



Western Australia

State (Western Australian) Alunite Industry Act 1946

Compare between:

[01 Jul 1993, 00-d0-02] and [15 Dec 1997, 00-e0-05]

State (Western Australian) Alunite Industry Act 1946

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 the production and treatment of alunite deposits and sale of products derived from the carrying on of the said works, plant and other undertakings.

~~[Assented to 24 January 1947.]~~

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. Short title

This Act may be cited as the *State (Western Australian) Alunite Industry Act 1946*.

2. Repeal

The *State (Western Australian) Alunite Industry Partnership Act 1942* (No. 28 of 1942), is hereby repealed.

3. Operation

This Act shall come into operation on a date to be fixed by proclamation.¹

4. 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 there 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.

5. Interpretation

In this Act, unless the context or subject matter otherwise indicates or requires —

“Board” means the State (Western Australian) Alunite Industry Board of Management constituted under and for the purposes of this Act;

“Industry Account” means “The State (Western Australian) Alunite Industry Account” provided for under section eleven of this Act;

“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;

“Partnership” means the partnership approved and ratified by the *State (Western Australian) Alunite Industry Partnership Act 1949*;

“product” means any product produced by treatment by any process of alunite and alunite deposits and includes potash, other minerals, chemicals and by-products;

“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 products.

6. Validation of actions under and since repeal of National Security (Western Australian Alunite Deposits) Regulations

All or any of the powers conferred upon and exercised by the Treasurer of the State under the *State (Western Australian) Alunite Industry Partnership Act 1942* (No. 28 of 1942), *National Security (Western Australian Alunite Deposits) Regulations* or in purported pursuance of those Regulations during the operation or since the repeal thereof on the first day of November, one thousand nine hundred and forty-five, shall be deemed to have been lawfully exercised by the Treasurer of the State. All works, acts and things and all contracts, agreements and engagements heretofore commenced, executed, entered into, or performed by the Board under or purporting to be under the provisions of that Act or those Regulations are hereby validated, ratified and confirmed, and such contracts, agreements and engagements shall be deemed to have been lawfully made and the parties thereto shall in all respects be legally bound thereby.

7. Vesting of assets

By force of this Act —

- (a) there shall be transferred to and vested in the Minister all the assets of the Treasurer in the Partnership;
- (b) the Governor may vest in the Board all or any of the assets referred to in paragraph (a) of this section with the exception of land, which shall vest in and be held for and on behalf of His Majesty the King subject in all respects to the provisions of section ten of this Act as if the same here taken thereunder;
- (c) the Board shall take over and assume the liability for all obligations of the Treasurer in respect of the Partnership.

8. Administration

This Act shall be administered by the Minister.

9.² 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 products; and
 - (b) to carry on in or about such works, plant and undertakings the business of producing products for sale or for any other use by the Government of the State and of selling or so using products;
 - (ba) to carry out, upon any lands (whether or not dedicated to the purposes of this Act), experiments and research in relation to the economical production of products;
 - (c)(i) for the purposes aforesaid to acquire machinery, plants, goods, chattels and effects;
 - (ii) the erect, maintain and repair buildings with all necessary machinery and plant;
 - (iii) construct, or have constructed, or mend railways 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.
 - (d) to sell lease, let on hire or otherwise dispose of, upon such terms and conditions as the Minister shall think fit, any property vested in or acquired by the Minister or by the Board;

- (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*,³ and the provisions of that Act shall not apply thereto.

[Section 9 amended by No. 57 of 1950 s.3; No. 37 of 1952 s.2.]

10. 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 1933-1945*,⁴ 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 1902-1945*,⁵ 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 1902-1945*.⁵
- (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

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Governor such land may be sold or otherwise disposed of by the Minister for and on behalf of His Majesty the King.

