Clubs and refreshment rooms

43da. (1) The Trust may on the Leigh Creek coalfield—

- (a) establish and maintain premises for use as club rooms and refreshment rooms;
- (b) at any such premises conduct clubs and refreshment rooms.

(2) The power to conduct clubs and refreshment rooms under this section includes power to sell and supply refreshments, including liquor, to provide such accommodation conveniences and amenities as the Trust thinks fit, and to do all things incidental to the conduct of clubs and refreshment rooms.

(3) The power to sell liquor conferred by this section cannot be exercised except in pursuance of a licence under the *Liquor Licensing Act, 1985*.

(4) The profits derived by the Trust from the conduct of clubs and refreshment rooms under this section must be applied for such purposes beneficial to the inhabitants of the Leigh Creek coalfield as are approved by the Treasurer.

(5) After the close of each financial year the Trust must submit to the Treasurer—

(a) a copy of its accounts for that financial year relating to the conduct of clubs and refreshment rooms under this section;

(b) recommendations by the Trust as to the purposes to which the profit derived by the Trust during that financial year from the conduct of clubs and refreshment rooms are to be applied, and the amount to be applied to each purpose.

(6) The Treasurer may approve of those purposes either with or without additions or alterations, and when the purposes are so approved the profits must be applied by the Trust accordingly.

(7) For the purpose of this section—

“the Leigh Creek coalfield” means the land held by the Trust on lease granted by the Governor pursuant to section 43g:

“liquor” means liquor as defined in the *Liquor Licensing Act, 1985*.

Power of Trust to use services of Government employees

43e. For the purposes of this Part the Trust may, with the consent of the Minister administering any department of the Public Service of the State, make use of the services of any officers or employees of that department on such terms and conditions as are agreed on between the Minister and the Trust.

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PART IVB
SUPERANNUATION
DIVISION I—PRELIMINARY

Interpretation

43f. In this Part, unless the contrary intention appears—

“the Board” means the Electricity Trust of South Australia Superannuation Board:

“contributor” means a person who has made contributions pursuant to the Scheme or a previous scheme or arrangement for the provision of superannuation benefits for employees of the Trust and includes an employee or former employee of the Trust who has ceased making contributions unless his or her rights in relation to superannuation have been exhausted and no derivative rights exist in relation to that person:

“the Fund” means the Electricity Trust of South Australia Superannuation Fund established by this Part:

“the Rules” means rules prepared by the Trust and approved by the Treasurer that regulate membership of the Scheme, provide for contributions and benefits under the Scheme and provide for other matters relating to the establishment and operation of the Scheme:

“the Scheme” means the scheme of superannuation established by this Part and the Rules.

DIVISION II—THE BOARD

The Board

43g. (1) The Electricity Trust of South Australia Superannuation Board is established.

(2) The Board is a body corporate.

(3) The Board has full juristic capacity to exercise any powers that are by their nature capable of being exercised by a body corporate.

(4) Where a document appears to bear the common seal of the Board, it will be presumed, in the absence of proof to the contrary, that the document was duly executed by the Board.

Function of the Board

43h. The Board is responsible for all aspects of the administration of this Part and the Rules (including the management and investment of the Fund).

The Board's membership

43i. (1) The Board consists of the following members:

(a) four members elected by the contributors;

(b) one member appointed by the Trust on the nomination of the Treasurer;

and

(c) three other members appointed by the Trust.

(2) The Trust must appoint a member to be the presiding member of the Board.

(3) The Trust may appoint a deputy to a member of the Board and the deputy may, in the absence or during a temporary vacancy in the office of that member, act as a member of the Board.

(4) The appointment of a deputy to a member is subject to the same nomination requirements (if any) as the appointment of the member.

(5) Subject to subsection (6), a member of the Board will be elected or appointed for a term of three years.

(6) A member elected or appointed to fill a casual vacancy will be elected or appointed for the balance of the term of his or her predecessor.

(7) The office of a member of the Board becomes vacant if the member—

(a) dies;

(b) completes a term of office and is not re-elected or reappointed;

(c) resigns by written notice to the Trust;

or

(d) is removed from office by the Trust on the ground of—

(i) mental or physical incapacity to carry out official duties satisfactorily;

(ii) neglect of duty;

or

(iii) misconduct.

Procedure at meetings of the Board

43j. (1) A meeting will be chaired by the presiding member or, in his or her absence, by a member chosen by those present.

(2) Subject to subsection (3), the Board may act notwithstanding vacancies in its membership.

