

FREMANTLE MUNICIPAL TRAMWAYS AND ELECTRIC LIGHTING ACT, 1903-1937.

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FREMANTLE MUNICIPAL TRAMWAYS AND ELECTRIC LIGHTING ACT, 1903-1937.

(Reprint.)

Private Act of 1903

As amended by No. 15 of 1909, No. 37 of 1915, No. 61 of 1915, No. 3 of 1921, No. 9 of 1924, No. 24 of 1925, No. 13 of 1931, No. 4 of 1933, No. 27 of 1934, and No. 18 of 1937, and as reprinted in accordance with the provisions of the Act No. 22 of 1938.

AN ACT to empower the Municipalities of Fremantle and East Fremantle jointly to construct, maintain, and work Tramways within the boundaries of the said Municipalities, and to construct and maintain works for the Generation and Supply of Electricity for motive and lighting purposes within the same districts.

[Assented to 7th January, 1904.]

WHEREAS the Municipality of Fremantle and the Municipality of East Fremantle are desirous jointly of constructing, maintaining, and working tramways propelled by electricity within the boundaries of the said municipalities, and also of constructing a generating station for the supply of electricity for working the said tramways, and for the supply of electric light and power to the streets, houses, and buildings within the said municipalities: And whereas the powers of borrowing money for such purposes conferred on the said municipalities respectively, under section three hundred and sixty-four of the Municipal Institutions Act, 1900, are insufficient for the purpose of enabling them to carry out such works: And whereas, under the provisions contained in section sixteen of the Tramways Act, 1885, a local authority is precluded from placing or running carriages upon any tramway within its district, and from demanding and taking tolls and charges in respect of the use of such carriages: And whereas it is expedient that

Preamble.

Parliament should grant jointly to the municipalities of Fremantle and East Fremantle the necessary powers to enable them to raise money for the purpose of carrying out the said works, and to enable them to maintain and work the tramways when constructed, and to supply electric light and power to the inhabitants of the said municipalities, and to levy tolls and charges in respect of the same : Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows :—

Short title,
No. 18, 1937,
s. 4.

1. This Act may be cited for all purposes as the *Fremantle Municipal Tramways and Electric Lighting Act, 1903-1937.*

Local Authority
to construct
tramways,
electric lighting,
etc.

2. Notwithstanding the provisions of section sixteen of the Tramways Act, 1885, the Municipality of Fremantle and the Municipality of East Fremantle are hereby jointly authorised and empowered :—

- (a) To make, form, lay down, construct, maintain, and work tramways in, upon, and along such of the streets and roads in their respective municipalities as are set out in the First Schedule hereto ; to alter and vary the routes of any such tramways, and to extend the same along any other streets or roads within the boundaries of the said municipalities.
- (b) To enter into any agreement with any adjoining municipality or roads board for extending the tramways into the district of any such municipality or roads board.
- (c) To place or run carriages upon such tramways, and to demand and take tolls and charges in respect of the use of such carriages.
- (d) To purchase or otherwise acquire land for the purpose of erecting thereon a generating station, with all necessary plant and machinery, for the supply of electricity as motive power, and for providing electric light for the streets, houses, and buildings within the said municipalities.

(e) To enter into any agreement with any adjoining municipality or roads board or the Rockingham roads board for supplying electricity for motive or lighting purposes to the streets, houses, and buildings in the whole or any portion of the district of any such municipality or roads board.

As amended by No. 27 of 1934, s. 2.

(f) To demand and take tolls and charges in respect of the supply of electricity to any house, building, or factory within the said municipalities, or within the district of any adjoining municipality or roads board, or the Rockingham roads board, under the terms or in pursuance of any agreement from time to time entered into with such municipality or roads board :

As amended by No. 27 of 1934, s. 2.

Provided, nevertheless, that the powers hereby conferred on the said municipalities by subsection (a), so far as they relate to any alteration or extension of the tramways hereby authorised, and the powers conferred by subsections (b) and (e), shall not be exercisable except with the consent of the Governor.

3. Notwithstanding the provisions contained in section three hundred and sixty-four of the Municipal Institutions Act, 1900, the said municipalities may at any time, and from time to time, with, under, and subject to the powers and provisions hereinafter contained, borrow any sum or sums of money which may be necessary for the proper carrying out of the undertakings and works hereby authorised or any of them ; but the total amount so borrowed shall not, in any case, exceed the sum of two hundred thousand pounds.

