

Western Australia

Wood Distillation and Charcoal Iron and Steel Industry Act 1943

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Wood Distillation and Charcoal Iron and Steel Industry Act 1943

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NOTES

Wood Distillation and Charcoal Iron and Steel Industry Act 1943

An Act to authorize 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 25 October 1943]

Be it enacted —

1. Short title

This Act may be cited as the *Wood Distillation and Charcoal Iron and Steel Industry Act 1943*.

2. Construction

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 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.

3. Interpretation

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.

4. Administration

This Act shall be administered by the Minister.

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

- (1) Subject to this Act, the Minister acting for and on behalf of the Government of the State shall be and is hereby authorized —
- (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. Dedication and acquisition of land

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

7. Funds

- (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.

[Paragraphs (i) and (ii) deleted.]

- (2a) Moneys received by the Minister shall, for the purposes of this section, be deemed in the hands of the Minister to be revenue or profit or income moneys if those moneys are —
- (a) appropriated by Parliament from the Consolidated Fund; or
 - (b) advanced from the Treasurer’s Advance Account and the Treasurer directs that such moneys shall be deemed 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.

[Section 7 amended by No. 98 of 1985 Schedule 1; No. 6 of 1993 s.11.]

8. Borrowing powers

- (1) The Minister may borrow from the Treasurer 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.

9. Appointment of officers and servants

- (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. Certain officers to give security

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.

11. Board of Management

- (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.”

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- (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. Remuneration and allowances

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

13. Quorum

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.

14. Acting Chairman

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.

15. Procedure on difference of opinion

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.

16. Acts of Board not invalidated by vacancy

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.

17. Minutes of proceedings

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.

18. Powers, duties and functions of the Board

- (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) deleted]*
 - (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.

[Section 18 amended by No. 98 of 1985 Schedule 1.]

19. Claims and proceedings by and against the Minister

- (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.
- (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.

20. Contribution of interest and sinking fund

- (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 Consolidated 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.

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- (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.

[Section 20 amended by No. 6 of 1993 s.14 (8).]

20A. Board may borrow money

- (1) For the purposes of carrying out its powers and functions under this Act, the Board is authorized with the prior approval in writing of the Minister and the Treasurer to borrow money upon such terms and conditions only as the Treasurer approves.
- (2) The Treasurer on behalf of the State is hereby authorized to guarantee, on such terms and conditions as he thinks fit, repayment of any money borrowed by the Board under this section and the payment of interest thereon.
- (3) The Treasurer shall cause any money required for fulfilling any guarantee given by him pursuant to this section, to be paid out of the Consolidated Fund which Fund is hereby to the necessary extent appropriated accordingly, and the Treasurer shall cause any sums received or recovered by him from the Board or otherwise in respect of a sum so paid by the Treasurer to be paid into the Consolidated Fund.

[Section 20A inserted by No. 29 of 1972 s.2; amended by No. 98 of 1985 Schedule 1; No. 6 of 1993 s.11.]

21. Interest on capital expenditure from Revenue

- (1) Interest on the daily balance of money provided out of the Consolidated 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 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 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.

[Section 21 amended by No. 6 of 1993 s.11.]

22. Charges for use of property and services

- (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 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.

[Section 22 amended by No. 6 of 1993 s.11.]

23. Temporary investment of moneys. Application of balance

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 Bank Account may lawfully be invested, and all interest thereon shall be paid to the credit of the said Account.

[Section 23 amended by No. 98 of 1985 Schedule 1.]

24. Application of *Financial Administration and Audit Act 1985*

The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Board and its operations.

[Section 24 inserted by No. 98 of 1985 Schedule 1.]

[Section 25, 26, 27, 28, 29, 30 and 31 repealed by No. 98 of 1985, Schedule 1.]

32. Regulations

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.

33. Re-constitution of Board and suspension of provisions of Act during currency of the Agreement

- (1) Subject to subsections (2) and (4) of this section but notwithstanding any other provision of this Act, on and from the Sale Date —
 - (a) the members of the Board shall cease to hold office and the Board shall be re-constituted to consist of the Treasurer;
 - (b) the Board shall out of the moneys payable to it, pursuant to paragraph (b) of subclause (3) of clause five of the Agreement, re-pay the instalments of principal and interest in respect of the several loans that were made to the Board prior to the Sale Date and guaranteed by the Treasurer under section twenty A of this Act;

- (c) the provisions of sections four to thirty-two, inclusive, of this Act shall (except to the extent necessary for the purposes of this section) be of no effect, but nothing in this paragraph operates so as to limit the operation of any guarantee given by the Treasurer pursuant to section twenty A of this Act prior to the Sale Date.
- (2) If the Agreement is determined pursuant to clause twenty-seven thereof, the provisions of subsection (1) of this section shall cease to have effect.
- (3) In this section —
- “the Agreement”** means the Agreement defined in section two of the *Wundowie Charcoal Iron Industry Sale Agreement Act 1974*;
- “the Sale Date”** has the same meaning as is given thereto by clause one of the Agreement.
- (4) Nothing in this section shall be construed as varying or modifying in any way any rights of any party to the Agreement.
- [Section 33 inserted by No. 73 of 1974 s.4.]*

NOTES

- ^{1.} This is a compilation of the *Wood Distillation and Charcoal Iron and Steel Industry Act 1943* and includes all amendments effected by the other Acts referred to in the following Table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Wood Distillation and Charcoal Iron and Steel Industry Act 1943</i>	20 of 1943	25 Oct 1943	25 Oct 1943
	29 of 1972	9 Jun 1972	9 Jun 1972
	73 of 1974	10 Dec 1974	10 Dec 1974
	98 of 1985	4 Dec 1985	1 Jul 1986 (see <i>Gazette</i> 30 Jun 1986 p.2255)
<i>Financial Administration Legislation Amendment Act 1993 Pt 4</i>	6 of 1993	27 Aug 1993	Deemed operative 1 Jul 1993