

WOOD DISTILLATION AND CHARCOAL IRON AND STEEL INDUSTRY.

7° GEO. VI., No. XV.

No. 20 of 1943.

AN ACT to authorise the establishment, maintenance and carrying on by the Government of the State, of works, plant and other undertakings in connection with certain processes of wood distillation and the production of Charcoal Iron and of Steel and the sale of products derived from the carrying on of the said works, plant, and other undertakings.

[Assented to 25th October, 1943.]

BE it 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 *Wood Distillation and Charcoal Iron and Steel Industry Act, 1943.* Short title.

2. This Act shall be construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State to the intent that where any provision of this Act or of the regulations or the application thereof to any person or circumstances Construction.

is held invalid the remainder of this Act or of such regulations and the application of such provisions to other persons or circumstances shall not be affected.

Interpreta-
tion.

3. In this Act unless the context or subject matter otherwise indicates or requires:—

“Board” means the Charcoal Iron and Steel Industry Board of Management constituted under and for the purposes of this Act.

“Charcoal” means wood charcoal which is produced by carbonising wood or sawdust and includes briquettes made substantially from wood charcoal.

“Charcoal iron” means pig-iron produced in a blast furnace in which charcoal is the fuel used as distinct from ordinary pig-iron produced by the use of coke as the fuel.

“Minister” means the Minister of the Crown for the time being and from time to time holding the portfolio of Minister for Industrial Development, and includes any other Minister of the Crown temporarily acting in the place of the said Minister.

“Wood distillation” means the process by which wood is converted into charcoal by heating in steel retorts in the absence of air with arrangements for condensing the liquid products and for collecting the wood gas.

“Works, plant and undertakings” includes:—

(a) land, and land and buildings;

(b) machinery, tools, apparatus, equipment, appliances, fittings and materials; and

(c) patents, processes, and other activities— which are or may be required or used as part of or as ancillary or incidental to the doing of any act, matter or thing in relation to the production of charcoal and other products by means of a process of wood distillation and to the production of charcoal iron and of steel.

Administra-
tion.

4. This Act shall be administered by the Minister.

5. (1) Subject to this Act, the Minister acting for and on behalf of the Government of the State shall be and is hereby authorised—

Authority to the Minister to establish, maintain, and carry on works, plant, and undertakings.

(a) At any time and from time to time and in any part or parts of the State as he shall think fit, to establish, maintain, and carry on works, plant, and undertakings upon any lands dedicated to the purposes of this Act for the purpose of producing charcoal and other products by any process of wood distillation, and of producing charcoal iron and steel; and

(b) To carry on in or about such works, plant, and undertakings the business of producing charcoal and other products, and charcoal iron and steel as aforesaid for sale or for any other use by the Government of the State, and of selling or using as aforesaid the charcoal and other products, and the charcoal iron and steel produced as aforesaid.

(c) (i) For the purposes aforesaid to acquire machinery, plants, goods, chattels, and effects;

(ii) to erect, maintain, and repair buildings with all necessary machinery and plant;

(iii) construct or have constructed or rent railway sidings and all necessary appurtenances thereto; and

(iv) make roads, ways, railways, tramways, and other conveniences for transportation to and from works, plant, and undertakings.

(2) Any works, plant, and undertakings established and the business carried on therein under the authority of this Act shall not be a State trading concern within the meaning of the State Trading Concerns Act, 1916, and the provisions of that Act shall not apply thereto.

6. (1) The Governor may from time to time for the purposes of this Act—

Dedication and acquisition of land.

(a) by notice published in the *Gazette* dedicate any land which is Crown land within the meaning of the Land Act, 1933-1939, or otherwise is land belonging to the Crown; and

(b) enter upon and take and resume any land in accordance with the provisions of the Public Works Act, 1902-1933, in the same manner with the same rights and subject to the same duties as if the works, plant, and undertakings authorised by this Act were a "public work" within the meaning of the Public Works Act, 1902-1933.

(2) The Minister may from time to time on the recommendation of the Board purchase, take on lease, or occupy as a tenant any land or land and buildings required for the purposes of this Act.

(3) Any land taken or resumed by the Governor as provided for in paragraph (b) of subsection (1) of this section and any land purchased by the Minister as provided for in subsection (2) of this section shall vest in and be held for and on behalf of His Majesty the King, and shall be dedicated as aforesaid to the purposes of this Act.