Power to borrow money for the purpose of the undertakings.

Amended by No. 15 of 1909, s. 2 ; No. 37 of 1915, s. 2.

4. Any sum so borrowed shall not be taken into account in estimating the amount which can be borrowed for other purposes by either of the said municipalities, and shall not be subtracted from ten times the average income of either of the said municipalities in making such estimate, notwithstanding the provisions contained in section three hundred and sixty-four of the Municipal Institutions Act, 1900.

Money so borrowed not to be taken into account in estimating limit of borrowing power under Municipal Institutions Act, 1900, s. 364.

5. The councils of the said municipalities may deduct from any loan funds raised under the provisions of this Act any moneys advanced out of municipal

Application of loan funds to repayment of advances from municipal funds, No. 15 of 1909, s. 4.

funds for the purposes of this Act, and apply the moneys so deducted to the repayment of the moneys so advanced.

Provisions as to Loans.

Method of borrowing.

6. All moneys borrowed by the said municipalities under the powers contained in this Act shall be raised by the sale of debentures ; and such debentures shall bear on the face of them a statement that the same are issued in pursuance of the powers conferred by this Act.

Sections three hundred and sixty-eight to three hundred and seventy-eight, inclusive, of the Municipal Institutions Act, 1900, shall apply to all loans so raised, in the same manner as if such sections were herein re-enacted, and in terms made applicable to this Act.

What proportion to be borrowed by each municipality.

7. Any sum required to be borrowed for the purposes of this Act shall be raised by the said municipalities in the proportions following, that is to say :—

Six-sevenths thereof by the Municipality of Fremantle ;

One-seventh thereof by the Municipality of East Fremantle ;

And the said municipalities shall be liable in like proportions for all moneys expended, and all liabilities properly incurred, by the Fremantle Municipal Tramways and Electric Lighting Board in pursuance of the powers hereinafter conferred upon it.

Each municipality to strike a special rate to cover its proportion of liability.

8. Whenever any money has been so borrowed by the said municipalities, and so long as any portion thereof remains unpaid, each of the said municipalities shall, in every year, strike such a special rate as the council of the municipality deems necessary to meet the interest and sinking fund on the amount of the loan for which it is responsible, after deducting its proportion of any profit which may have been earned during the preceding year as a result of the working of the undertakings.

Provision as to dealing with any excess or deficiency in rate.

9. If in any year the proceeds of such special rate are in excess of the sum required for the purposes set out in the preceding section, such excess shall be

retained and credited against any sum raisable for like purposes during the next ensuing year. If in any year the proceeds of such special rate are insufficient for the purposes aforesaid, the council shall make good the deficiency out of ordinary income, but shall, in the next ensuing year, add such deficiency to the amount of the rate raisable for that year, and out of the proceeds thereof shall repay to itself the amount so paid out of ordinary income.

10. If on the examination of accounts of the Board, as provided in section forty-three of this Act, it shall appear that the operations of the Board during the year have resulted in a loss, each of the said municipalities shall, in each year, strike an additional special rate as the Councils of the municipalities deem necessary to defray the amount of such loss ; and if the proceeds of such additional special rate are in excess of the sum required for the purpose of this section, such excess shall form part of the ordinary income of the municipalities.

Additional special rate in case of loss.

11. There shall be incorporated with this Act the following provisions of the Municipal Institutions Act, 1900, namely :—

Incorporation of certain provisions of the Municipal Institutions Act, 1900, with this Act.

With respect to “ General Provisions as to Rates ;”

With respect to “ Recovery of Rates ;”

And sections three hundred and eighty-one to three hundred and eighty-nine with respect to “ Borrowing Powers :” Provided, nevertheless, that it shall not be necessary to provide a sinking fund for the repayment of the loans during the first two years after the raising of the first loan under this Act.

12. Notwithstanding the provisions of section eleven of this Act or anything therein contained, if at any time the Board shall find it inadvisable, inexpedient, or unnecessary to expend, for the purposes for which the same were borrowed the whole or any portion of any moneys borrowed by the said municipalities by the sale of debentures under the provisions of this Act, the Board may, on a resolution passed by an absolute majority of the Board, expend such moneys on the repurchase of any such debentures.

