

1940.] *Commonwealth Oil Refineries,  
Limited (Private).*

## COMMONWEALTH OIL REFINERIES, LIMITED (PRIVATE).

4° and 5° GEO. VI.

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**AN ACT to grant to the Commonwealth Oil Refineries, Limited, powers and provisions for the storage and supply of oil, liquid fuel, petroleum spirits, kerosene and petroleum products, and for other purposes.**

*[Assented to 30th December, 1940.]*

**W**HEREAS the construction of reservoirs and works as hereinafter provided, and the storage, supply and distribution therein, therefrom, and thereby of oil, liquid fuel, petroleum spirits, kerosene and petroleum products, within the area hereinafter defined, would be of public and local advantage: And whereas The Commonwealth Oil Refineries, Limited, duly formed and registered as a limited company under the Companies Acts of the State of Victoria, is seized and possessed of or entitled to use and possession of North Fremantle town lot 23 and part of North Fremantle town lot 28 (and may hereafter acquire other lands within the limits hereinafter mentioned), and is willing and proposes at its own expense to construct and erect thereon the necessary storage tanks, reservoirs, and works for the storage, supply, and distribution of oil, liquid fuel, petroleum spirits, kerosene and petroleum products: And whereas it is desirable and expedient to grant to and confer upon the

Preamble.

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said company the powers, rights, and privileges hereinafter appearing: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled and by the authority of the same as follows:—

Short title

1. This Act may be cited as *The Commonwealth Oil Refineries, Limited (Private), Act, 1940.*

2. In this Act, unless the context otherwise requires—

“Company” means The Commonwealth Oil Refineries, Limited, and shall include its assigns.

“Undertaking” means the receipt, storage, supply, and distribution of oil, liquid fuel, petroleum spirits, kerosene and petroleum products within the limits herein mentioned, and the making and constructing of all works connected therewith, and all other works authorised by this Act, and the doing of all things necessary or convenient therefor, subject to the provisions of this Act.

“Crown lands” includes lands vested in the Minister for Lands or any other Minister or person on behalf of the Crown.

“Street” includes any street, highway, lane, public road, thoroughfare, passage, footpath, pavement, or place within the area hereinafter defined.

“Railway” has the meaning defined by the Government Railways Act, 1904-1933.

“Wharf” includes any wharf, dock, quay, jetty, landing stage, or other landing place, and the approaches thereto.

“Works” means all buildings, erections, storage tanks, reservoirs, works, plant, machinery, apparatus, equipment, pipes, mains, connections, and all other works connected with and incidental to the undertaking or by this Act or in any other way authorised to be constructed or undertaken by the company.

“Local authority” means, within their respective jurisdictions, the mayor and councillors of the municipality of North Fremantle, the Commissioner of Railways, the Fremantle Harbour Trust Commissioners, and The Metropolitan Water Supply, Sewerage, and Drainage Department.

3. The limits of this Act shall extend to and include— Limits of  
the Act.

- (a) the area within the boundaries of the municipality of North Fremantle;
- (b) so much of the area of the lands and property vested in the Fremantle Harbour Trust Commissioners as is contained within the boundaries described in the first paragraph of the Schedule to the Fremantle Harbour Trust Act, 1902, or which may hereafter be vested in, acquired, or held by the said Commissioners, or which may be placed or be in the custody, possession, or control of the said Commissioners or over which the said Commissioners may exercise authority or control;
- (c) so much of the area of any Crown lands or lands vested or which may become vested in the Honourable the Minister for Railways or the Minister of the Crown administering the Government Railways Act, 1904-1933, for the time being respectively as adjoins or abuts on the lands and property of the Fremantle Harbour Trust Commissioners above described, or lies between the same lands and property and the boundaries of the municipality of North Fremantle; and
- (d) so much of the area of any Crown lands as is affected by the works authorised by this Act to be carried out by the company.