(4) If any land, which has been dedicated to the purposes of this Act, shall at any time be no longer required for such purposes the Governor may by notice in the *Gazette* cancel such dedication, and thereafter subject to the approval of the Governor such land may be sold or otherwise disposed of by the Minister for and on behalf of His Majesty the King.

Funds.

7. (1) The funds necessary for the effectual exercise by the Minister of the powers conferred upon him by section five of this Act shall be—

- (a) such moneys as are from time to time appropriated by Parliament for that purpose;
- (b) the income derived by the Minister from the business carried on by him under the authority of this Act; and
- (c) such moneys as the Minister may borrow under and subject to the provisions of this Act.

(2) All such moneys shall be placed to the credit of an account at the Treasury to be called "The Charcoal Iron and Steel Industry Account" and shall be applied to the purposes of this Act.

Provided that—

- (i) the Minister shall cause separate records or entries to be kept in the books referred to in section twenty-four of this Act in which shall be shown such amounts of the moneys placed to the credit of the said account from time to time as are capital moneys and such amounts of such moneys as are revenue or profit or income moneys; and
 - (ii) Moneys received by the Minister either by appropriation by Parliament or by advances by the Treasurer when such moneys are drawn from the Consolidated Revenue Fund shall, for the purposes of this section, be deemed in the hands of the Minister to be revenue or profit or income moneys.
- (3) The said account shall be operated upon in such manner as may be prescribed.
- (4) The moneys from time to time in the said account shall be chargeable with—
- (a) all capital expenditure incurred in connection with the acquisition by purchase or compulsory taking of land or land and buildings, or in connection with the establishment and maintenance of works, plant, and undertakings;
 - (b) the fees or remuneration and allowances payable to members of the Board;
 - (c) the salaries and wages of officers and servants employed in or in connection with the business carried on by the Minister; and
 - (d) all other expenditure lawfully incurred by the Minister in the exercise of his powers under this Act.

Provided that—

- (i) the capital expenditure mentioned in paragraph (a) of this subsection shall in the first instance be charged against and be paid out of those moneys in the said account which are recorded or entered in the books of account as capital moneys; and

- (ii) the expenditures mentioned in paragraphs (b), (c) and (d) of this subsection, together with interest and sinking fund contributions payable by the Minister under this Act, amounts determined as depreciation in plant, and the cost of maintenance of plant shall in the first instance be charged against and be paid out of those moneys in the said account which are recorded or entered in the books of account as revenue or profit or income moneys.

Borrowing powers.

8. (1) The Minister may, with the approval of the Governor, borrow from the Treasurer, and in such case the Treasurer shall make advances to the Minister out of moneys appropriated by Parliament to such purpose to enable the Minister to defray expenditure incurred by him under this Act at any time when the moneys in the Charcoal Iron and Steel Industry Account aforesaid are not sufficient to meet such expenditure in full.

(2) The Minister shall pay to the Treasurer in respect of moneys borrowed as aforesaid interest at such rate, and at such times as shall be determined by the Governor.

(3) The moneys borrowed and the interest payable in respect thereof shall be a charge upon the moneys in the Charcoal Iron and Steel Industry Account from time to time, and upon any works, plant and undertakings established by the Minister and upon any other property belonging to the Minister under this Act.

Appointment of officers and servants.

9. (1) The Board may appoint and employ a Secretary to the Board and such engineers, technicians, chemists, clerks and other salaried officers and, subject as hereinafter provided, such servants and labourers at daily or weekly wages as may be necessary for the establishment, maintenance, and carrying on of any works, plant, and undertakings and the carrying on of the business therein by the Minister, and may dismiss any person appointed, or terminate the employment of any person employed as aforesaid.

Provided that the Board may delegate to any salaried officer of the Board the matter of the employment and termination of employment of servants and labourers employed at daily or weekly wages.

(2) All persons so appointed shall, subject to the Minister, be under the control and direction of the Board.

10. Before any officer or servant entrusted with the custody of money or other property shall enter upon the duties of his office the Board may require him to furnish sufficient security for the faithful execution thereof.

Certain officers to give security.

11. (1) There shall be constituted for the purposes of this Act a Board of Management to be called "the Charcoal Iron and Steel Industry Board of Management."

Board of Management.

(2) The Board shall consist of five members to be appointed by the Governor on the recommendation of the Minister, one of whom shall be nominated by the workers in the industry concerned in the works plant and undertakings established under this Act.

(3) The members shall hold office during the pleasure of the Governor.

(4) One of such members shall be appointed by the Governor as chairman of the Board.