Board may repurchase debentures out of unexpended loan moneys :

See s. 468, Municipalities Act, 1906.

Enacted by No. 13 of 1931, s. 2.

Board may purchase at discount or premium, etc.
No. 13 of 1931,
s. 3.

13. The Board may purchase any such debentures under the provisions of the preceding section on such terms and subject to such discount or premium as the Board may decide.

Debentures to be cancelled on repurchase.
No. 13 of 1931,
s. 4.

14. On the purchase of any such debentures the same and all coupons belonging thereto shall be forthwith cancelled, and it shall be the duty of the respective mayors and town clerks of the said municipalities to see that such cancellation is effected.

Authorisation of the borrowing in the United Kingdom of money repayable in English currency.
No. 4 of 1933,
s. 2.

15. (1) The powers of borrowing money conferred by this Act shall extend to the borrowing thereof in the United Kingdom of Great Britain and Northern Ireland.

(2) Money borrowed in the United Kingdom may be made repayable, together with the interest thereon, in English currency of the United Kingdom, at London, in England.

Form of debentures.
No. 4 of 1933,
s. 3.

16. Notwithstanding anything in section six of this Act or section four hundred and forty of the Municipal Corporations Act, 1906, any debenture issued in respect of moneys borrowed in the United Kingdom may be according to the form in the second schedule to this Act.

Ascertainment of limit of borrowing powers.
No. 4 of 1933,
s. 4.

17. For the purpose of ascertaining whether the total amount borrowed is within the limits prescribed by this Act, moneys borrowed in the currency of the United Kingdom shall be reckoned at their nominal amount in pounds of such currency as if a pound of that currency were equivalent to a pound of Australian currency.

Power to Supreme Court to appoint an official liquidator in case of default in payment of principal or interest on loan.

18. In the event of any default being made in payment of any principal money or interest of any loan raised under the powers conferred by this Act, the holder of any debenture in respect of which any such principal money or interest is overdue may apply to the Supreme Court, by petition on behalf of himself and all other holders of debentures in respect of which a like default has been made, for the appointment of an official liquidator of the undertakings.

19. An official liquidator, when so appointed, shall be entitled to take possession of the undertakings and the property, plant, machinery, and effects used or appropriated in connection therewith; and, subject to any order or direction which may be made by the Supreme Court, he shall have all the powers and authorities conferred by law upon an official liquidator appointed in the winding up of a limited company, including a power of sale and the right to carry on the undertakings as a going concern pending realisation thereof.

Powers of official liquidator.

20. The undertakings and works shall constitute the primary security for the repayment of all debentures, interest, and costs; but, in the event of there being any deficiency on the sale and realisation thereof, the official liquidator shall be entitled to sue for and recover from the Municipality of Fremantle six-sevenths of the total amount of such deficiency, and from the Municipality of East Fremantle the remaining one-seventh of such deficiency.

The undertakings and works to be the primary security for repayment for loans.

21. The net profits derived from the working of the undertakings in every year, after deduction of interest and sinking fund on all loans from time to time outstanding, and after allowing for all proper depreciation, shall belong to and be paid as to six-sevenths thereof to the Municipality of Fremantle, and as to the remaining one-seventh to the Municipality of East Fremantle, and the same shall form part of the ordinary income of the said municipalities, as defined by section three hundred and twenty two of the Municipal Institutions Act, 1900.

As to division of net profits.

Board of Management.

22. Within nine months after the commencement of this Act, the construction, carrying out, control, and management of the undertakings hereby authorised shall be vested in a Board, which shall be called "The Fremantle Municipal Tramways and Electric Lighting Board."

Constitution of Board of Management.

The Board shall consist of five members. The Mayor for the time being of Fremantle shall be *ex officio* a member of the Board. The four other mem-

bers shall be elected by the persons for the time being on the Tramways Electoral Rolls as hereinafter provided.

Who eligible as members of the Board.

23. Any person eligible for election as Mayor or Councillor under section forty of the Municipal Institutions Act, 1900, shall be eligible to be elected a member of the Board to represent such municipality.

Style and seal of Board.

24. (1) The Fremantle Municipal Tramways and Electric Lighting Board may sue and be sued, and may for all purposes be described by that name.

