



Electricity Act 1947

1947 CHAPTER 54

PART II

ACQUISITION OF ELECTRICITY UNDERTAKINGS.

Control of Dividends and Interest and Safeguarding of Assets pending transfer.

29 Re-opening of transactions resulting in dissipation of assets.

- (1) This section shall apply in any case where on or after the tenth day of January, nineteen hundred and forty-seven, any body to whom this Part of this Act applies, being a company, have—
- (a) made any payment to any person without consideration or for an inadequate consideration;
 - (b) sold or disposed of any of its property or rights without consideration or for an inadequate consideration;
 - (c) acquired any property or rights for an excessive consideration ;
 - (d) entered into or varied any agreement so as to require an excessive consideration to be paid or given by the body; or
 - (e) entered into any other transaction of such an onerous nature as to cause a loss to or impose a liability on the body substantially exceeding any benefit accruing to the body;

and the payment, sale, disposal, acquisition, agreement or variation thereof, or other transaction was not reasonably necessary for the purposes of the body or was made with an unreasonable lack of prudence on the part of the body:

Provided that this section shall not apply:

- (i) to any payment or other transaction to which section twenty-six of this Act applies;
- (ii) to any payment or other transaction made or entered into for any charitable purpose;

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- (iii) to any payment or other transaction made or entered into in connection with, the determination of any question, dispute or matter falling to be determined under any provision of this Part of this Act or any regulations made thereunder; or
 - (iv) to any payment or other transaction to which the previous consent of the Electricity Commissioners was given for the purposes of any enactment other than this section, or which has been approved in writing by the Minister, either generally or specially, and whether before or after the date of the payment or other transaction.
- (2) The Central Authority may, at any time before the expiration of a period of twelve months beginning with the vesting date, make an application to the arbitration tribunal in respect of any transaction to which in the opinion of the Authority this section applies, and all parties to the transaction, and all persons who were directors of the body at the date when the transaction was entered into shall, unless the tribunal otherwise directs, be made parties to the application.
- (3) Where the arbitration tribunal is satisfied that the transaction in respect of which an application is made is a transaction to which this section applies, then, unless it is shown by any of the parties to the application that the transaction was in the ordinary course of business and was in no way connected with any provision made by this Act or with any anticipation of the making of any such provision, the tribunal shall determine the extent of the net loss or liability caused to or imposed on the body by the transaction, and shall make such orders against all or any of the parties to the application (other than the Central Authority) as it thinks just, having regard to the extent to which they were respectively responsible for the transaction or benefited from it, for the payment by them to the Central Authority of sums sufficient to enable the net loss or liability, or such part thereof as the tribunal thinks just, to be made good or met.
- (4) Where any Electricity Board have disclaimed an agreement or lease by a notice under this Part of this Act, being an agreement or lease entered into or varied on or after the said tenth day of January, nineteen hundred and forty-seven, the Central Authority may make an application to the arbitration tribunal under this section in respect of any loss or liability caused to or imposed on the body before the vesting date and, in the case of a lease, any loss or liability caused to or imposed on the Board between the vesting date and the disclaimer of the lease, in consequence of the onerous nature of the agreement or lease.
- (5) Where any application is made to the arbitration tribunal under this section in respect of any transaction, or a reference is made to that tribunal with respect to any notice given under this Part of this Act disclaiming an agreement or lease, the tribunal shall have exclusive jurisdiction—
 - (a) to determine claims arising in respect of the transaction or under the lease or agreement; and
 - (b) if the notice disclaiming any such agreement is confirmed by the tribunal, to determine any claims arising with respect to the agreement under the Law Reform (Frustrated Contracts) Act, 1943.
- (6) This section shall, in relation to any body whose property, rights, liabilities and obligations vest by virtue of this Act in the North of Scotland Board, have effect with the substitution for the references to the Central Authority of references to the North of Scotland Board.

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- (7) In the case of a composite company, the company, and not the directors, shall be made parties to applications under this section.