(5) In the case of illness, inability or absence of any member of the Board, the Governor may appoint another person, who is recommended by the Minister, to act as the deputy of such member during such illness, inability or absence; and every such person while he acts as such deputy shall have all the powers and perform all the duties of a member of the Board.

(6) The Board under the name aforesaid shall be a body corporate with perpetual succession and a common seal, and shall be capable in law of suing and being sued in contract or in tort and of holding and disposing of property (other than land), and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

(7) Subject to the Minister the Board shall have and may exercise such powers and functions and shall carry out and perform such duties as are in this Act conferred or imposed upon the Board or as may be prescribed by regulations.

12. The members of the Board shall receive—

- (a) such fees or other remuneration for their services as the Governor shall from time to time determine; and

Remuneration and allowances.

(b) such travelling and other allowances as may be prescribed by regulations.

Quorum.

13. For the conduct of the business of the Board three members shall be a quorum, and shall have all the powers and authorities vested in the Board.

Acting
Chairman.

14. In the absence of the chairman from any meeting of the Board or if after being present he retires, the members present may elect one of their number to be acting chairman for that meeting or for the remainder of the meeting.

Procedure on
difference of
opinion.

15. The chairman or acting chairman, as the case may be, shall have a deliberative vote only and if at any meeting of the Board the members present shall be equally divided in opinion on any matter the further consideration of such matter shall be adjourned to a subsequent meeting of the Board at which all the members of the Board are present.

Acts of Board
not invali-
dated by
vacancy.

16. No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was taken, done, or commenced there was a vacancy in the office of any member of the Board.

Minutes of
proceedings.

17. The Board shall—

- (a) keep minutes of its proceedings in such manner and form as may be prescribed; and
- (b) make periodical reports of its proceedings as may be prescribed or as may be from time to time required by the Minister.

Powers, duties
and functions
of the Board.

18. (1) Subject to the Minister and to the provisions of this Act the Board shall have and exercise the management and control of all works, plant, and undertakings established under this Act, and of the business carried on therein.

(2) Without in any way limiting or restricting the generality of subsection (1) of this section, the Board shall, in addition to any other powers or duties conferred or imposed upon it by this Act, have and perform the following powers, duties, and functions, that is to say—

- (a) the management, control, and direction of all officers, servants, and agents employed or engaged under this Act in the performance of their duties;
- (b) the working and development of any mineral deposits required in connection with the carrying on of the business under this Act;
- (c) the making and entering into contracts in connection with the carrying on of the said business as the agent or representative of the Minister;
- (d) the sale of products in the course of the carrying on of the said business;
- (e) advising and making recommendations to the Minister on all matters of policy and administration in relation to the establishment, maintenance, and carrying on of the works, plant, and undertakings and to the business carried on therein;
- (f) the keeping of accounts and the preparation of reports and financial statements;
- (g) the making and enforcement of claims and demands for the Minister, and the defending, settling, or compromising of claims and demands against the Minister; and
- (h) Such other powers and duties as may from time to time be prescribed.

(3) Provided that no expenditure in respect of any one item exceeding the sum of one thousand pounds shall be incurred by the Board without the prior approval of the Minister.

19. (1) Any claim or demand which the Minister desires to make and any action or proceeding which the Minister desires to take or institute against any person shall at the direction of the Minister be made or taken or instituted by the Board in its corporate name as the agent or representative of the Minister.

Claims and proceedings by and against the Minister.

(2) Any person who desires to make any claim or demand or to take or institute any action or proceeding against the Minister shall make such claim or demand or take or institute such action or proceeding against the Board in its corporate name as the agent or representative of the Minister.

(3) In respect of any action or proceeding taken or instituted on behalf of the Minister, and in respect of any action or proceeding taken or instituted against the Board as the agent or representative of the Minister, the Board shall have and may be granted by the Court the same rights and remedies as the Minister would have and might be granted by the Court if he appeared in such action or proceeding as the plaintiff or as the defendant as the case may be.

Contribution
of interest
and sinking
fund.

20. (1) There shall be entered and debited in the said Charcoal Iron and Steel Industry account in each year such amounts as shall be fixed by the Treasurer as the interest and sinking fund contributions payable for the year in respect of such portion of the General Loan Fund as shall have been applied to the exercise by the Minister of any of the powers conferred upon him by this Act.

(2) Such contributions shall be paid to the Treasurer.

(3) The accrued interest on the sinking fund contributions as certified by the Under Treasurer shall be incorporated in the accounts of the Minister in relation to the exercise by him of the powers conferred upon him by this Act.