(3) Five members constitute a quorum for a meeting of the Board.

(4) Each member present at a meeting of the Board is entitled to one vote on a matter arising for determination at the meeting and the person presiding has, in the event of an equality of votes, a second or casting vote.

(5) Subject to this Act, the Board may determine its own procedures.

(6) The Board must keep minutes of its proceedings.

Trust to provide staff, etc., for Board

43k. (1) The Trust must provide the Board with the staff and facilities necessary to enable the Board to carry out its functions.

DIVISION III—THE ELECTRICITY TRUST OF SOUTH AUSTRALIA SUPERANNUATION SCHEME

Establishment of the Scheme

43l. (1) The Trust must establish a superannuation scheme for the benefit of its employees to be known as the *Electricity Trust of South Australia Superannuation Scheme*.

(2) The Trust must make rules that provide for membership of the Scheme, contributions and benefits and other matters relating to the establishment and operation of the Scheme.

(3) The Rules—

(a) must conform to the provisions of this Part;

(b) cannot come into force until they have been approved by the Treasurer;

and

(c) may be varied or replaced by the Trust with the approval of the Treasurer.

(4) The Trust can only replace the Rules on the recommendation of the Board and can only vary the Rules on the recommendation of the Board or in order to bring them into conformity with the *Superannuation Act, 1988*.

(5) Section 10(3) and (4) of the *Subordinate Legislation Act, 1978*, does not apply to rules made under this section.

DIVISION IV—PAYMENT OF CONTRIBUTIONS AND BENEFITS

Payment of contributions

43m. Contributions payable pursuant to the Rules must be paid to the Treasurer.

Payment of benefits

43n. (1) Any payment to be made under the Rules to, or in relation to, a contributor must be made out of the Consolidated Account (which is appropriated to the necessary extent).

(2) The prescribed proportion of a payment referred to in subsection (1) will be charged against the contributor's account and the remainder of the payment (if any) will be charged against the Trust.

(3) Where the contributor's account is exhausted, the amount that would otherwise be charged against it under subsection (2) will be charged against the Trust.

(4) The Treasurer may reimburse the Consolidated Account—

(a) by charging the relevant division of the Fund with the amount that is, in pursuance of this section, to be charged against a contributor's account;

and

(b) by charging the Trust with the amount that is, in pursuance of this section, to be charged against the Trust.

(5) The amount that can be charged against the Fund under subsection (4)(a) is limited to the amount standing to the credit of the contributor's account.

(6) In this section—

“the prescribed proportion” in relation to a payment means the whole, or such proportion, of that payment as is prescribed by the Rules or by regulation to be charged against a contributor's account.

DIVISION V—THE FUND

The Fund

43o. (1) The Electricity Trust of South Australia Superannuation Fund is established.

(2) The assets of the Fund belong (both at law and in equity) to the Crown.

(3) The Fund is subject to the management and control of the Board.

(4) The Treasurer must pay into the Fund from the Consolidated Account (which is appropriated to the necessary extent) periodic contributions reflecting the contributions paid to the Treasurer by contributors with respect to the relevant period.

(5) All interest and accretions arising from investment of the Fund must be paid into the Fund.

(6) The Fund will be treated as made up of three major divisions in respect of the following categories of contributors:

(a) contributors to The Electricity Trust of South Australia Retiring Gratuities for Wages Employees Scheme (1962) (excluding those contributors who fall within the category referred to in paragraph (c));

(b) contributors to the Electricity Trust of South Australia Superannuation Fund pursuant to the *ETSA Superannuation Scheme Regulations, 1975* (excluding those contributors who fall within the category referred to in paragraph (c));

(c) contributors—

(i) whose contributions commenced on or after 1 July, 1986, but before 20 July, 1987, and who within three months of the commencement of this Part elect to contribute to that division of the Scheme established for contributors who become members of the Scheme after the commencement of this Part;

(ii) whose contributions commenced on or after 20 July, 1987, whether before or after the commencement of this Part.

(7) Each division of the Fund will be proportioned to—

(a) the aggregate balance, as at a date determined by the Board, of contribution accounts maintained in the names of contributors comprising the category relevant to that division of the Fund;

(b) the amount (if any) as at the date referred to in paragraph (a), that represents income of the Fund referable to contributors comprising the category relevant to that division of the Fund that is not reflected in contribution accounts;

(c) the amount (if any) as at the date referred to in paragraph (a), that is referable to contributions of contributors comprising the category relevant to that division of the Fund whose contribution accounts have been closed;

(d) subsequent contributions and payments referable to contributors comprising the category relevant to that division of the Fund;

and

(e) subsequent income of the Fund attributable to investment of that division of the Fund.