(2) The Board shall have an official seal, which shall be officially and judicially noticed, and that seal shall be authenticated by some member of the Board and the secretary, or some one authorised by the Board to act as secretary.

Board to assume management of undertakings prior to starting of work.

25. The said municipalities may, prior to the election of the Board, take the necessary steps—

- (a) To obtain expert advice as to the proper method of carrying out the undertakings and works hereby authorised, or any of them ;
- (b) To decide, in accordance with such advice, as to what portion of the undertakings and works shall forthwith be carried out ;
- (c) To obtain estimates as to the cost of the same, and to decide on the amount of the loan necessary for providing for such cost, and for providing interest and sinking fund on such loan during construction of the works, and for contingencies and working expenses ;
- (d) To raise a loan or loans in accordance with the provisions of this Act for the amount so ascertained by them to be necessary for the purposes aforesaid.

Save as aforesaid, the entire control and management of the undertakings and works, and the construction and carrying on of the same, and the expenditure of all moneys raised by the said municipalities for such purposes shall be vested in the Board.

General powers of Board.

26. Without prejudice to the general powers of the control and management of the undertakings

hereinbefore conferred upon the Board, the Board shall have the following powers that is to say, power—

- (a) To appoint and, at its discretion, remove or suspend such managers, secretaries, officers, clerks, agents, and servants for permanent, temporary, or special services as it may from time to time think fit, and to invest them with such powers as it may think expedient, and to determine their duties and fix their salaries or emoluments and to require security in such amount as it thinks fit.
- (b) To institute, conduct, defend, compound, or abandon any legal proceedings by or against the Board or its officers, and also to compound and allow time for payment or satisfaction of all debts due and of any claims or demands by or against the Board.
- (c) To make and give receipts, releases, and other discharges for money payable to the Board, and for the claims and demands of the Board.
- (d) To open an account or accounts at any bank in the name of the Board, and to draw and indorse cheques thereon, whether the account is in credit or overdrawn, but so that all such cheques shall be signed by at least two members of the Board and countersigned by the secretary or some person authorised to act as secretary ; and to obtain advances by overdraft of any current account, but not exceeding at any time twenty thousand pounds.
- (e) To make rules and regulations as to the conduct of their business and as to the carrying on of the same.
- (f) From time to time to support, aid, subscribe, or contribute to any scheme, fund, or association of persons being solely the board's employees now existing or hereafter to be formed for the purposes of making provision for such employees and for their dependants on the resignation, retirement, or death of such employees, or on the cessation or abolition of the positions or

As amended by No. 3 of 1921, s. 2, and No. 27 of 1934, s. 3.

Power to join in super-annuation schemes, etc.
Inserted by Act No. 18 of 1937, s. 2.

employment of such employees, and to make subscriptions or contributions to any such scheme, fund, or association either in a lump sum or by regular periodical or other payments for such period or periods and subject to such terms and conditions as the board may deem fit to impose :

Provided that the subscriptions or contributions of the board under the provisions of this paragraph shall not in any year ending thirty-first August exceed the total sum collected by way of subscriptions from the board's employees.

Free passes.

27. The Board shall not have the right to grant more than ten free passes over the tramways in any one year, and such passes shall not be available for a longer period than twelve months, and shall terminate on the thirty-first day of August next succeeding the issue thereof, and the Board shall cause the reasons for the issue of such free passes to be set forth in the minute book of the proceedings of the Board: Provided that this section shall not extend to persons employed by the Board :

inserted by
Act No. 24 of
1925, s. 2.

Provided also that notwithstanding the limitation by this section of the number of free passes that may be granted, the Board may grant and revoke such free passes to incapacitated soldiers or sailors who have served in the war, blind persons, and members of the police force, as in its discretion the Board may think fit.

Power to
provide omni-
bus services.

inserted by
Act No. 9 of
1924, s. 2.

28. (1) It shall be lawful for the Fremantle Municipal Tramways and Electric Lighting Board (constituted under the Fremantle Municipal Tramways and Electric Lighting Act, 1903, which Act is incorporated herewith) to provide and acquire and to run on any roads, motor omnibuses and other similar vehicles for the carriage of passengers, and such service shall be deemed an authorised undertaking within the meaning of the said Act.

(2) Subject to the provisions of the Traffic Act, 1919, the Board may make by-laws for regulating the use of such motor omnibuses and other vehicles,

prescribing the fares for the carriage of passengers, and imposing a penalty not exceeding five pounds for the breach of any by-law.