Interest on
capital ex-
penditure
from
Revenue.

21. (1) Interest on the daily balance of money provided out of the Consolidated Revenue Fund for the purposes of this Act shall be charged in the books of the Minister in relation to the exercise of his powers under this Act. The amount of such interest shall be paid to the credit of the Consolidated Revenue Fund half yearly or at such other time as the Treasurer shall direct.

When assessing the amount of such daily balance in respect of which the interest shall be charged and be payable under this section there shall be taken into account in addition to any other credits the amount of any cash profit which has been paid to the credit of the Consolidated Revenue Fund as provided for in section twenty-seven of this Act.

(2) The rate of interest shall be from time to time fixed by the Treasurer.

Charges for
use of prop-
erty and
services.

22. (1) There shall be entered and debited in the Charcoal Iron and Steel Industry Account aforesaid such sum as in the opinion of the Treasurer represents

the value of the use by the Minister under this Act of Government buildings or other property or of part services of any Government officers not wholly employed by the Minister under this Act, or of services rendered by any Government Department.

(2) Any amount debited under this Section shall be treated as revenue payable into the Consolidated Revenue Fund and shall be paid accordingly as and when directed by the Treasurer.

Provided that where a departmental vote has already been debited in the current financial year, then the amount shall be credited to such vote or treated as a rebate of the departmental expenditure where the annual estimates of such department provide for a rebate of expenditure.

23. All moneys standing to the credit of the Charcoal Iron and Steel Industry Account aforesaid may, until required by the Minister in connection with the exercise of his powers under this Act be temporarily invested as the Treasurer may direct in any securities wherein moneys in the Public Account may lawfully be invested, and all interest thereon shall be paid to the credit of the said Account.

Temporary investment of moneys. Application of balance.

24. The Minister shall cause the Board to provide and keep books and to enter true and regular accounts therein—

Accounts.

(a) of all moneys received and paid and of all moneys owing to and by the Minister in respect of the business carried on by him under this Act, and of the several purposes for which such moneys are received and paid, and owing; and

(b) of all the assets and liabilities of the said business.

25. The Auditor General shall determine the amount of the depreciation of the assets existing in relation to the exercise by the Minister of his powers under this Act.

Depreciation

26. Annual estimates of the revenue and expenditure of the Minister in connection with the exercise by him of his powers under this Act shall be prepared under such heads and in such manner as the Treasurer shall direct, and shall be submitted to Parliament.

Annual Estimates.

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Application
of profit.

27. Any profit from the business carried on by the Minister under this Act at the end of any financial year which is available in cash after making full allowance for interest and sinking fund contributions and depreciation in and maintenance of plant, and which is not required by the Minister for the purposes of such business shall, subject to the approval of the Governor, be paid to the credit of the Consolidated Revenue Fund.

Books may
be inspected.

28. The books to be kept by the Board in connection with the business carried on by the Minister under this Act shall be open to the inspection of the Auditor General and any person authorised by the Auditor General to inspect the same, and copies or extracts may be taken therefrom.

Accounts to be
balanced.

29. The accounts of the Minister in relation to the business carried on by him under this Act shall be balanced every year on the thirtieth day of June.

Accounts to
be audited.

30. (1) The Minister shall in every year cause a full and true balance sheet of the assets and liabilities of the business carried on by him under this Act, together with a profit and loss account, and such other statements as may be necessary to be compiled from the books and to be submitted to the Auditor General for audit.

(2) The Auditor General shall certify that he has found the Accounts in order or otherwise as the case may be, and whether in his opinion the accounts are properly drawn up so as to present a true and correct view of the transactions for the period under review as shown by the books; and all items of receipts and payments and all known liabilities and assets have been brought into account, and the value of all assets fairly stated.

(3) The Auditor General shall, in respect of such accounts have all the powers conferred on him by the Audit Act, 1904, but subject to such powers the provisions of the Audit Act, 1904, shall not apply to the business carried on by the Minister under this Act.

(4) The Auditor General shall arrange for a periodical or continuous audit of the accounts of the Minister in relation to the business carried on by him under this Act.

31. Copies of such accounts together with the Auditor General's report thereon shall be laid before both Houses of Parliament in each year. Accounts and report to be laid before Parliament.

32. The Governor may make regulations prescribing all matters and things which are required to be prescribed or which it may be necessary or convenient to prescribe for carrying out and giving effect to this Act. Regulations.
