

**NICKEL REFINERY (WESTERN  
MINING CORPORATION  
LIMITED) AGREEMENT.**

No. 16 of 1974.

**AN ACT to amend the Nickel Refinery (Western Mining Corporation Limited) Agreement Act, 1968-1970.**

[Assented to 16th October, 1974.]

**B**E it enacted by the Queen'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:—

1. (1) This Act may be cited as the *Nickel Refinery (Western Mining Corporation Limited) Agreement Act Amendment Act, 1974.*

Short title  
and cita-  
tion.

(2) In this Act the Nickel Refinery (Western Mining Corporation Limited) Agreement Act, 1968-1970 is referred to as the principal Act.

Act No. 24 of  
1968 as  
amended by  
Act No. 76  
of 1970.

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(3) The principal Act as amended by this Act may be cited as the Nickel Refinery (Western Mining Corporation Limited) Agreement Act, 1968-1974.

Section 2  
amended.  
(Interpreta-  
tion.)

2. Section 2 of the principal Act is amended—

- (a) by adding before the word “Schedule”, in line three, the word “First”; and
- (b) by substituting for the word “Act”, being the last word in the section, a passage as follows—

Act;

“the second supplemental agreement” means the agreement a copy of which is set forth in the Third Schedule to this Act .

Section 3B  
added.

3. The principal Act is amended by adding after section 3A a section as follows—

Approval of  
second  
supple-  
mental  
agreement.

3B. The second supplemental agreement is approved, and subject to its provisions shall operate and take effect. .

Third  
Schedule  
added.

4. The principal Act is amended by adding at the end thereof a Schedule as follows—

### THIRD SCHEDULE.

AN AGREEMENT made this 29th day of March 1974 between the HONOURABLE JOHN TREZISE TONKIN M.L.A. Premier and Treasurer of the State of Western Australia acting for and on behalf of the Government of the said State and the instrumentalities thereof from time to time (hereinafter referred to as “the State”) of the one part and WESTERN MINING CORPORATION LIMITED a company duly incorporated in the State of Victoria and having its principal office in that State at 360 Collins Street, Melbourne and

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having its registered office in the State of Western Australia at 191 Great Eastern Highway, Belmont (hereinafter referred to as "the Corporation" which term shall where the context so admits or requires extend to and include the Corporation and also its successors and assigns) of the other part.

WHEREAS:

- (a) The parties are the parties to the agreement between them ratified by the Nickel Refinery (Western Mining Corporation Limited) Agreement Act, 1968 (which agreement in the form printed in that Act is hereinafter referred to as "the principal agreement").
- (b) The parties are the parties to the agreement between them ratified by the Nickel Refinery (Western Mining Corporation Limited) Agreement Act Amendment Act, 1970 (which agreement in the form printed in that Act is hereinafter referred to as "the supplemental agreement").
- (c) The supplemental agreement, *inter alia*, amended the provisions of the principal agreement.
- (d) The parties desire to amend the principal agreement and the supplemental agreement.

NOW THIS AGREEMENT WITNESSETH—

1. (1) The provisions of this Agreement shall not come into operation unless and until a Bill to approve and ratify this Agreement is passed by the legislature of the said State and comes into operation as an Act whereupon such provisions shall be deemed to have been in operation and effective as from the date hereof.

(2) The State shall introduce and sponsor a Bill in the Parliament of Western Australia to ratify this Agreement and endeavour to secure its passage as an Act prior to the 31st day of December 1974.

(3) If the Act ratifying this Agreement is passed by the said Parliament the provisions of this Agreement shall take effect as though the same had been enacted by the ratifying Act notwithstanding the provisions of the Public Works Act, 1902, the Water Boards Act, 1904, the Health Act, 1911, the Land Act, 1933, the Local Government Act, 1960 and the Mining Act, 1904 (which shall for the purposes of this Agreement be deemed to be modified and amended by the ratifying Act to the extent necessary to enable full force and effect to be given to this Agreement).

2. References in this Agreement to particular provisions of the principal agreement are to such provisions as amended by the supplemental agreement.

