

WESTERN AUSTRALIA.



ANNO TERTIO

EDWARDI SEPTIMI REGIS.

PRIVATE ACT.

AN ACT to authorise Frederick Henry Piesse, and his assigns, to manufacture, generate, distribute, sell, and supply Electric Light, Power, and Heat in the Townsite of Katanning, and to construct all necessary Works in connection therewith.

[Assented to 16th January, 1904.]

WHEREAS Frederick Henry Piesse (hereinafter called the Preamble. undertaker) is desirous of acquiring the rights and powers necessary to manufacture, generate, distribute, sell, and supply electric light, power, and heat in the townsite of Katanning and any extensions thereof: And whereas it is desirable to grant to the undertaker, and his assigns, the rights, powers, and privileges hereinafter appearing: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. THIS Act may be cited as the *Katanning Electric Lighting and Power (Private) Act, 1904.* Short title.

Interpretation
clause.

2. IN the construction of this Act, unless there is anything in the subject or context repugnant thereto, the several words and expressions hereinafter mentioned shall have or include the meaning following, that is to say:—

- “Undertaker.” (a.) The expression “the undertaker” shall mean the said Frederick Henry Piesse, his executors, administrators, and assigns.
- “Undertaking.” (b.) The expression “undertaking” shall mean the generation, distribution, and supply of electricity for the purposes of light, heat, motive power, or otherwise, within the limits hereinafter mentioned, and the making and constructing of all works connected therewith and all other works by this Act authorised to be executed, and the doing of all things necessary or convenient for the purpose, subject to the provisions of this Act.
- “Owner” or
“occupier.” (c.) The words “owner” or “occupier” shall respectively mean and include any person or corporation who shall for the time being be the owner or occupier, or have the charge of any street, road, place, or land affected or to be affected by the undertaking.
- “Street.” (d.) The word “street” shall include any street, market-place, court, highway, lane, public road, thoroughfare, passage, or place within the limits of the Act.
- “Works.” (e.) The expression “works” shall mean all the buildings, erections, works, machinery, plant, and apparatus for the generation, distribution, and supply, within the limits of this Act, of electricity, including the necessary connections, cables, poles, wires, lines, accumulators, and lamps, and other apparatus, and all other works connected therewith and incidental thereto, or by this Act or in any other way authorised to be constructed or undertaken by the undertaker.
- “Electric rate.” (f.) The expression “electric rate” shall include any rent to be received or remuneration of any kind to be paid to the undertaker for the supply of electricity, or the letting of electrical apparatus used in connection therewith.
- “Building.” (g.) The word “building” shall include all erections whatsoever, and all premises appertaining thereto; and also public and private gardens and enclosed courts and yards.
- “Local authority.” (h.) The expression “local authority” shall mean the council, board, or other body having the care or charge of any street.
- “District.” (i.) The word “district,” in relation to the local authority, shall mean the area within the jurisdiction of such local authority.

shall, with respect to any works which shall have been done contrary to any of the provisions of this Act, be paid and borne by the undertaker; and shall, with respect to any other works, be paid and borne by the local authority. All such expenses respectively, by whomsoever the work is done, shall be recoverable in the same manner as damages are recoverable under this Act: Provided that, if, in raising or sinking or otherwise altering any of the works, any injury shall be wilfully or negligently done to the same by any person employed by the local authority, compensation shall be made by the local authority to the undertaker for such injury, and the amount of such compensation may be ascertained and recovered in the same manner as damages are recoverable under this Act.

(2.) Notwithstanding anything herein contained, the local authority may from time to time, require the undertaker to lay under any street all works situated over or above such street; and, on receipt of such order, the undertaker shall submit plans and specifications, and an estimate of the cost of such works, and of the necessary alterations of private connections. If such plans, specifications, and estimate are not agreed to by the local authority, the same shall be referred to and settled by two arbitrators and their umpire, under the Arbitration Act, 1895.

Power to require works to be laid underground.

(3.) When such plans, specifications, and estimate are agreed or settled, the work shall be carried out by the undertaker, and the cost thereof, and of such alterations, shall, as to one-third thereof, be paid by the undertaker, and as to the remaining two-thirds, by the local authority, and until such two-thirds are paid, the same, with interest at five pounds per centum per annum, shall be a first and paramount charge on the rates, income, property, and assets of the local authority.

13. THE undertaker shall supply all persons within such district with a regular and efficient supply of electricity for lighting purposes upon application, and on the same terms upon which any other person in such district is under similar circumstances entitled to a corresponding supply.

Electricity to be supplied for lighting purposes.