29. (1) It shall be within the powers of the Fremantle Municipal Tramways and Electric Lighting Board to enter into contracts with any person or Government Department or agency for the supply to the Board of electric current on such terms and conditions as the Board may think fit, and to construct and maintain all necessary works connected therewith.

Power to contract for current.

Inserted by Act No. 61 of 1915, s. 2.

(2) All current so supplied to and taken by the Board may be used by the Board in the management and carrying on of its undertaking and works, and for the supply by the Board of electricity for motive power and lighting purposes, and for the purposes of this section moneys may be lawfully expended, and liabilities may be lawfully incurred by the Board.

30. All moneys received by the Board from the said municipalities shall be applied by the Board solely for the purposes following, or some of them, that is to say :—

Application of moneys received by Board from the municipalities.

- (a) In repayment of the costs incurred by the said municipalities in promoting this Act ;
- (b) In obtaining expert advice and assistance as to laying down and constructing and working the tramways hereby authorised, and any extensions or alterations thereof ;
- (c) In obtaining expert advice and assistance in the selection and purchase of land, and in building and constructing a generating station for the supply and distribution of electricity for motive and power purposes in the said municipalities ;
- (d) In paying for the laying down, construction, and equipment of the said tramways, and for all necessary plant, land, buildings, and material in connection therewith ; and in paying for the purchase of motor cars, omnibuses, or other vehicles to be used in connection with the said tramways, and as feeders of traffic thereon :

- (e) In paying for the purchase of land and for the erection of buildings, machinery, and plant thereon, for the purpose of generating and distributing electricity for working the tramways, and for supplying motive and lighting power within the boundaries of the said municipalities ;
- (f) In paying for the necessary poles, wires, insulators, meters, accumulators, fittings, or things of whatsoever description required to generate or supply electricity for motive and lighting purposes ;
- (g) In paying for all necessary labour in carrying out the undertakings and works hereby authorised ;
- (h) In paying the remuneration of the Board, as fixed by this Act, and in paying the salaries of any manager, secretary, engineer, clerk of the works, or any other officer or servant who may be deemed necessary, either during the construction of the works or at any time thereafter, for working and carrying on the undertakings hereby authorised, or any of them ;
- (i) In paying legal expenses, auditors' fees, office rent, and all other necessary expenses and disbursements in connection with the proper carrying out of the business of the Board, including any moneys paid in pursuance of the powers contained in paragraph (f) of section twenty-six.

Amended by
No. 18 of 1937.
s. 8.

Preparation of
Tramway
Electoral lists
or rolls.

31. Prior to the first election of the Board the Councils of each of the said municipalities shall cause to be prepared a list of all persons who are owners of freehold property within the boundaries of the said respective municipalities, and a list of all persons who are occupiers of property within the like boundaries, with a description of the property and the rateable value thereof. Such lists or rolls shall be called the Tramways Electoral Roll (Freeholders), and the Tramways Electoral Roll (Occupiers).

As to revision
of rolls.

32. The said rolls shall be revised annually on or before the twentieth of September in every year by each of the said municipalities in accordance with

sections fifty-seven to seventy, inclusive, of the Municipal Institutions Act, 1900, as if they were electoral lists or rolls within the meaning of those sections.

Election of Board.

33. The first election of members to serve on the Board shall take place on such day or days, not being more than nine months after the commencement of this Act, as the mayors of Fremantle and of East Fremantle shall respectively appoint. Twenty-one days at least before the days so appointed for the election, the respective mayors shall cause a notice thereof to be advertised in some newspaper or newspapers circulating in the district of the municipality.

First election of Board, when to take place

34. The first election of four members to serve on the Board should be conducted in all respects on the day or days appointed by the respective mayors as if it were an election of a mayor or auditors of each of the said municipalities, under the provisions contained in the Municipal Institutions Act, 1900, provided as follows:—

Mode of election of first members to Board

- (a) Every person whose name is inscribed on the Tramways Electoral Roll (Freeholders) of Fremantle shall be entitled to vote for one candidate, and every person whose name is on the Tramways Electoral Roll (Occupiers) of Fremantle shall be entitled to vote for one candidate.
- (b) Every person whose name is inscribed on the Tramways Electoral Roll (Freeholders) of East Fremantle shall be entitled to vote for one candidate, and every person whose name is on the Tramways Electoral Roll (Occupiers) of East Fremantle shall be entitled to vote for one candidate.
- (c) Each person whose name appears on such respective rolls shall be entitled to the number of votes which the annual rateable value of his property would entitle him to at the election of a mayor or auditor if he were on the municipal electoral list for the same property, and each such person shall be supplied with a number of ballot or voting papers equal to the number of votes to which he is entitled.