11. Funds

- (1) The funds necessary for the effectual exercise by the Minister of the powers conferred upon him by section nine 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 State (Western Australia) Alunite 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-eight of this Act in which shall be shown such amounts of the moneys placed to the credit of the Industry 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 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 Industry Account shall be operated upon in such manner as may be prescribed.

- (4) The moneys from time to time in the Industry 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 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 Industry 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 Industry Account which are recorded or entered in the books of account as revenue or profit or income moneys.

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

12. Borrowing powers

- (1) The Minister may, with the approval of the Governor, borrow from the Treasurer, and in such case the Treasurer shall make

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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 Industry Account 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 Treasurer.
- (3) The moneys borrowed and the interest payable in respect thereof shall be a charge upon the moneys in the 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.

13. 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.

14. Certain officers to give security

Before any officer or servant entrusted with the custody of money or other property shall enter upon the give duties of his

office the Board may require him to furnish sufficient security for the faithful execution thereof.

15. Board of Management

- (1) There shall be constituted for the purposes of this Act a Board of Management to be called “the State (Western Australian) Alunite Industry Board of Management.”
- (2) The Board shall consist of three 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.

16. 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.

17. Quorum

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

18. 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.

19. 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.

20. 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.

21. 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.

22. 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 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.

23. 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.

24. Contribution of interest and sinking fund

- (1) There shall be entered and debited in the 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.
- (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 24 amended by No. 6 of 1993 s.14 (6).]

25. 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 31 of this Act.

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

[Section 25 amended by No. 6 of 1993 s.11.]

26. Charges for use of property and services

- (1) There shall be entered and debited in the Industry Account 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

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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 26 amended by No. 6 of 1993 s.11.]

27. Temporary investment of moneys. Application on balance

All moneys standing to the credit of the Industry Account 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 public moneys may lawfully be invested, and all interest thereon shall be paid to the credit of the Industry Account.

[Section 27 amended by No. 6 of 1993 s.16 (2).]

28. Accounts

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

- (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.

29. Depreciation

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.

30. Annual estimates

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.

31. Application of profit

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 Fund.

[Section 31 amended by No. 6 of 1993 s.11.]

32. Books may be inspected

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 authorized by the Auditor General to inspect the same, and copies or extracts may be taken therefrom.

33. Accounts to be balanced

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.

34. Accounts to be audited

- (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*,⁶ but subject to such powers the provisions of the *Audit Act 1904*,⁶ 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.

35. Accounts and report to be laid before Parliament

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

36. 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

NOTES

- ¹ This is a compilation of the *State (Western Australian) Alunite Industry Act 1946* 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>State (Western Australian) Alunite Industry Act 1946</i>	53 of 1946	24 Jan 1947	28 Mar 1947 (see <i>Gazette</i> 28 Mar 1947 p.510)
	57 of 1950	18 Dec 1950	18 Dec 1950
	38 of 1952	18 Dec 1952	18 Dec 1952
<i>Financial Administration Legislation Amendment Act 1993 Part 4</i>	6 of 1993	27 Aug 1993	Deemed operative 1 Jul 1993
<u>This Act was repealed by the <i>Statutes (Repeals and Minor Amendments) Act 1997 s. 11 (No. 57 of 1997) as at 15 Dec 1997 (see s. 2(1))</i></u>			

- ² It is enacted by section 4 of No. 57 of 1950 as follows —

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4. Validation

All acts, matters and things done or executed, and all transactions entered into by the Minister or by the Board in relation to certain lands containing alunite or alunite deposits at or near Lake Chandler, or to the business, experiments or researches carried on in respect of such lands, which acts, matters, things or transactions would have been valid if such lands had been dedicated to the purposes of the principal Act and the principal Act had been amended by this Act, shall be deemed to be and always to have been valid and effectual, and are hereby ratified and validated.

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- ³ Now *State Trading Concerns Act 1916-1956*.

- ⁴ Now *Land Act 1933-1960*

- ⁵ Now *Public Works Act 1902-1956*

- ⁶ Now *Audit Act 1904-1957*