14. THE price of electricity shall be uniform throughout the district, having regard to the purposes for and the quantities in which the same are supplied; but nothing in this Act contained shall compel the undertaker to provide any connection, except as hereinafter mentioned, nor to supply or continue the supply of electricity, except for lighting purposes, and then only subject to this Act and the agreement (if any) made in relation to such supply.

Price of electricity to private consumers to be uniform, and for supply to owners and occupiers.

15. IN the absence of any special contract with the local authority, the price to be charged by the undertaker to such local authority for all electric light supplied to it shall be less by ten per centum than the price charged for the time being to private consumers for lighting purposes.

Price of electricity to local authority.

Meters and fittings exempt from distress, etc.

16. NO meter for ascertaining the quantity of electricity supplied, nor any fittings therefor, shall be subject to distress for rent, or be taken in execution under any process of any Court of law or equity, nor be affected by any adjudication or other proceeding in bankruptcy of any person in possession thereof.

Charge for supply of electricity.

17. (1.) UNTIL otherwise fixed, as herein provided, the maximum price at which electricity shall be sold shall not exceed one shilling per unit.

Alteration of charge by agreement or arbitration.

(2.) At the expiration of seven years from the first day of January, One thousand nine hundred and four, and thereafter on the expiration of seven years from any award, as hereinafter mentioned, the local authority may, if the maximum price for electricity be unreasonable, give notice to the undertaker requesting a reduction in the maximum price, and stating the reduction required, and the reasons therefor; and, if the local authority and undertaker agree, the maximum price so agreed to shall stand in lieu of the prices aforesaid; but if they do not agree as to the maximum price to be so charged, the question in dispute shall be referred to two arbitrators and their umpire, under the Arbitration Act, 1895, and the award of such arbitrators or umpire, fixing the maximum price, shall be conclusive, and such price shall be the maximum price for the period of seven years from the date of the award, and thereafter until again fixed by arbitration under this clause.

Rent of meters.

(3.) The maximum rent on meters shall not exceed fifteen per centum on the cost price in Katanning.

Penalty for excessive charges.

(4.) If the undertaker shall charge and receive more than the maximum price or rent aforesaid, he shall be liable to a penalty not exceeding two pounds.

Incoming tenant not liable to pay arrears of electric light rates.

18. IN case any consumer of electricity supplied by the undertaker shall leave the premises where such electricity has been supplied without paying all moneys due from him, the undertaker shall not be entitled to require from the next incoming tenant or occupier of such premises, before supplying him with electricity, the payment of the arrears left unpaid by the former tenant, except where such incoming tenant or occupier has undertaken with the former tenant or occupier to pay or be liable for such arrears.

Power for local authority to appoint inspector of meters.

19. THE local authority may appoint any qualified person, who shall have at all times a right, in company with the engineer or other proper officer of the undertaker, or if such engineer or officer shall, during office hours, refuse to attend, then by himself, to inspect and test the meters erected by the undertaker; and any consumer requiring such inspection shall deposit in the hands of the inspector all money appearing to be due by such consumer to the undertaker on any account delivered, together with the cost

of inspection; and in case such deposit shall be found to be in excess of the sum actually due to the undertaker, such excess shall be returned to the consumer with the cost of inspection, otherwise such deposit, together with half the cost of inspection, shall be paid to the undertaker, and the other half of the cost of inspection retained by the local authority.

20. THE manager, or any other servant of the undertaker duly appointed for the purpose, may at all reasonable times, between the hours of 9 a.m. and 9 p.m., enter any building or place supplied with electricity by the undertaker, and inspect the meters, pipes, burners, or other apparatus upon such premises; and if any person shall hinder such servant after he has produced his written authority, signed by the undertaker, his manager, engineer, or secretary, from entering and making such inspection within the hours aforesaid, such person shall, for every such offence, forfeit and pay to the undertaker a sum not exceeding five pounds.

Officers of undertaker may enter buildings for ascertaining quantity of electricity consumed.

21. IF any person supplied by the undertaker with electricity, by meter or otherwise, or with a meter, or any other fittings or apparatus, shall fail or neglect to pay all moneys due for electricity supplied, or for the rent or price of such meter, or other fittings or apparatus respectively, for the space of forty-eight hours next after a demand of the amount due, indorsed with a copy of this section, and signed by or on behalf of the undertaker, shall have been served upon some person at the building or premises so supplied, or if such building or premises are apparently unoccupied, shall have been left on such building or premises; the undertakers may stop the supply of electricity from entering the premises by cutting off the connections, or by such other means as the undertaker shall think fit, and may recover all moneys due as aforesaid, together with the costs of such cutting off and removal, in the same manner as any damages or sums of money, for the recovery of which no special provision is made, are recoverable under this Act.