4. Subject to the provisions and within the limits of this Act, the company may— Power to  
construct  
works.

- (a) erect, construct, lay down, establish, fix, maintain, and repair all necessary works and do and perform all such other acts and things as may be thought necessary for receiving,

storing, supplying, and distributing oil, liquid fuel, petroleum spirits, kerosene and petroleum products in, on, or under any street or in, on, or under any Crown lands, or in, on, or under any railway or wharf;

Power to  
break up  
streets, etc

- (b) open, break up, and interfere with any Crown lands, street, railway, or wharf, and any sewer, water pipe, drain, or tunnel on or under any Crown lands, street, railway, or wharf and may lay down and place in, on, or under any Crown lands, street, railway, or wharf, mains, conduits, service pipes, and other works for receiving, storing, supplying, and distributing oil, liquid fuel, petroleum spirits, kerosene and petroleum products, and also may from time to time repair, alter, or remove the same and for the purposes aforesaid may remove or use all earth and material in, on, or under such Crown lands, street, railway, or wharf:

Provided that the power to open, break up, or interfere with any Crown lands, railway, or wharf shall not be exercised without the consent of the Minister administering the Land Act, 1933-1939, or the Government Railways Act, 1904-1933, or the Fremantle Harbour Trust Act, 1902, respectively, subject to such conditions as the Minister may deem expedient:

Provided also, that all plans and specifications for the construction of the necessary works for receiving, storing, supplying, and distributing in, on, or under any street shall first be submitted to and approved of by the Minister for Works.

Notice to be  
served and  
plan de-  
posited before  
breaking up  
streets, etc.

5. Before the company proceeds to open, break up, or interfere with any Crown lands, street, railway, wharf, sewer, water pipe, drain, or tunnel, it shall give to the Minister for Works and/or to the local authority concerned notice in writing of its intention so to do not less than three clear days before commencing such work, and shall at the same time deposit with the Minister or local authority a plan setting forth the extent to and the man-

ner in which it proposes to carry out such work, and the time at which it is intended to commence the same, and (except as hereinafter provided) no Crown lands, street, railway, wharf, sewer, water pipe, drain, or tunnel shall be opened, broken up, or interfered with unless under the superintendence of the Minister or local authority, and in accordance with the plan deposited as aforesaid: Provided always, that if no officer appointed by the Minister or local authority attends at the time fixed in such notice and remains during the opening, breaking up, or interference with any street, railway, wharf, sewer, water pipe, drain, or tunnel the company may perform the work specified in such notice and set out in such plan without such superintendence: Provided further, that in cases of emergency arising from accidents to or defects in the works necessitating the opening, breaking up of, or interference with any street, railway, wharf, sewer, water pipe, drain, or tunnel, such accidents or defects may be repaired without previous notice and without the deposit of any plan, but such notice shall be given and such plan shall be deposited as soon as possible after the commencement of the work or the necessity for the same has arisen.

6. Whenever the company opens, breaks up, or interferes with any Crown lands, street, railway, wharf, sewer, water pipe, drain, or tunnel, it shall, with all convenient speed, complete the work and fill in the ground and reinstate and make good the same to the satisfaction of the Minister or local authority, and carry away all rubbish occasioned by the work, and whilst any street, railway, or wharf shall be opened, broken up, or interfered with, the company shall cause the same to be properly guarded and sufficiently lighted for the warning of the public, and shall, when and as required by the Minister or the local authority, keep so much of any street, railway, or wharf as has been opened, broken up, or interfered with in good repair for six months after replacing and making good the same.

Streets, etc.,  
broken up to  
be reinstated  
without  
delay.

7. If the company commits, permits, or suffers any act, delay, neglect, or omission contrary to the provisions of sections five and six hereof, it shall be guilty of an offence against this Act and be liable to a penalty not exceeding fifty pounds for every such offence, and an

Penalty for  
breaking up  
without  
notice, or  
delay in re-  
instating.

additional penalty of forty shillings for each day during which any such neglect, omission, or delay shall continue after notice thereof by the Minister or local authority:

Provided that nothing in this section contained shall relieve the company from liability in respect of the right of action or remedy of any person for any act, delay, neglect, or omission on the part of the company contrary to the provisions of sections five and six hereof.

In cases of delay other parties may reinstate and recover expenses.

8. If any such delay, neglect, or omission as afore-said take place, the Minister or local authority may cause the work so delayed, neglected, or omitted, to be executed and performed, and all expenses so incurred shall be repaid to such Minister or local authority by the company:

Provided that nothing in this section contained shall render it compulsory for the Minister or local authority to execute or perform any such work, or render it liable for delay, neglect, or failure so to do.

Company to make compensation for any damage.