Subject as above, Division 4 of the Municipal Institutions Act, 1900, to apply in all elections to the Board.

35. Subject as aforesaid, the provisions contained in Part II., Division 4, of the Municipal Institutions Act, 1900, in respect of "Election of Council," shall, *mutatis mutandis*, apply to the first and every other election of members to the Board.

Members first elected to hold office till December, 1906, and thereafter for two years.

36. The four elected members of the Board shall hold office until the first day of December, one thousand nine hundred and six, and shall then retire, and four new members shall be elected, and thereafter the four elected members shall hold office for two years.

Mode of election in case of members retiring annually.

37. The election of members of the Board to take the place of retiring members in the year one thousand nine hundred and six and every second year thereafter shall be held on the third* Wednesday in November simultaneously with the election of a mayor, auditors, and councillors, as provided in the Municipal Institutions Act, 1900; and special ballot and voting papers shall be printed in the forms set out in the Seventh and Eighth Schedules to that Act, with such alterations as are necessary to enable the ratepayers of the said municipalities properly to record their votes.†

Election of chairman.

38. The Board shall, at their first meeting, elect a chairman, who shall continue in office until the first day of December, one thousand nine hundred and four, and at the first meeting of the Board, in December, one thousand nine hundred and four, and thereafter at the first meeting in December in every year they shall appoint a chairman, who shall hold office until the first day of December following.

Remuneration of Board.

Amended by No. 15 of 1909, r. 3.

39. The chairman of the Board shall be entitled in every year to a sum of one hundred pounds as remuneration for his services, and each of the other members of the Board shall be entitled to a sum of seventy-five pounds in every year as such remuneration. The acceptance of such remuneration by a mayor or councillor of either of the said municipalities shall

*Note to section 37.—By the Municipal Corporations Act, 1906, section 76, the words "fourth Wednesday" were substituted for "third Wednesday." By section 14 of the Interpretation Act, 1918, it is enacted that where in any Act reference is made to any other Act, such reference shall be deemed to be a reference to any Act substituted for such other Act, and to the corresponding provision of the substituted Act.

†See 9th and 11th Schedules to Municipal Corporations Act, 1906.

not be deemed to disqualify him under section forty-two of the Municipal Institutions Act, 1900, from continuing to occupy the position of mayor or councillor.

40. No person shall be eligible to be elected a member of the Board who is—

Disqualification
of members
of the Board

- (a) An undischarged or uncertificated bankrupt ;
- (b) A person of unsound mind ;
- (c) A person who has been convicted of felony, perjury, or other heinous offence ;

and if a member of the Board, during his term of office, becomes ineligible for election under (a), (b), or (c) ; or if—

- (d) By notice, in writing, addressed to the chairman of the Board, he resigns his position, and the same is accepted by the Board ; or
- (e) If he be absent from three consecutive meetings of the Board without permission of the Board ; or
- (f) If he shall participate in or be concerned either directly or indirectly in any contract entered into by the Board, or shall accept or take any commission on any such contract, or become in any way financially interested in any business being carried on by the Board ;

his office as a member of the Board shall thereupon be vacated.

41. On the occurrence of any vacancy on the Board under the preceding section, or in consequence of the death of a member, the Board shall forthwith notify the same to the town clerks of the respective municipalities, and the same shall be deemed an extraordinary vacancy within the meaning of section seventy-seven of the Municipal Institutions Act, 1900,* and such vacancy shall be filled up in the manner provided by that Act : But the member to fill the vacancy shall be elected by the votes only of the persons for the time being on the Tramways Electoral Roll (Freeholders) or the Tramways Electoral Roll (Occupiers), according to whether the vacancy is caused by a member elected by the former or by the latter.

Extraordinary
vacancy—how
to be filled.

*See section 79 of the Municipal Corporations Act, 1906, and note to section 37 of this Act.