Recovery of electricity rate and meter rent.

22. IN all cases in which the undertaker cuts off or discontinues the supply of electricity from or to any building or premises, by agents or workmen, after giving previous notice to the occupier, may enter such building or premises between the hours of nine in the forenoon and four in the afternoon, and remove and carry away any plant or apparatus or other property of the undertaker: Provided, however, that all damages to property occasioned by such removal as aforesaid, shall be made good by and at the expense of the undertaker.

Power to take away plant, etc., when supply of electricity discontinued.

23. EVERY person who shall lay, or cause to be laid, any wire to communicate with any cable or wire belonging to the undertaker without his consent, or shall wilfully or by negligence injure any part of the works, or shall alter the index to any meter or prevent any

Undue use of electricity.

Penalty for improperly using the electricity of the undertaker.

meter from duly registering the quantity of electricity supplied, or who, in case the electricity supplied by the undertaker is not ascertained by meter, shall use any lamp other than such as has been provided or approved of by the undertaker, or shall keep the lights burning for a longer time than he has contracted to pay for, or shall otherwise improperly use such electricity, or shall in any other manner act contrary to the contract made or implied between such person and the undertaker, shall, without prejudice to any other right or remedy for the protection of the undertaker or the punishment of the offender, forfeit and pay to the undertaker a sum not exceeding five pounds for every such offence, and also a sum not exceeding forty shillings for every day such offence shall continue; and the undertaker may take or cut off the electricity from the building and premises of the person so offending, notwithstanding any contract which may have been previously entered into, and which may be then in existence: And, in addition, the undertaker may recover the amount of any damage sustained by or through any such wrongful act, neglect, default, or injury in the same manner in which damages are made recoverable by this Act.

Penalty for wilfully damaging works.

24. EVERY person who shall wilfully remove, destroy, or damage any part or portion of the works or other property of the undertaker, or shall wilfully extinguish any of the public lamps or lights, or improperly use any of the electricity supplied by the undertaker, shall for each such offence, forfeit and pay to the undertaker any sum not exceeding five pounds, in addition to the amount of damage done.

Damages for accidentally damaging works, etc.

25. EVERY person who shall carelessly or accidentally break, throw down, or damage any of the works the property of the undertaker, or under his control, shall pay such sum of money and such costs by way of satisfaction to the undertaker for the damage done as any two Justices shall think reasonable, and the undertaker may recover the same in the same manner as damages are made recoverable by this Act.

Fittings not to be connected with works without previous consent.

26. NO person shall fit up, or keep fitted up, any apparatus or fitting whereby electricity shall be obtained from any part of the works belonging to the undertaker without the consent, in writing, of the undertaker first obtained for that purpose; and any person committing a breach of this section shall forfeit and pay to the undertaker a sum not exceeding five pounds for every such offence, and a further sum not exceeding forty shillings for every day during which such offence shall continue.

Costs of distress.

27. ANY Justice who shall adjudge, order, or direct the recovery or payment of any money by or to the undertaker, either by way of penalty or damages or otherwise, may order that the costs of the proceedings for the recovery of the same shall be paid by the

person or persons liable to pay the same money, and such costs shall be ascertained and included in the warrant of distress for the recovery of such money.

28. NO special or simple contract creditor of the undertaker shall, by or under any law, title, or pretence whatever, levy or seize in execution, or in any way attempt to recover payment of any sum of money due to him by taking and removing any of the works of the undertaker laid, placed, or fixed in, under, upon, or through any street within the limits of this Act, or in any building or premises not being in the occupation of the undertaker.

No creditor of the undertaker allowed to remove works laid in streets or buildings.

29. NO person other than an engineer licensed by the undertaker shall fix, alter, repair, or interfere with any main, cable, line, fitting, meter, or other apparatus connected with the works; and the undertaker may, with the approval of the local authorities or a joint committee thereof, make by-laws for licensing competent engineers, and for cancelling licenses, and for fining licensed engineers for breach of any by-law. Any person other than a licensed engineer acting or permitting any act contrary to this section, and any licensed engineer acting or permitting any act contrary to any by-law, shall be guilty of an offence, and, on conviction, forfeit and pay to the undertaker a penalty not exceeding five pounds.

Licensing of engineers.

30. NOTHING in this Act contained shall prevent the undertaker from being liable to an indictment for nuisance, or to any other legal proceedings to which he may be liable, or shall be deemed to exempt the undertaker from the provisions of any Act relating to the public health.

Provisions of Public Health Act to apply.

