

*Australian Gas Light Company.*

AUSTRALIAN  
GAS LIGHT COMPANY.

An Act to amend an Act intituled "*An Act for lighting with Gas the Town of Sydney in the Colony of New South Wales and to enable certain persons associated under the name style and firm of 'The Australian Gas Light Company' to sue and be sued in the name of the Secretary for the time being of the said Company and for other purposes therein mentioned.*" [18th September, 1839.]

Preamble.

8 Wm. IV.  
Australian Gas  
Light Company Act.

WHEREAS by an Act of the Governor of New South Wales with the advice of the Legislative Council thereof passed in the eighth year of the reign of His late Majesty King William the Fourth intituled "*An Act for lighting with Gas the Town of Sydney in the Colony of New South Wales and to enable certain persons associated under the name style and firm of 'The Australian Gas Light Company' to sue and be sued in the name of the Secretary for the time being of the said Company and for other purposes therein mentioned*" it was enacted That the several persons therein particularly mentioned or referred to and their respective successors executors administrators and assigns should be and were thereby united into a company of proprietors by the name of "*The Australian Gas Light Company*" for certain purposes in the said Act mentioned and that the affairs of such company should be under the care management and superintendence of twelve directors one of whom should be the Chairman of the said company which Chairman and directors were to be elected in the manner hereinafter mentioned And whereas by the said Act it was further enacted That at every meeting under the said Act as well of proprietors as directors one of the said proprietors or directors as the case might be to be appointed by the majority of the proprietors or directors should be Chairman And whereas it hath been found expedient that such last-mentioned enactment should be repealed and that a further provision should be made for the election of a Chairman and a Deputy Chairman from amongst the twelve directors of the said company in manner hereinafter mentioned Be it therefore enacted by His Excellency the Governor with the advice of the Legislative Council That so much of the said recited Act as relates to the appointment of Chairman by the said proprietors or directors at every meeting under the said Act shall from and immediately after the passing of this Act be and the same is hereby repealed.

Repeal of so much  
of 8 W. IV. as relates  
to the appointment  
of Chairman.

Power to appoint  
Chairman and  
Deputy Chairman.

And in case of death  
&c. to appoint others.

2. And be it enacted That at the first meeting of directors which shall be held after the first general meeting and at every other general annual meeting the directors present shall choose from amongst their numbers a Chairman and a Deputy Chairman who shall continue in office till the following general annual meeting but it shall be lawful for the said directors to re-elect such Chairman or Deputy Chairman for the time being or either of them if they the said directors shall think proper Provided always that when and so often as the Chairman or Deputy Chairman to be chosen by virtue of this Act shall die or resign or become disqualified or otherwise cease to be a director it shall be lawful for the directors in like manner at the meeting to be held next after such vacancy

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vacancy shall occur to choose some other of the said directors to be Chairman or Deputy Chairman and every such Chairman or Deputy Chairman so to be chosen as last aforesaid to fill such vacancy shall continue in his office so long only as the person in whose place or stead he may be so elected would have been entitled under the provisions of this Act to continue if such death resignation disqualification or cessation had not happened and at every meeting as well of the proprietors as of the directors the Chairman or in his absence the Deputy Chairman or in the absence of both of them a director to be chosen by the members present shall preside and in case there shall be no director present at any meeting of proprietors then some other proprietor shall and may be chosen to preside at such meeting Provided always that the said Chairman or Deputy Chairman or in the absence of both of them the director or other proprietor to be chosen for the time being as aforesaid shall act in the place or stead of the person who if this Act had not been passed would have been appointed Chairman in pursuance of the said recited Act and such Chairman Deputy Chairman or other director is hereby empowered to do and perform all acts deeds matters and things which such Chairman appointed or who might have been appointed by virtue of the said Act is thereby authorized to do and perform in pursuance of the said Act.

Chairman and Deputy Chairman &c. to act in the place of the Chairman to be appointed under 8 W. IV.