9. The company shall do as little damage and cause as little inconvenience as may be in the execution of the powers conferred by this Act, and shall make compensation for any physical damage which may be done in the execution of such powers.

Power to local authority to alter situation of pipes, etc.

10. If at any time the Minister or the local authority deems it fit, necessary, or expedient to require the company to raise, sink, or otherwise alter the situation of any works which shall have been erected, constructed, laid down, or fixed contrary to any of the provisions of this Act, or in breach of any condition imposed by the Minister as provided in section four, or for any other reason, then the company shall, within a reasonable time, after being required so to do by notice in writing, raise, sink, or otherwise alter the situation of such works accordingly, and in default it shall be lawful for the Minister or the local authority to cause such works to be so raised, sunk, or the situation thereof otherwise altered, and the expenses thereof shall, if rendered necessary by reason of a breach by the company of any of the provisions of this Act, or of any such condition as afore-said, or any other default of the company, be borne and

paid by the company, and shall in any other case be borne and paid by the Minister or the local authority: Provided that if in raising, sinking, or otherwise altering the situation of any of the works for any reason other than a breach by the company of any of the provisions of this Act, any injury shall be done to the same by any person employed by the local authority, full compensation shall be made by the local authority to the company for such injury.

11. Any person who—

- (a) lays or causes to be laid any pipe to connect with any pipe belonging to the company without the consent of the company first had and obtained for that purpose; or
- (b) wilfully or by negligence removes, destroys, or damages any part of the works or other property of the company; or
- (c) alters the index to any meter or other recording or measuring apparatus for registering the quantity of oil, liquid fuel, petroleum spirits, kerosene or petroleum products supplied; or
- (d) erects or keeps erected any apparatus or fitting whereby oil, liquid fuel, petroleum spirits, kerosene or petroleum products may be obtained from any part of the works of the company without the consent in writing of the company first had and obtained for that purpose,

Penalties.

Connecting with pipes without consent.

Wilfully removing, etc., works.

Altering meters, etc.

Tampering with supply.

shall be guilty of an offence against this Act, and shall, without prejudice to any other right or remedy of the company to recover damages, be liable to a penalty not exceeding five pounds for every such offence.

12. Every person who unlawfully or wrongfully breaks, throws down, or damages any of the works the property of the company or under its control, shall pay to the company full compensation for such damage, which compensation may be recovered by the company in any Court of competent jurisdiction.

Damages for accidentally damaging works, etc.

13. All penalties in respect of offences under this Act may be recovered in a Court of summary jurisdiction.

Court in which proceedings to be taken.

Payment in  
lieu of rates,  
etc.

14. (1) The mains, conduits, service pipes, and other works of the company in, on, or under any Crown lands, street, railway, or wharf shall be deemed to be rateable land, but in lieu of the provisions of the Municipal Corporations Act, 1906-1939, relating to the valuation of land and the making of rates in respect thereof, the company shall pay to the council in each and every year of the company's operations subsequent to the date on which it shall commence to construct its works and undertakings, a sum of thirty-five pounds.

(2) The amount to be paid by the company under this section shall be paid by half-yearly payments, the first of which shall be made on the expiration of six months from the date on which the company shall commence to construct its works and undertakings, and shall be in full satisfaction and discharge of all rates and rents, if any, payable to the council in respect of such mains, conduits, service pipes, and other works in, on, or under any Crown lands, street, railway, or wharf as aforesaid, or the easement or rights conferred by this Act with regard to such mains, conduits, service pipes, and other works.

(3) In this section council means the mayor and councillors of the municipality of North Fremantle.

Act to be  
deemed a  
public Act  
for certain  
purposes.

15. (1) This Act shall, for the purpose of evidence only, be judicially noticed as if it were a public Act and need not be specially pleaded.

Amendment  
of Act.

(2) This Act shall be amended only by a private Act, unless otherwise determined by a resolution of both Houses of the Parliament.

Deposit.

16. The money deposited by the company with the Treasurer, in accordance with the Joint Standing Orders relating to Private Bills, shall be held by the Treasurer until completion of the work aforesaid, and thereupon be returned to the company.

Works com-  
pleted or  
commenced  
before the  
commence-  
ment of the  
Act to be  
authorised  
works.

17. Any works already completed or commenced by the company prior to the commencement of this Act shall for all purposes be deemed to be works authorised by this Act.