

Reprinted under the
Reprints Act 1984 as
at 18 August 1997

WESTERN AUSTRALIA

**STATE TRADING CONCERNS
ACT 1916**

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WESTERN AUSTRALIA

STATE TRADING CONCERNS ACT 1916

AN ACT to regulate the establishment, carrying on, and management of Trading Concerns by the Government of the State, and to authorize the continuance or disposal of certain Trading Concerns, and for other relative purposes.

Short title. Commencement

1. This Act may be cited as the *State Trading Concerns Act 1916*, and shall come into operation on a date to be fixed by proclamation.^{1, 1a}

Repeal

2. The *Government Trading Concerns Act 1912* is hereby repealed.

Continuance of specified concerns authorized

3. The trading concerns mentioned in the Schedule hereto may be continued and carried on under and subject to the provisions of this Act.

Application of Act

4. (1) This Act shall apply to —

- (a) the trading concerns mentioned in the Schedule hereto;
- (b) such other trading concerns as Parliament may hereafter authorize the establishment of and declare to be subject to this Act.

(2) No trading concerns, other than those to which this Act applies or shall apply, shall unless expressly authorized by Parliament or under section 4A be hereafter established or carried on by the Government of the State or by any person acting on behalf of such Government or under its authority.

(3) The expression “**trading concern**” means any concern carried on with the view to making profits or producing revenue, or of competing with any trade or industry now or to be hereafter established, or of entering into any business beyond the usual functions of State Government.

[Section 4 amended by No. 18 of 1997 s.4.]

Certain activities may be authorized by regulation

4A. (1) In this section —

“**accountable officer**” has the meaning given by section 3 of the *Financial Administration and Audit Act 1985*;

“financial entity” means —

- (a) a department of the Public Service; or
- (b) an entity which forms part of a department of the Public Service and which has an accountable officer other than the chief executive officer of the department;

“Minister responsible”, in relation to a financial entity, means the Minister within the meaning of the *Financial Administration and Audit Act 1985*.

(2) A trading concern is authorized for the purposes of section 4 (2) if —

- (a) the trading concern is carried on by a prescribed financial entity;
- (b) the trading concern consists of a prescribed activity involving the provision of —
 - (i) goods, information or intellectual property;
 - (ii) scientific, technical, educational, training, management or advisory services; or
 - (iii) advertising opportunities or opportunities to participate in arrangements in the nature of advertising or having a purpose similar to advertising;

and

- (c) the amount of any fee or charge imposed by the financial entity in the course of carrying on the trading concern has been approved by the Minister responsible for the financial entity.

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(3) For the purposes of this section, the amount of a fee or charge that is determined in a manner that has been approved by the Minister responsible for a financial entity is to be regarded as having been approved by that Minister.

(4) The Minister responsible for a financial entity may delegate the power to give approval under subsection (2) (c) or (3) in relation to fees or charges imposed by the financial entity to the accountable officer of the financial entity.

(5) A reference in this section to the carrying on of a trading concern by a financial entity includes a reference to the carrying on of a trading concern by the State for that financial entity.

[Section 4A inserted by No. 18 of 1997 s.5.]

Funds

5. The funds necessary for the establishment or carrying on of any trading concern shall be such moneys as may from time to time be appropriated by Parliament for the purpose.

Administration. Trading concerns to be under the control of Minister

6. (1) Every trading concern shall be under the control of a Minister of the Crown charged by the Governor from time to time with its administration and hereinafter referred to as the Minister.

(2) The Minister shall be a body corporate with perpetual succession and an official seal and may by such name as the Governor may determine hold real and personal property and sue and be sued in contract or in tort in respect of any matter relating to or connected with the trading concern or arising from the management, maintenance, or carrying on thereof.

(3) On the appointment of a Minister for any trading concern, all property, assets, and rights vested in the Crown or any person for the purposes of the concern shall become vested in the Minister, and all liabilities of the Crown in respect of the concern shall become liabilities of the Minister.

(4) A Minister appointed to control any of the trading concerns specified in the Schedule shall be deemed the successor of any Minister appointed for the control thereof under the Act hereby repealed, as if such lastmentioned Minister had been incorporated.