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References in the principal agreement, in the supplemental agreement and in this Agreement to "Kambalda Townsite", "existing Kambalda Townsite" and "townsite", subject to the context, refer to the Kambalda Townsite as amended and redescribed from time to time pursuant to section 10 of the Land Act.

3. The principal agreement is hereby varied as follows—

(1) clause 1 is amended by adding after the definition of "smelter site" the following definition—

"Special Mineral Lease" means notwithstanding any contrary provision in this Agreement any of the following mineral leases in the Coolgardie Goldfield held by the Corporation—

|                                |         |   |       |
|--------------------------------|---------|---|-------|
| Numbers 122-152 both inclusive |         |   |       |
| „                              | 155-161 | „ | „     |
| „                              | 164-175 | „ | „     |
| „                              | 181-214 | „ | „     |
| „                              | 252-267 | „ | „     |
| „                              | 286-327 | „ | „ ; ; |

(2) clause 5 is amended—

(a) as to subclause (1) by substituting for the passage "rights." in line nineteen, the passage

"rights less the areas of any mineral lease or mineral leases applied for in respect of the mining areas or any part thereof during the preceding twelve (12) months so that the areas of any mineral lease or mineral leases so applied for shall be deemed to be or comprise part of areas the subject of such rights of occupancy so surrendered.";

(b) as to subclause (3)—

(i) by adding after the word "molybdenum" in line five, the words "pursuant to this Agreement but otherwise"; and

(ii) by adding after the word "rents" in line ten, the words "from time to time prevailing by or under the Mining Act";

(c) as to subclause (4)—

- (i) by deleting the word “said” where first appearing; and
- (ii) by adding after the word “leases” where first appearing, the passage “granted pursuant to subclause (3) of this clause”;

(3) by adding after clause 5 a new clause 5A as follows—

5A. (1) Subject to the Corporation complying with its obligations under this Agreement and with the other conditions imposed by or pursuant to the Mining Act—

Special  
Mineral  
Leases.

- (a) Each Special Mineral Lease shall be deemed to grant the Corporation an option (to be exercised by the Corporation giving to the State notice of its intention to exercise the same not later than one (1) month before the expiry of the term thereof) of taking a renewal of such term for a further period of twenty-one (21) years at the rental from time to time prevailing by or under the Mining Act and upon and subject to the same terms and conditions as those upon which the original term was granted (save and except the option of renewal).
- (b) If the Corporation desires to have the term of any Special Mineral Lease referred to in paragraph (a) of this clause further renewed after the expiration of the period for which it had been renewed the Corporation shall make application therefor to the Minister for Mines in the said State and if this Agreement shall then still be in force the said Minister shall have the power exercisable not more than twelve (12) months or less than six (6) months before the date of the expiry of the period for which the term of that Special Mineral Lease had been renewed, in his discretion to grant to the Corporation a second renewal of the said term for a further period of twenty-one (21) years upon and subject to the same terms and

Renewed  
Term.

Second  
Renewed  
Term.

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conditions as applied to that Special Mineral Lease after the term thereof was first renewed.

Labour  
Conditions.

- (c) The exemptions granted by subclause (4) of clause 5 of this Agreement shall also apply to each Special Mineral Lease;

(2) Subject to the provisions of this clause a Special Mineral Lease shall be deemed to be held under this Agreement.;

(4) clause 6 is amended—

- (a) as to subclause (1) by substituting for paragraph (b) the following paragraph—