Accounts and Audit.

Board to keep proper accounts.

42. The Board shall cause true accounts to be kept of the money received by them from the said municipalities and expended by them in connection with the undertakings and works hereby authorised, and of all matters in respect of which such expenditure is incurred, and of the assets and liabilities of the undertakings.

Statement of account and balance sheet to be made up annually in November and duly audited.

43. In the month of September in every year the accounts of the Board shall be examined, and the correctness of the statement and balance-sheet made up to the thirty-first day of August preceding shall be ascertained by two auditors, who shall be nominated annually, one by each of the councils of the said municipalities, who shall fix their fees. The auditors so appointed shall be members of some recognised institute or society of accountants in Australasia or Great Britain.

Auditors to have access to books and accounts of Board.

44. The auditors shall, at all reasonable times, have access to the books and accounts of the Board, and they may, in relation thereto, examine the members of the Board or the officers in its employment.

Copy of statement of account and balance-sheet, etc., to be furnished to the municipalities and published by them.

45. A copy of the statement of accounts and balance-sheet shall, on or before the first Wednesday in October in every year, be furnished to the councils of the said municipalities, together with an estimate, prepared by the Board, of the moneys, if any, required to be provided for the purposes of the undertakings during the ensuing year, and a copy of such balance-sheet and estimate shall, at least ten days prior to the annual election of members to the Board, be published in one or more newspaper or newspapers circulating in the districts of the said municipalities.

Incorporation of other Acts.

In constructing and working tramways, provisions of the Tramways Act, 1885, to be observed so far as applicable.

46. In forming, constructing, and working the tramways hereby authorised, the Board shall observe and perform the conditions and regulations contained in the provisions of the Tramways Act, 1885, so far as the same are applicable, and for such purposes the Board shall be deemed to be "promoters" within the meaning of that Act, and generally all the provisions

of that Act, so far as the same are applicable and are not repugnant to the special provisions of this Act, shall apply as if the same had been re-enacted herein and in terms made applicable to this Act.

47. In connection with the undertakings and works hereby authorised for supplying electricity for motive or lighting purposes to the streets, houses, and buildings in the said municipalities or road districts, and the carrying on of the undertaking when completed, the provisions of the Electric Lighting Act, 1892, shall, so far as they are applicable and not repugnant to the provisions herein contained, apply as if the same had been re-enacted herein, and in terms made applicable to this Act; and for such purposes the Board shall be deemed to be "undertakers" within the meaning of that Act.*

Application of the provisions of the Electric Lighting Act, 1892, to this Act.

As amended by Act No. 27 of 1934.

48. If at any time hereafter tramways are constructed by the Council of any municipality adjoining the said municipalities, or either of them, or by the Council of the Municipality of North Fremantle (which shall be deemed an adjoining municipality), such tramways may be connected with, and the carriages of the Council of any such adjoining municipality may be run upon, the tramways authorised by this Act on such terms and conditions as may be agreed upon between the said municipalities or the Board, and the Council of any such adjoining Municipality, or, in case of disagreement, as may be determined by the Minister for Works.

Running powers.

49. In the event of the Municipality of East Fremantle, at any time before the expiration of six months from the commencement of this Act, declining to proceed with the undertakings and works hereby authorised jointly with the Municipality of Fremantle, it shall be lawful for the Municipality of Fremantle alone to construct the tramways as set out in the Schedule to this Act, so far as the same are within the boundaries of the said municipality, and to carry out the works for the supply of electricity, so far as relates to the streets, houses, and buildings in the Municipality of Fremantle alone, and they shall be deemed to have all the powers and authorities con-

Power for the Municipality of Fremantle alone to carry out certain of the works hereby authorised.

*See now the Electricity Act, 1937.

ferred by this Act on the said municipalities jointly, and the expression "the said municipalities" shall in such event be read and construed as if it referred to the Municipality of Fremantle alone

And the following results shall ensue :—

- (a) All money borrowed for the purposes of the undertakings shall be raised by the Municipality of Fremantle alone.
- (b) The Municipality of Fremantle shall alone be responsible for any deficiency on the sale and realisation of the undertakings, and shall be entitled to all profits.
- (c) The Board shall consist of the Mayor for the time being of Fremantle and two members elected, one by the freeholders and one by the occupiers in manner provided by this Act, and the first election shall take place on a day to be appointed by the Council of the Municipality of Fremantle, not being later than nine months after the commencement of this Act.
- (d) The two auditors shall be elected by the Council of the Municipality of Fremantle, who shall fix their fees.