(5) No petition of right or other proceeding shall be presented to or maintained against the Crown for any matter in respect of which an action may be brought against a Minister under this section.

Banking account for each concern to be kept in Treasury

7. (1) The Treasurer shall establish for each trading concern an account at the Treasury, forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*, in the name of the concern.

(2) The Treasurer shall place to the credit of such account moneys appropriated by Parliament for the purposes of the trading concern, in such sums as may appear to him to be necessary to meet the financial requirements of the concern.

(3) All moneys received or expended in connection with the operations of the concern shall be credited or debited in the account, together with such other moneys as are hereinafter directed to be entered in such account.

[*Section 7 amended by No. 49 of 1996 s.64.*]

[**7A.** *Repealed by No. 66 of 1984 s.41.*]

Contribution of interest and sinking fund

8. (1) There shall be entered and debited in each year in the banking account of each concern —

- (a) 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 purposes of the undertaking;
- (b) such further contributions to a sinking fund as may be approved by the Treasurer to be necessary to produce the principal of the aforesaid portion of the Consolidated Fund or any other capital expenditure at such earlier date (if any) as may be prescribed by the Governor.

(2) Such contributions shall be paid to the trustees appointed by the Governor for the administration of the State Sinking Fund as the Treasurer shall direct.

(3) The accrued interest on the sinking fund contributions as certified by the Under Treasurer shall be incorporated in the accounts of each trading concern.

[Section 8 amended by No. 98 of 1985, s.3; No. 6 of 1993 s.15.]

Interest on capital expenditure from Revenue

9. (1) Interest on the daily balance of money provided out of moneys standing to the credit of the Consolidated Fund shall be charged in the books of each trading concern. The amount of such interest shall be credited to the Consolidated Fund half-yearly or at such other time as the Treasurer shall direct.

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

[Section 9 amended by No. 6 of 1993 s.11; No. 49 of 1996 s.64.]

Charges for use of property and services

10. (1) There shall be entered and debited in the banking account of each trading concern such sum as in the opinion of the Treasurer represents the value of the use for the purposes of the concern of Government buildings or other property, or of part services of any Government officers not wholly employed upon the concern, or of services rendered by any Government Department.

(2) Any amount debited under this section shall be treated as revenue to be credited to the Consolidated Fund 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 10 amended by No. 6 of 1993 s.11; No. 49 of 1996 s.64.]

[11. *Repealed by No. 98 of 1985, s.3.*]

Temporary investment of moneys

12. All moneys standing to the credit of an account for the capital expenditure of a trading concern may, until required for the purposes of the concern, be temporarily invested, as the Treasurer may direct, in any securities wherein moneys standing to the credit of the Public Bank Account constituted under the *Financial Administration and Audit Act 1985* may lawfully be invested, and all interest thereon shall be credited to the account in respect of which the moneys have been invested.

[Section 12 amended by No. 98 of 1985, s.3; No. 49 of 1996 s.64.]

Balance to be carried forward

13. The balance standing to the credit of the banking account of a trading concern at the end of every financial year shall be applied as the Governor may direct, and, in the absence of any direction, shall be carried forward to the next year's account.

Accounts

14. 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 every trading concern and its operations.

[Section 14 inserted by No. 98 of 1985, s.3.]

Depreciation

15. The Treasurer shall determine the amount of the depreciation of the assets of any trading concern.

[16. Repealed by No. 98 of 1985, s.3.]

Provision to meet deficiency pending appropriation

17. (1) If the revenue receipts of any trading concern are insufficient to meet the working expenses during the financial year, the deficiency shall be provided out of the working capital shown in the Schedule to this Act, or provided by Parliamentary appropriation, as the case may be.

(2) If the funds (including working capital) of any trading concerns are insufficient to meet requirements during the financial year, the trading concern may borrow from the Treasurer.

[Section 17 amended by No. 98 of 1985, s.3.]

Profit and loss account

18. The profit or loss for each trading concern for each financial year, when ascertained, shall be treated in such manner as the Treasurer shall direct, but any profit available in cash and not required for the purposes of the concern shall be credited to the Consolidated Fund.