(b) grant to the Corporation for residential professional business commercial and industrial purposes and the provision of communal facilities at Kambalda a special lease or special leases under the provisions of the Land Act or occupancy rights on terms and conditions to be determined by the Minister for Lands of the said State for such part or parts of the area of land the subject of the existing Kambalda Townsite (less such parts thereof as are the subject of the townsite lots referred to in paragraph (a) of this subclause) and such further area or areas as the Corporation may from time to time require and the Minister for Lands may approve, such lease or leases or occupancy rights as the case may be being for a term expiring twenty-one (21) years from the date of such grant at a rental of six dollars (\$6) per annum for any townsite lot of an area of less than one acre and nine dollars (\$9) per annum per acre for any townsite lot having an area of one acre or more with the right for the Corporation at any time during the currency of such lease or leases or occupancy rights to purchase for the sum of ten dollars (\$10) per lot the fee simple of any townsite lot on which buildings or structures have been

erected the cost of which is not less than ten thousand dollars (\$10,000) for each such lot or in the case of dwelling houses when averaged over the lot being purchased not less than seven thousand dollars (\$7,000) for each quarter acre of such lot and on and subject to such terms and conditions not inconsistent with this Agreement as the Minister for Lands considers applicable in the circumstances and including a right for the State at any time and from time to time to exclude from such lease or leases or occupancy rights or resume without compensation any part or parts of such land on which no building or structure has been erected as the State may require for public purposes provided always that from and after the commencement date the State will on a resumption of any such land required for public purposes pay to the Corporation as soon as practicable after the date when such land is resumed and by way of and in satisfaction of compensation for such resumption a sum representing the assessed capital cost of installing and connecting to the nearest appropriate main all services (such as electricity, water and sewerage) to the land so resumed and the assessed capital cost (proportionate to the frontage of the resumed land thereto) of all roads footpaths and curbs thereof to which the resumed land abuts and which in either case were provided and paid for by the Corporation and thereafter the State will pay in respect of such land the appropriate operating charge as from time to time determined; ;

(b) as to subclause (2)—

- (i) by substituting for the passage "10." in the last line of paragraph (d), the passage "10; and";

and

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(ii) by adding after paragraph (d) a new paragraph (e) as follows—

(e) the inclusion of a power to grant occupancy rights over land on such terms and conditions as the Minister for Lands may determine. ;

and

(c) by adding after subclause (2) two new subclauses (3) and (4) as follows—

(3) Notwithstanding the provisions of the Sale of Land Act, 1970 the Corporation shall have the right during the currency of any lease or leases or occupancy rights granted to it under paragraph (b) of subclause (1) of this clause to enter into an agreement to sell any lot the subject of such lease or leases or occupancy rights on condition that the purchaser erects on such lot within two (2) years from the date of such agreement, buildings or structures the cost of which is not less than ten thousand dollars (\$10,000) for each such lot, or in the case of dwelling houses when averaged over the lot being purchased not less than seven thousand dollars (\$7,000) for each quarter acre of such lot.

(4) During such time as the Corporation is the lessee or holder of occupancy rights of land pursuant to paragraph (b) of subclause (1) of this clause the Corporation shall be deemed to be an "owner" of such land for the purposes of the Local Government Act, 1960. ;

(5) clause 8 is amended by adding seven new subclauses (3), (4), (5), (6), (7), (8) and (9) as follows—

(3) The Corporation may, in respect of water provided to it by the State and in respect of water taken from Crown lands pursuant to subclause (2) of this clause, supply such water to third parties at a charge to be approved by the Minister after consultation with the Corporation and the Corporation shall have all



such powers and authorities with respect to such water as are determined by the Minister which may include all or any of the powers of a water board under the Water Boards Act, 1904 and, with the consent of the Minister for Local Government, a local authority under the Local Government Act, 1960.

(4) If at any time the Minister is of the opinion that it would be desirable for such purposes as *inter alia*, water conservation or water management generally or the equitable supply of water to third parties within the Kambalda Townsite, that the supply of water referred to in subclause (3) of this clause together with local run off and treated sewage effluent be controlled and operated by the State, the Minister shall (after first affording the Corporation a reasonable opportunity to consult with him) so notify the Corporation and the Corporation shall after the expiration of six (6) months from the date of such notice relinquish to the State the ownership control and operation of the Corporation's water supply facilities including all headworks, but excluding the reticulation pipes, meters and other facilities which the parties hereto agree directly relate to the distribution of water to the Corporation's industrial and mining facilities, and surrender any licence or licences granted to the Corporation pursuant to this clause, together with any permit or permits or other rights in respect of local run off issued to the Corporation by the State or a local authority and all other rights in respect of treated sewage effluent granted to the Corporation by the State or a local authority. The State shall not be liable to pay to the Corporation compensation in respect of such works relinquished or any licence or licences permit or permits or other rights so surrendered.