31. IT shall be lawful for the local authority, at any time after the first day of January, One thousand nine hundred and twenty-five, to purchase all the works, assets, and personal property of and belonging to the undertaker, and used in connection with the matters aforesaid, upon giving to the undertaker six calendar months' notice in writing of such intention so to do, and at such price and upon such terms and conditions as shall or may be mutually agreed upon between the undertaker and the local authority; but in case of any dispute or disagreement arising between the undertaker and the local authority respecting such purchase as aforesaid, then it shall be lawful for either party to require that it shall be left to arbitration to determine what amount of purchase money shall be paid, and in such event each party shall name one person; and if such two persons cannot agree upon the amount to be paid, the same shall be referred to the umpirage of some third person to be appointed by such two first-named persons previously to their entering upon the arbitration; and the determination of such arbitrators or umpire, as the case may be, shall be binding and conclusive on the said parties and their respective successors and assigns.

Power to compulsorily purchase the works of the undertaker.

Saving clause of His Majesty's rights.

32. NOTHING in this Act contained shall be deemed or construed to affect any right, title, or interest of His Majesty, his heirs or successors.

Application of damages and penalties directed to be paid to the undertaker.

33. WHERE any damage is done to the works or property of the undertaker, and any damages are awarded to the undertaker, and where any penalty for an offence is directed by this Act to be paid to the undertaker, such damages or penalty respectively shall be paid to the undertaker for his own use.

Application of other penalties.

34. ONE moiety of all penalties imposed or recovered under this Act, where the application is not otherwise provided for, shall be paid to the informer, and the other moiety to the local authority.

Court in which proceedings to be taken.

35. (1.) ALL informations and complaints in respect of offences under this Act shall be heard and determined, and, except as is herein otherwise provided, all moneys, costs, and damages, and expenses not exceeding twenty pounds, made payable or recoverable hereby, may be recovered in a Court of summary jurisdiction.

(2.) Where the amount of moneys, costs, damages, or expenses recoverable exceeds twenty pounds, the same shall be recoverable by action or proceeding in any Court of competent jurisdiction.

Act to be deemed a public Act.

36. THIS Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others within the said State of Western Australia, without being specially pleaded.

Application of Interpretation Act, 1898.

37. SECTIONS C, F, G, and H of the Second Schedule to the Interpretation Act, 1898, shall be incorporated herewith.

When works to be commenced and completed.

38. (1.) THE undertaker shall, within nine months from the first day of January, One thousand nine hundred and four, commence, and shall, on or before the expiration of twelve months from such commencement, unless prevented by some other unforeseen or inevitable act or event, have completely laid all lines shown upon the plan deposited by the undertaker and situate within half-a-mile from the centre of Katanning Town Lot 10A.

(2.) The local authority may extend the times provided by this section.

In default this Act to become void after declaration by Supreme Court.

(3.) If the provisions of this section are not complied with within the times or extended times aforesaid, the local authority may, within one month from the expiration of such times, petition the Supreme Court by action for a declaration that such provisions have not been complied with, and on such a declaration being made in such action, this Act shall cease and determine.

(4.) The money deposited by the undertaker with the Colonial Treasurer, in accordance with the Joint Standing Orders relating to Private Bills, shall be held by the Colonial Treasurer until completion of the work aforesaid, and thereupon be returned to the undertaker: Provided that, if a declaration as aforesaid be made by the Supreme Court under this section, the said deposit shall be forfeited to the Colonial Treasurer and paid into the Consolidated Revenue Fund.

Forfeiture of
deposit.

SCHEDULE.

Bounded on the *North* by a line bearing East for 24 chains, starting from a point 1 chain East from the South-East corner of Kojonup Location 189; on the *North-East* by a line bearing $135^{\circ} 27' 57$ chains 16 links; on the *East* by a line bearing $180^{\circ} 0' 61$ chains 25 links; on the *South* by a line bearing $270^{\circ} 4'$, crossing the Great Southern Railway, and measuring 41 chains 98 links to a point on the Western side of the Great Southern Railway Reserve; thence Southward along the said Railway Reserve 13 chains 22 links, and thence $270^{\circ} 0' 24$ chains 38 links; on the *South-West* by a line bearing $315^{\circ} 27' 99$ chains 21 links; on the *North-West* by a line bearing $45^{\circ} 27'$, recrossing the Great Southern Railway, and measuring 51 chains 50 links to a point on the Eastern side of the Great Southern Railway Reserve, and along it bearing $135^{\circ} 27' 1$ chain 77 links; thence $45^{\circ} 27' 10$ chains 50 links; thence $360^{\circ} 0' 1$ chain 96 links; thence $89^{\circ} 57' 28$ chains 67 links to the starting point.