[Section 18 amended by No. 6 of 1993 s.11; No. 49 of 1996 s.64.]

[19, 20, 21 and 22. *Repealed by No. 98 of 1985, s.3.]*

Transfer of assets to a trading concern

23. (1) Where any of the fixed or floating assets purchased out of Loan or Revenue Funds not provided under this Act or the *Government Trading Concerns Act 1912*, have been or may hereafter be transferred to a trading concern such assets shall be deemed the assets of such concern, and shall be incorporated by transfer entries in the books of the trading concern.

(2) The Treasurer shall require the trading concern to be charged annually with interest, and a contribution to the sinking fund on the capital value (as may be determined) of such assets.

(3) The rate of interest and contribution to the sinking fund shall be fixed by the Treasurer.

Transfer of assets between trading concerns

24. (1) Where any of the assets of a trading concern purchased out of the funds provided under this Act or the *Government Trading Concerns Act 1912*, have been transferred to another trading concern in existence or hereinafter to be created, transfer entries shall be passed in the books of each concern, reducing and increasing the capital of the concerns.

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(2) The proportion of interest and sinking fund contribution charges in respect of such assets, shall be adjusted accordingly, or in such manner as the Treasurer shall direct.

Power to sell or lease trading concerns

25. The Minister may sell or lease any trading concern for such amount, and upon such terms and conditions as may be approved by the Governor in Council.

[Section 25 amended by No. 46 of 1930 s.2.]

Application of proceeds of sale of assets

26. The proceeds of the sale of any assets of a trading concern shall be applied in reduction of the capital of such concern, and in the books of the Treasury the proceeds shall be credited to the Government Property Sales Fund.

[Section 26 amended by No. 49 of 1996 s.64.]

Discontinuance of State Quarry, Boya

26A. (1) In this section —

“**appointed day**” means 31 August 1950;

“**concern**” means the State trading concern known as the State Quarry, Boya;

“**corporate body**” means the corporate body authorized to carry on the concern;

“**Reserve**” means ↑8006 Greenmount (Quarries) vested in the Honourable the Minister for Works by Order in Council.

- (2) On the appointed day, by virtue of this section —
- (i) the concern shall cease to be carried on and shall be abolished;
 - (ii) the corporate body shall be dissolved;
 - (iii) the Reserve until then vested in the corporate body by virtue of the provisions of subsection (3) of section 6 of this Act shall cease to be so vested and shall revert in the Honourable the Minister for Works and be held by him as formerly by authority of the Order in Council referred to in the last preceding subsection;
 - (iv) other property, if any remains undisposed of, shall cease to be vested in the corporate body and shall vest in the Honourable the Minister for Works to be held by him on behalf of Her Majesty to be dealt with as the Governor may direct.

[Section 26A inserted by No. 10 of 1950 s.3.]

Amalgamation of State Saw Mills and State Brick Works into one trading concern as State Building Supplies

26B. (1) In this section —

“**appointed day**” means the day on which the *State Trading Concerns Act Amendment Act 1956*¹, comes into operation;

“**Minister**” means Minister of the Crown for the time being charged with the administration of the trading concern formed, pursuant to this section, by the amalgamation of the State trading concerns known as State Saw Mills and State Brick Works.

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(2) (a) On the appointed day the State trading concerns mentioned in the Schedule to this Act, which immediately prior to that day were known and being carried out as State Saw Mills and State Brick Works shall, by force of this section, become amalgamated and form one trading concern.

(b) The Governor may from time to time charge one of the Ministers of the Crown with the administration of the trading concern so formed.

(c) The trading concern so formed shall on and after the appointed day be subject to this Act and be carried on under the control of the Minister who shall be a body corporate by the name of "State Building Supplies," with perpetual succession and an official seal, and may by that name and for the purposes of the trading concern hold real and personal property and sue and be sued in contract or in tort in respect of any matter relating to or connected with it or arising from the management, maintenance, or carrying on of the concern.