(5) Immediately after the surrender of the licence or licences, permit or permits or any other rights referred to in subclause (4) of this clause the State shall (subject only to the continued hydrological availability of water from such sources previously licensed or under permit to the Corporation) commence and thereafter continue to supply water to the Corporation up to the same amount and at the same rate of supply as that which the

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Corporation would have been entitled to draw or utilise under such surrendered licence or licences, permit or permits or other rights.

(6) The Corporation shall pay to the State for all water supplied by it for mining and industrial purposes from sources surrendered by the Corporation pursuant to subclause (4) of this clause a fair price to be negotiated between the parties which shall be equal to the actual cost incurred by the State in supplying water to the Corporation including maintenance and overhead costs and a provision for replacement of the facilities.

(7) The Corporation shall pay to the State in respect of water supplied from facilities operated by the State pursuant to subclause (4) of this clause, for townsite purposes, such charges as are levied from time to time pursuant to the provisions of the Country Areas Water Supply Act, 1947.

(8) In the event that the water supply facilities operated by the State pursuant to subclause (4) of this clause are inadequate to meet the Corporation's requirements or are inadequate to meet increased demand in the Townsite of Kambalda which the parties hereto agree result substantially from the operations of the Corporation, from time to time, the Corporation shall pay to the State the capital cost of necessary additional water facilities including any necessary augmentation of the State's water supply system from its source, that are agreed to by the parties hereto and are provided by the State.

(9) Nothing contained in subclauses (5) and (6) of this clause shall affect any agreement entered into by the parties hereto from time to time pursuant to subclause (1) of this clause. ;

(6) by adding after clause 8 a new clause 8A as follows—

Sewerage  
Facilities.

8A. (1) The Corporation may subject to such conditions as the State may from time to time approve construct and operate sewerage facilities at Kambalda and charge for such services and the Corporation shall have all such powers and authorities with respect to such

facilities as are determined by the Minister which may include, with the consent of the Minister for Local Government, all or any of the powers of a local authority under the Local Government Act, 1960.

(2) If at any time the Minister is of the opinion that it would be desirable that the sewerage facilities operated by the Corporation under subclause (1) of this clause be controlled and operated by the State, the Minister shall (after first affording the Corporation a reasonable opportunity to consult with him) so notify the Corporation and the Corporation shall after the expiration of six (6) months from the date of such notice relinquish to the State the ownership control and operations of the Corporation's sewerage facilities. The State shall not be liable to pay to the Corporation compensation in respect of the facilities relinquished. Thereafter in respect of sewerage facilities operated by or on behalf of the State within the Kambalda Townsite, rates and charges as levied from time to time pursuant to the provisions of the Country Towns Sewerage Act, 1948 shall apply. ;

(7) by substituting for clause 14 the following clause—

14. (1) The parties may from time to time by agreement in writing add to substitute for Variation.  
cancel or vary all or any of the provisions of this Agreement or of any lease licence easement or right granted hereunder or pursuant hereto for the purpose of more efficiently or satisfactorily implementing or facilitating any of the objects of this Agreement.

(2) Where in the opinion of the Minister an agreement made pursuant to subclause (1) of this clause constitutes a material or substantial alteration of the rights or obligations of either party, the agreement shall contain a declaration to that effect and the Minister shall cause that agreement to be laid upon the table of each House of Parliament within the twelve (12) sitting days next following its execution.

(3) Either House may, within twelve (12) sitting days of that House after the agreement has been laid before it, pass a resolution disallowing the agreement, but if, after the last

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day on which the agreement might have been disallowed neither House has passed such a resolution the agreement shall have effect from and after that last day. ;

- (8) clause 15 is amended by adding after the word "shall" in line twenty-one the words "promptly give notice to the other party of the event or events and shall";

and

- (9) by adding after clause 16 a new clause 16A as follows—

Environ-  
mental  
Protection.