3. And be it enacted That all notices which the said directors for the time being shall think necessary to be given to any of the proprietors in pursuance of this Act or of the said recited Act shall be in writing and be signed by the Secretary or by the Chairman for the time being and an advertisement thereof shall be inserted in the *New South Wales Government Gazette* and in one or more of the newspapers published in the said town of Sydney or a copy of such notice shall be sent by letter to each of the said proprietors through the Sydney post and such notices when so published or sent as aforesaid shall notwithstanding any thing in the said recited Act contained to the contrary thereof be deemed and considered as good and effectual notices as if the same had been personally or otherwise served upon such proprietors.

How notices to proprietors are to be given.

4. And be it enacted That in all cases in which it may be necessary for the said company to give any notice to any corporation or to any person whomsoever under the provisions or directions contained in the said recited Act such notice shall be in writing and be signed by the Secretary or by the Chairman for the time being and such notice shall be delivered to such person or to some inmate of the last or usual place of abode of such person or to some clerk or other officer of such corporation or be left at the office of such clerk or officer or be delivered to some inmate of the last or usual place of abode of such clerk or officer except in cases in which any other mode of giving such respective notices is by the said recited Act particularly directed.

How notices shall be given to any corporation &c.

5. And whereas in the said recited Act it is provided That if any proprietor or subscriber of or to the said undertaking his her or their executors administrators successors or assigns should neglect or refuse to pay his her or their portion of the money to be called for by any general or special meeting as therein mentioned by the time appointed for payment thereof or within twenty-one days next after then and in such case such proprietor or subscriber so neglecting or refusing should whether the same should have been then sued for in any court of law or equity or not absolutely forfeit his her or their share and interest in the said undertaking and all money theretofore advanced by him her or them on account thereof to and for the use and benefit of the said company And in the said Act is contained a power of

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of selling such forfeited shares in manner therein mentioned And whereas it is further enacted That no advantage should be taken of such forfeiture until after fourteen days notice in writing should have been given in manner therein particularly mentioned And whereas it hath been found necessary and expedient to alter the manner of giving such notice Be it therefore enacted That from and after the passing of this Act no advantage shall be taken of such forfeiture until after fourteen days notice of any default as aforesaid shall have been given by the directors for the time being in the manner hereinbefore prescribed for giving notices to proprietors anything contained in the said recited Act to the contrary thereof notwithstanding.

No advantage to be taken of forfeiture until fourteen days notice of default.

6. And whereas in the said recited Act it is provided That in case the money produced by the sale of any forfeited share or shares should be more than sufficient to pay all arrears of call as therein mentioned and lawful interest thereon with the expenses attending such sale the surplus of such money should be paid on demand to the person or persons to whom such share or shares should have belonged And whereas it hath been found expedient to alter the rate of interest payable on the said arrears of call and it hath also been found just and expedient to provide for cases in which it may happen that the money produced by such sale shall be insufficient for the purpose of paying such arrears interest and expenses as aforesaid Be it therefore enacted That the interest payable on all arrears of call as aforesaid shall be paid and payable at and after the rate of interest established by law and that in case at any time or times hereafter the money to be produced by the sale or sales of any share or shares which shall or may become forfeited by virtue of the said Act shall be insufficient to pay all arrears which may become due by any proprietor or subscriber of or to the said undertaking his her or their executors administrators successors or assigns and interest thereon as aforesaid with the expenses attending such sale or sales it shall be lawful for the Secretary of the said company to sue for and recover from him her or them all sum and sums of money necessary to make up any such deficiency as aforesaid by action of debt or otherwise in Her Majesty's Supreme Court of New South Wales or in any other Court of competent jurisdiction together with interest for the same after the rate aforesaid from such required or appointed time of payment and all costs of suit attending the same.

Interest payable on arrears of call.

Power to sue for deficiency of arrears of the sale of forfeited shares.