(d) Upon the amalgamation of the trading concerns referred to in paragraph (a) of this subsection —

(i) all the property, assets and rights vested in the corporate bodies by and in whose names those concerns were, prior to the amalgamation, carried on

or

in any other person or body for the purposes of both or either of those concerns

shall cease to be so vested and shall be vested in the Minister;

(ii) all the liabilities and obligations of both or either of those concerns shall become the liabilities and obligations of the Minister;

(iii) the corporate bodies by and in whose names those concerns were, prior to the amalgamation, carried on shall be dissolved.

- (e) On and after the amalgamation so referred to —
- (i) actions and other proceedings already commenced by or against either of those concerns may be continued by or against the Minister;
 - (ii) actions and other proceedings which at the date of the amalgamation could have been brought by or against either of those concerns may be brought by or against the Minister.

(3) No action or other proceeding shall be maintained against the Crown for any matter in respect of which an action or proceeding may be brought against the Minister under this section.

(4) Upon application by the Minister persons authorized or required by Act to record transactions affecting estates and interests in land shall make such records as are necessary to give effect to the vesting in the Minister of any estate or interest in land in accordance with the provisions of this section.

(5) For the purposes of section 17 of this Act, the working capital of the trading concern formed by the amalgamation of the trading concerns as provided in subsection (2) of this section shall be the aggregate of the working capital of both those concerns as at the appointed day.

[Section 26B inserted by No. 26 of 1956 s.3.]

The West Australian Meat Export Works

26C. (1) In this section —

“appointed day” means the day on which the *Acts Amendment (Western Australian Meat Commission) Act 1975*, comes into operation;

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“concern” means The West Australian Meat Export Works established as a State Trading Concern under that name pursuant to the *West Australian Meat Export Works Act 1942*;

“corporate body” means the corporate body hitherto authorized to carry on the concern under this Act;

“the Commission” means the Western Australian Meat Commission constituted pursuant to the *Abattoirs Act 1909*.

(2) On and after the appointed day, pursuant to the provisions of the *Abattoirs Act 1909* and by virtue of this section —

- (a) the concern shall cease to be carried on pursuant to this Act and shall be carried on by the Commission pursuant to the *Abattoirs Act 1909*; and
- (b) the corporate body shall be deemed to have been preserved and continued in existence under and subject to the provisions of the *Abattoirs Act 1909* under the name Western Australian Meat Commission.

[Section 26C inserted by No. 70 of 1975 s.35.]

Settlement of disputes

27. All matters in dispute between a trading concern and any Government department arising out of the operations of such trading concern shall be referred to the Treasurer, and the decision of the Treasurer upon all such matters in dispute shall be final.

Regulations

28. The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

[Section 28 inserted by No. 18 of 1997 s.6.]

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THE SCHEDULE

Name of Concern	Nature of Operations	Amount of Fixed Capital at 30th June 1916	Amount of Working Capital at 30th June 1916	Amount of Additional Capital necessary to meet requirements after 30th June 1916			Capital — Grand Total
				Fixed	Working	Total	
		\$	\$	\$	\$	\$	\$
State Building Supplies	<p>Felling, conversion, and marketing of timber, including all expenses incurred in dealing, purchasing, selling, and transportation (local and overseas), and any other business appertaining or incidental to the Timber Trade</p> <p>Trading and General Stores, and performing services incidental to settlements at various Timber Stations</p> <p>Chartering of vessels for transport of timber and return freights, payment of wages, purchase of ships' stores, maintenance, etc., necessary to the navigation of vessels so chartered</p> <p>Production and sale of all classes of pressed and other bricks, and any other business appertaining or incidental to brick-making or brick yards, with shale and clay deposits</p>	....	....	....	....	....	....
State Implement and Engineering Works	<p>General engineering and jobbing work, manufacture, and sale of agricultural and farming machinery, accessories and spare parts; purchase and sale of imported agricultural and farming machinery, spare parts, oil, twine, and general farming and agricultural sundries, and the carrying on of any business appertaining or incidental to above, including the purchase of stores and raw material required; establishing of Agencies on Commission, etc.</p>	188,940	461,060	100,000	100,000	750,000