In certain event fresh notice to be given to borrow.

50. In the event of the ratepayers of East Fremantle declining to sanction a loan for the purpose of providing their share of the amount required for the purpose of the undertakings, it shall not be lawful for the Municipality of Fremantle to proceed with the undertakings, in pursuance of the powers conferred by the last section, unless and until they have given fresh notice of their intention to borrow the necessary money, and the ratepayers have had an opportunity of demanding a poll in accordance with sections three hundred and seventy-five and three hundred and seventy-six of the Municipal Institutions Act.*

Interpretation.

51. In this Act, unless the context is inconsistent therewith, the expression—

"The Board" means the Fremantle Municipal Tramways and Electric Lighting Board.

*See now sections 446 and 447 of Municipal Corporations Act, 1906.

“Electricity” means electric current for the supply of motive power, light, or heat.

“The said municipalities” means the Municipalities of Fremantle and East Fremantle.

“Undertakings” means the works in connection with the construction and carrying on of the tramways, and of the supply of electricity as authorised by this Act.

52. This Act shall come into operation immediately after the passing thereof. Commencement of Act.

THE FIRST SCHEDULE.

(a) A tramway commencing at a point one chain West of the Western side of Cliff Street, in the municipality of Fremantle; thence along High Street and terminating at the junction of Swanbourne Street and East Street. See section 2 (a).

(b) A tramway commencing at a point in line with the Western side of Bay Street at its intersection with Market Street, in the Municipality of Fremantle; thence along Market Street, South Terrace, and Mandurah Road, and terminating at a point two chains South of the South side of Douro Road, in the Municipality of Fremantle.

(c) A tramway commencing at a point on tramway (b) at the intersection of South Terrace and Alexander Road (late Hampton Street); thence along Alexander Road and Hampton Road, and terminating at a point two chains beyond the South side of Lefroy Road, in the Municipality of Fremantle.

(d) A tramway commencing at the intersection of High Street and Adelaide Street; thence along Adelaide Street, Victoria Road (late Cantonment Road), and Canning Road, and terminating at a point opposite the Eastern boundary of Location 212, near Moore's Farm, in the Municipality of East Fremantle.

(e) A tramway commencing at the intersection of East Street and Canning Road; thence along East Street to George Street, and along George Street to Duke Street, terminating at a point on the Eastern boundary of Duke Street.

(f) A tramway commencing at the intersection of Cliff Street and High Street, in the Municipality of Fremantle; thence along Cliff Street to Phillimore Street, and along Phillimore Street to Market Street, and terminating at the starting point of tramway (b).

Inserted by
No. 4 of 1933,
s. 3.

THE SECOND SCHEDULE.

MUNICIPALITY OF FREMANTLE (*or EAST FREMANTLE*).

No.....

Debenture.....

Issued by the Municipality of Fremantle (*or East Fremantle*) under the provisions of the Fremantle Tramways and Lighting Acts, 1903-1937, and the Municipal Corporations Act, 1906.

Transferable by Delivery.

This debenture was issued by the abovenamed Municipality in pursuance of a notice published in the Western Australian *Government Gazette* of the day of in the year , and is to secure to the bearer a principal sum of £ in currency of the United Kingdom of Great Britain and Northern Ireland, payable at London, England, on the day of , in the year , or at the option of the said municipality (to be exercised by six calendar months' previous notice given to the bearer of this debenture), on the day of , 19 , or any subsequent half-yearly date for the payment of interest.

Interest at the rate of £ per centum per annum on such principal sum in the meanwhile is payable in the said currency by equal half-yearly payments on the day of and the day of , and a coupon is annexed for each payment, which entitles the bearer of such coupon thereto.

Such principal sum and interest are payable at London, England, and are charged in accordance with the above Acts upon the municipal revenue of the Municipality of Fremantle (*or East Fremantle*) and are not otherwise secured.

£ per cent. in the said currency on the amount of the loan will be invested every year in accordance with the said Acts to form a sinking fund.

Dated this day of , 19 .

(L.S.) Mayor.

.....Town Clerk