Notices to be given to the town surveyor may be given to other competent persons in case there shall be no surveyor.

7. Provided also and be it enacted That all notices which in and by the said recited Act are directed to be given to the surveyor of the town of Sydney shall and lawfully may (in case there shall be no such surveyor) be given to any other person or persons who for the time being shall or may be invested with such or the like powers or authority which are or is vested in the said town surveyor or in case there shall be no such person or persons then such notices shall be given to such other person or persons who for the time being shall or may have the control direction or superintendence of the roads streets ways lanes and other public ways and places of the said town of Sydney or of such part or parts thereof as shall be affected by any act of the said company in respect of which any notice is required to be given by the said Act And further that it shall and may be lawful for such last mentioned person or persons who for the time being shall be invested with such powers or be possessed of such control direction or superintendence as aforesaid in case there shall be no surveyor of the said town of Sydney to do and perform all acts deeds matters and things which in and by the said Act are authorized or directed to be done and performed by the surveyor of the town of Sydney aforesaid as fully and effectually to all intents and purposes as such surveyor of the town of Sydney himself might or could do by virtue of the said Act.

Power for such competent persons to perform all acts &c. of surveyor.

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8. And be it enacted That in all actions or suits at law or in equity and in all proceedings under this Act or otherwise against or for or on behalf of the said company and also in all proceedings commenced or instituted by or on behalf of the said company and in all arbitrations references or other proceedings in or consequent upon or arising out of any such actions suits or proceedings it shall be lawful for the Secretary for the time being of the said company for and on behalf of the said company to make sign seal execute and deliver such general or other release or releases as may or may be deemed necessary for the purpose of exonerating and discharging any person who shall or may be produced as a witness in any such action suit prosecution arbitration or other proceeding as aforesaid from any claim or demand which may be necessary to be released by the said company so as to qualify such person to give evidence as a witness in any such action suit prosecution arbitration reference or other proceeding aforesaid and also to do any other act matter or thing in any such action suit prosecution arbitration reference or other proceeding which any plaintiff or defendant may do in any action suit prosecution arbitration reference or other proceeding and every such release act matter and thing shall be valid and effectual in all respects and to all intents and purposes whatsoever.
9. And be it enacted That no person shall in any suit action prosecution or other proceeding whatsoever relating to or concerning the execution of this Act be deemed an incompetent witness on account of his or her being a proprietor of the said company or a chairman deputy chairman director secretary auditor treasurer clerk or other officer thereof.
10. And be it enacted That the said company shall not be bound to see to the execution or be in any other manner concerned in any trust whether expressed or implied to which any share in the said company shall be subject or liable nor shall it be lawful to make the said company parties to any suit in equity by reason thereof.
11. And be it enacted That in any action to be brought by the said company against any proprietor of any share or shares in the said undertaking to recover any money due and payable to the said company for or by reason of any call or the arrears thereof made by virtue of the said recited Act it shall be sufficient for the said Secretary on behalf of the said company to declare and allege that the defendant being a proprietor of a share or so many shares in the said undertaking is indebted to the said company in such sums of money as the calls in arrear shall amount to for so many calls of such sums of money upon such share or so many shares belonging to the said defendant whereby an action hath accrued to the said company by virtue of the said recited Act or of this Act without setting forth the special matter and on the trial of such action it shall only be necessary to prove that the defendant at the time of making such calls was a proprietor of some share or shares in the said undertaking and that such calls were in fact made and that notice of default in payment thereof was given as is directed by the said recited Act or by this Act without proving the appointment of the directors who made such call or calls or any other matter whatsoever and the said Secretary on behalf of the said company shall thereupon be entitled to recover what shall appear due (with interest computed as in the said recited Act or in this Act is mentioned) in respect of such calls and in order to prove that such defendant was a proprietor of some share or shares in the said undertaking as alleged the production of the book in which the Secretary of the said company shall enter and keep the names and additions of the several proprietors of the shares in the said undertaking with the number of shares they are respectively entitled to

Power to the Secretary to sign releases &c. in order to enable persons interested in the affairs of the company to give evidence in any action &c.