(8) The following amounts will be paid from the Fund:

(a) administrative costs and other expenses related to the management and investment of the Fund;

(b) the prescribed percentage of the other costs of administering the Scheme;

(c) any reimbursement of the Consolidated Account that the Treasurer charges against the Fund in pursuance of this Part.

(9) The Board must determine the value of each division of the Fund as at the end of each financial year.

Investment of the Fund

43p. (1) Subject to this section, the Fund will be invested in a manner determined by the Board.

(2) The Board may enter into transactions affecting the Fund—

(a) for the purpose of investment;

or

(b) for purposes incidental, ancillary or otherwise related to investment.

(3) Unless the Treasurer specifically authorizes the investment, the Fund may not be invested—

(a) in property outside Australia;

or

(b) in real property outside the State.

(4) A certificate signed by the Treasurer certifying—

(a) that a particular transaction is of a kind authorized by subsection (2);

or

(b) that a particular transaction has been specifically authorized by the Treasurer under subsection (3),

will be accepted in any legal proceedings as conclusive evidence of the matter so certified.

(5) The Board cannot, without the approval of the Treasurer, demand repayment of money that is invested on deposit with the Trust at the commencement of this Part.

Accounts and audit

43q. (1) The Board must keep proper accounts of receipts and payments in relation to the Fund and must, in respect of each financial year, prepare financial statements in relation to the Fund in a form approved by the Treasurer.

(2) The accounts and financial statements must distinguish between the divisions of the Fund and the investments in which money from each of those divisions has been invested.

(3) The Auditor-General may at any time, and must at least once in each year, audit the accounts of the Fund and the financial statements.

DIVISION VI—CONTRIBUTORS' ACCOUNTS

Contributors' accounts

43r. (1) The Board must maintain accounts in the names of all contributors.

(2) A contributor's account must be debited with any payment that is, in pursuance of this Part or the Rules, to be charged against that account.

(3) At the end of each financial year each contributor's account that has a credit balance will be increased to reflect a rate of return determined by the Board in relation to the contribution accounts in the relevant division of the Fund for the relevant financial year.

(4) In determining a rate of return for the purposes of subsection (3), the Board should have regard to—

(a) the net rate of return achieved by investment of the relevant division of the Fund over the financial year;

and

(b) the desirability of reducing undue fluctuations in the rate of return on contributors' accounts.

(5) Where, in pursuance of subsection (4)(b), the Board determines a rate of return that is at variance with the net rate of return achieved by investment of the relevant division of the Fund, the Board must include its reasons for the determination in its report for the relevant financial year.

(6) Where it is necessary to determine the balance of a contributor's account at some time other than the end of the financial year, the balance will be extrapolated by applying a percentage rate of return on accounts in the relevant division of the Fund estimated by the Board.

(7) The Board must, within six months after the end of each financial year, provide each contributor with a written statement of the amount standing to the credit of the contributor's account at the end of the financial year and the amount by which the balance of the account has been increased pursuant to subsection (3) in respect of that financial year.

DIVISION VII—REPORTS

Reports

43s. (1) The Board must, on or before 31 October in each year, submit a report to the Treasurer on the operation of this Part and the Rules and on the management and investment of the Fund during the financial year ending on 30 June in that year.

(2) The report under subsection (1) must include—

(a) the audited accounts of the Fund for the relevant financial year;

and

(b) a copy of the valuation of the Fund made as at the end of the relevant financial year.

(3) An actuary appointed by the Trust must, in relation to the triennium ending on 30 June, 1993, and thereafter in relation to each succeeding triennium, report to the Trust and Treasurer on—

(a) the cost of the Scheme to the Trust at the time of making the report and the cost of the Scheme to the Trust during the foreseeable future;

and

(b) the ability of the Fund to meet its current and future liabilities,

(and the report must be submitted to the Trust and the Treasurer within 12 months after the end of the relevant triennium).

(4) The Trust must, whenever necessary, appoint an actuary for the purposes of subsection (3).

(5) The Treasurer must, within six days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

(6) In this section—

“actuary” means a Fellow or Accredited Member of the Institute of Actuaries of Australia.