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Name of Concern	Nature of Operations	Amount of Fixed Capital at 30th June 1916	Amount of Working Capital at 30th June 1916	Amount of Additional Capital necessary to meet requirements after 30th June 1916			Capital -- Grand Total
				Fixed	Working	Total	
		\$	\$	\$	\$	\$	\$
State Shipping Service	To manage, maintain, control, and operate vessels purchased, taken on lease or hire or acquired by the Government of Western Australia. To establish agencies and depots and to perform all such acts as may be necessary in the conduct of a shipping business. To act as Agents for the Government of Western Australia or any other persons in connection with the operating of vessels or cargo. To carry on any other business on behalf of the Government of Western Australia that can be conveniently conducted in conjunction with above.	484,000	120,000	46,000	70,000	116,000	720,000
State Hotels	Licensed Victualler. To carry out the provisions of Part VI of the Licensing Act in accordance with Local Option Poll taken in 1911	78,800	<i>Nil</i>	1,700	500	2,200	81,000
Meat Distribution	Retailing meat, and all acts necessary and incidental thereto for the purpose of controlling the retail price thereof	1,970	2,000	1,200	4,000	5,200	9,170
Shipment of North-West Cattle	Purchasing and shipping cattle from North-West to Metropolis for purpose of ensuring supplies during War and regulating wholesale prices of meat	<i>Nil</i>	<i>Nil</i>	....	20,000	20,000	20,000
State Fish Supply	To procure fish and retail to the public, and all acts incidental of and necessary thereto	12,200	2,000	1,200	2,000	3,200	17,400

[Schedule amended by No. 5 of 1932 s.3; No. 10 of 1950 s.4; No. 26 of 1956 s.4.]

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NOTES

¹ This reprint is a compilation as at 18 August 1997 of the *State Trading Concerns Act 1916* and includes the amendments effected by the other Acts referred to in the following Table^{1a}.

Table of Acts

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>State Trading Concerns Act 1916</i>	12 of 1917	28 March 1917	1 April 1917 (see <i>Gazette</i> 25 May 1917 p.849)	
<i>State Trading Concerns Act Amendment Act 1930</i>	46 of 1930	30 December 1930	30 December 1930	
<i>State Trading Concerns Act Amendment Act (No. 2) 1932</i>	5 of 1932	31 October 1932	1 April 1933 (see <i>Gazette</i> 13 April 1933 p.564)	Repealed by the <i>Western Australian Government Tramways and Ferries Act 1948</i> , section 3
<i>State Trading Concerns Act Amendment Act 1950</i>	10 of 1950	17 November 1950	17 November 1950	
<i>State Trading Concerns Act Amendment Act 1956</i>	26 of 1956	29 November 1956	1 July 1957 (see <i>Gazette</i> 24 May 1957 p.1491)	
<i>State Trading Concerns Act Amendment Act 1968</i>	9 of 1968	26 September 1968	26 September 1968	
<i>State Trading Concerns Act Amendment Act 1972</i>	25 of 1972	9 June 1972	9 June 1972	

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Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Acts Amendment (Western Australian Meat Commission) Act 1975, Part II</i>	70 of 1975	7 November 1975	1 July 1976 (see <i>Gazette</i> 18 June 1976 p.2047)	
<i>State Engineering Works Act 1984, section 41</i>	66 of 1984	5 November 1984	1 January 1985 (see <i>Gazette</i> 7 December 1984 p.4017)	
<i>Acts Amendment (Financial Administration and Audit) Act 1985, section 3</i>	98 of 1985	4 December 1985	1 July 1986 (see <i>Gazette</i> 30 June 1986 p.2255).	
<i>Financial Administration Legislation Amendment Act 1993, Part 4</i>	6 of 1993	27 August 1993	Deemed operative 1 July 1993	
<i>Financial Legislation Amendment Act 1996, section 64</i>	49 of 1996	25 October 1996	25 October 1996 (see section 2 (1))	
<i>State Trading Concerns Amendment Act 1997</i>	18 of 1997	8 July 1997	8 July 1997 (see section 2)	

N.B. Affected by Act No. 113 of 1965 section 8.

^{1a} The provisions of the *State Trading Concerns Act Amendment Act (No. 1) 1932* (Act No. 11 of 1932) has never been proclaimed.

² Marginal notes referring to other legislation have been omitted from this reprint.