No person on account of his being a proprietor to be deemed an incompetent witness.

The company not to be bound to see to the execution of any trust which any share in the company shall be liable to.

How and in what form the declaration in any action for the recovery of the amount of arrears shall be framed.

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hold and of the locality or places of abode of the several proprietors of shares in the said undertaking and of the several persons who shall from time to time become proprietors thereof or be entitled to any share therein shall be *prima facie* evidence that such defendant is a proprietor and of the number and amount of his shares therein.

How notices are to be given to persons possessing shares by any other means than by the transfer thereof.

12. And be it enacted That in case any share or shares shall become vested in any person or persons claiming through the original subscriber or subscribers thereof and such share or shares shall have passed by any other legal means than by a transfer thereof in pursuance of the said recited Act and the name or names of such person or persons shall have been entered and registered by the clerk of the said company in the book to be kept for that purpose in pursuance of the said recited Act then after ten days notice in writing shall have been given by the said Secretary on behalf of the said company to the person or persons or corporation whose names shall be so registered as aforesaid such notice to be given in the manner herein pointed out in respect of such notices by directors to proprietors and such notice or notices containing a demand of payment of his her or their proportion of money to be called for and in case the said call or calls shall not be paid it shall be lawful for the said company at any general or special meeting after the expiration of such notice to declare such share or shares to be forfeited and in such case the same shall become forfeited and shall and may be disposed of in such manner as in other cases of sales of forfeited share or shares or such share or shares shall become consolidated in the general fund of the said company and in case there shall be no affidavit of the manner by which any share or shares shall have passed then such notice as hereinbefore directed to be given shall and may be served or sent in manner aforesaid upon or to the executors or administrators of a proprietor or proprietors dying or upon or to the assignees or trustees of a proprietor or proprietors becoming bankrupt or insolvent or upon or to the husband of any proprietor or proprietors marrying or in the event of the share or shares being disposed of upon or to the last proprietor appearing in the books of the said company to have been in possession of the same and after such notice and default being made the said share or shares shall be forfeited and shall and may be sold or otherwise become consolidated in the general fund of the said company in manner aforesaid Provided that in cases of proprietors being out of the Colony the share or shares shall not be forfeited until the expiration of two years after the day on which notice shall have been left or given as aforesaid.

Repeal of so much of the 8 Wm. IV. as enacts that nothing in the Act shall authorize gasometers &c. to be erected within the limits of Sydney.

13. And be it enacted That so much of the said recited Act which provides that nothing therein contained should authorize and empower the said company to make erect sink place or fix any gasometer or other apparatus used for the purpose of producing any such inflammable air or gas as therein mentioned within the limits of the town of Sydney shall from and immediately after the passing of this Act be and the same is hereby repealed. Provided always that nothing herein contained shall be deemed to relieve the said company or any proprietor of or subscriber to the same or person acting on their behalf from any action information or indictment which may be brought or filed against them or any of them for any nuisance which may ensue from the erection of any such gasometer or other apparatus within the limits of the town of Sydney or elsewhere.

Commencement of Act.

14. And be it enacted That this Act shall not commence or take effect until the same shall have received the Royal approbation and the notification of such approbation shall have been made by His Excellency the Governor in the *New South Wales Government Gazette*.

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15. And be it enacted That as soon as this Act shall have received the Royal approbation and the notification of such approbation shall have been made as aforesaid by His Excellency the Governor in manner aforesaid this Act shall be deemed and taken to be a public Act and shall be judicially taken notice of as such by the Judges of the Supreme Court of New South Wales and by all other Judges Justices and others within the Colony of New South Wales and its dependencies without being specially pleaded.

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This Act to be  
deemed a public Act.