PART V

SUPPLEMENTARY PROVISIONS

Regulations

44. (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1), the regulations may—

- (a) regulate the positioning of public or private supply lines and associated electrical and other equipment;
- (b) restrict or prohibit the erection of buildings or structures in proximity to public or private supply lines;
- (c) regulate the clearance of vegetation from public or private supply lines;
- (d) impose penalties (not exceeding \$2 000) for breach of, or non-compliance with, a regulation.

(3) Regulations dealing with the clearance of vegetation from public or private supply lines can only be made with the concurrence of the Minister for the Environment.

(4) The regulations may—

- (a) vary in their operation according to time, place or circumstance;
- (b) confer discretionary powers.

SCHEDULE

Transitional Provisions

1. The assets and liabilities of The Electricity Trust of South Australia Retiring Gratuities for Wages Employees Scheme (1962) and The Electricity Trust of South Australia Superannuation Fund continued by the *Electricity Trust of South Australia Superannuation Scheme Regulations, 1975*, are transferred to the Electricity Trust of South Australia Superannuation Fund constituted under Part IVB.

2. (1) The rights of contributors pursuant to a previous scheme or arrangement for the provision of superannuation benefits for employees of the Trust to which the contributor has made contributions cease upon the commencement of this Act.

(2) The amount of the opening balance of a contributor's contribution account will be determined by the Rules.

APPENDIX

Legislative History

Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 3 of The Public General Acts of South Australia 1837-1975 at page 709.

Certain textual alterations were made to this Act by the Commissioner of Statute Revision when preparing the reprint of the Act that incorporated all amendments in force as at 6 February 1989. A schedule of these alterations was laid before Parliament on 14 February 1989.

Section 2:	deleted in pursuance of the <i>Acts Republication Act, 1967</i> , as its function is now exhausted
Section 3:	definition of "bush fire" inserted by 38, 1988, s. 3 definition of "cable" inserted by 38, 1988, s. 3 definition of "company" repealed by 38, 1988, Sched. definition of "distribution system" inserted by 38, 1988, s. 3 definition of "naturally occurring vegetation" inserted by 38, 1988, s. 3 definition of "to nurture" inserted by 38, 1988, s. 3 definition of "the principles of vegetation clearance" inserted by 38, 1988, s. 3 definition of "private land" inserted by 38, 1988, s. 3 definition of "private supply line" inserted by 38, 1988, s. 3 definition of "public supply line" inserted by 38, 1988, s. 3 repealed by 38, 1988, Sched.
Section 4:	inserted by 103, 1985, s. 3
Section 5(1a):	amended by 85, 1980, s. 3(a)
Section 6(1):	repealed by 85, 1980, s. 3(b)
Section 6(2)(d):	substituted by 85, 1980, s. 4
Section 8(1):	inserted by 85, 1980, s. 4; repealed by 38, 1988, Sched.
Section 8(1a):	amended by 85, 1980, s. 5
Section 9(1):	repealed by 38, 1988, Sched.
Section 11 proviso:	amended by 85, 1980, s. 6
Section 12(1) and (2):	redesignated to read as s. 16(1) by 38, 1988, s. 4
Section 16:	inserted by 38, 1988, s. 4
Section 16(2):	substituted by 70, 1990, s. 3
Section 18:	repealed by 38, 1988, Sched.
Section 19(1)(a):	amended by 38, 1988, Sched.
Section 20a(2):	substituted by 13, 1987, s. 5
Section 24(1):	Part III comprising ss. 27 - 35 and heading repealed by 38, 1988, Sched.
Heading preceding section 36:	substituted by 38, 1988, s. 5
Sections 36 - 42:	substituted by 38, 1988, s. 5
Heading preceding section 42a:	inserted in pursuance of the <i>Acts Republication Act, 1967</i>
Section 42a(2):	deleted in pursuance of the <i>Acts Republication Act, 1967</i> , as its function is now exhausted
Section 42a(2a):	redesignated as s. 42a(2) in pursuance of the <i>Acts Republication Act, 1967</i>
Section 43:	repealed by 38, 1988, s. 6
Sections 43a and 43b:	repealed by 38, 1988, Sched.
Section 43da(3):	substituted by 44, 1985, s. 3(a)
Section 43da(7):	definition of "liquor" substituted by 44, 1985, s. 3(b)
Section 43e(b):	repealed by 38, 1988, Sched.
Sections 43f - 43h:	repealed by 38, 1988, Sched.
	Part IVB comprising ss. 43f - 43s and headings inserted by 70, 1990, s. 4
Section 44:	substituted by 38, 1988, s. 7
Schedule:	repealed by 38, 1988, Sched.; inserted by 70, 1990, s. 5