16A. Nothing in this Agreement shall be construed to exempt the Corporation from compliance with any requirement in connection with the protection of the environment arising out of or incidental to the operations of the Corporation hereunder that may be made by the State or any State agency or instrumentality or any local or other authority or statutory body of the State pursuant to any Act for the time being in force. .

4. All lots purchased by the Corporation from the State in the Kambalda Townsite prior to the date of this Agreement shall be deemed to have been purchased pursuant to the provisions of clause 6 (1) (b) of the principal agreement as substituted by this Agreement.

5. The supplemental agreement is hereby varied as follows—

- (1) clause 4 as to subclause (4) is amended by substituting for paragraph (g) the following paragraph—

(g) clauses 8, 10 to 19 (both inclusive), 5A and 16A thereof. ;

- (2) clause 7 as to subclause (2) is amended—

(a) by substituting for the passage "lease of such area of land (not exceeding three hundred (300) acres)" in lines two three and four, the passage "lease or leases of such areas of land not exceeding in total three hundred (300) acres";

and

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- (b) by substituting for the last sentence the following sentence—

“Such lease or leases shall be at a rental of two dollars (\$2) per acre per annum and for such period or periods and upon and subject to such other terms and conditions as the State may reasonably require.” ;

- (3) Clause 8 is amended as to paragraph (b) of subclause (1) by adding after the passage “area;” in line nine, the passage “less the areas of any mineral lease or mineral leases applied for in respect of the mining area or any part thereof during the preceding twelve (12) months so that the areas of any mineral lease or mineral leases so applied for shall be deemed to be or comprise part of areas the subject of such rights of occupancy so surrendered;”;
- (4) Clause 9 is amended as to paragraph (e) of subclause (1) by deleting after the word “years” in line seven, the words “at the same rental and”;
- (5) clause 14 is deleted and the following clause substituted—

14. (1) The State will ensure that notwithstanding the provisions of any Act or anything done or purported to be done under any Act, the valuation of all land the subject of any Crown Grant, Special Mineral Lease, mineral lease, or other lease, licence, or easement held or granted or deemed to be held or granted under or pursuant to or otherwise the subject of the principal agreement or of this Agreement (except as to any part upon which a permanent residence shall be erected, or which is occupied in connection with that residence and except as to any part upon which there stands any improvements that are used in connection with a commercial undertaking not directly related to the mining production transportation processing and shipment of nickel-bearing ore, nickel-containing products and nickel metal) shall, for rating purposes under the Local Government Act, 1960 be deemed to be on the unimproved value thereof and no such land shall be subject to any discriminatory rate.

Rating.

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(2) For the purposes of this clause and section 533B of the Local Government Act, 1960 a Special Mineral Lease shall be deemed to be held under the principal agreement.

(3) Nothing in this clause shall prevent the Corporation making the election provided for by section 533B of the Local Government Act, 1960. .

6. To the extent that any of the provisions of the principal agreement (which are deemed by the supplemental agreement to be incorporated in the supplemental agreement) are amended by this Agreement, such amendments shall, *mutatis mutandis*, be deemed to be incorporated in the supplemental agreement.

IN WITNESS whereof this Agreement has been executed by or on behalf of the parties hereto the day and year first hereinbefore mentioned.

S I G N E D    b y    T H E  
H O N O U R A B L E    J O H N }  
T R E Z I S E T O N K I N , M . L . A . i n }    J O H N T . T O N K I N  
t h e    p r e s e n c e    o f }

D O N M A Y  
M i n i s t e r    f o r    M i n e s .

T H E    C O M M O N    S E A L    o f  
W E S T E R N    M I N I N G }  
C O R P O R A T I O N L I M I T E D w a s }    [ C . S . ]  
h e r e u n t o    a f f i x e d    i n    t h e }  
p r e s e n c e    o f }

L. BRODIE-HALL  
D i r e c t o r .

S. J. C. WISE  
W i t n e s s .

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