

**NEW SOUTH WALES GOVERNMENT
ENGINEERING AND SHIPBUILDING
UNDERTAKING ACT.**

Act No. 19, 1943.

George VI.
No. 19, 1943. **An Act to define the functions of the New South
Wales Government Engineering and Ship-
building Undertaking; to provide for the
appointment of a Director of that Under-
taking; to make provision for and in relation
to**

to the keeping of certain accounts in the Special Deposits Account in the Treasury for the purposes of that Undertaking; and for purposes connected therewith. [Assented to, 5th July, 1943.]

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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 New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "New South Wales Government Engineering and Shipbuilding Undertaking Act, 1943." Short title and division into Parts.

(2) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY—ss. 1, 2.

PART II.—ADMINISTRATION—ss. 3-6.

PART III.—FINANCE—ss. 7-10.

PART IV.—GENERAL—ss. 11-14.

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

"Accounting year" means a period of twelve months commencing on the first day of April and ending on the thirty-first day of March following.

"Director" means the Director for the time being of the Undertaking.

"Prescribed" means prescribed by this Act or by the regulations.

"Regulations" means regulations made under this Act.

"Under Secretary" means the Under Secretary of the Department of Public Works.

"Undertaking" means the New South Wales Government Engineering and Shipbuilding Undertaking.

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PART II.

ADMINISTRATION.

Director to
have general
management
of Under-
taking.

3. The New South Wales Government Engineering and Shipbuilding Undertaking shall be under the general management of the Director.

In the management of the Undertaking the Director shall be subject to the control and direction of the Minister.

Functions
of the
Under-
taking.

4. The functions of the Undertaking shall include all types of engineering (including general engineering and marine engineering), shipbuilding and ship repairing and docking and such work of a like or incidental character as the Minister may from time to time approve, and shall also include any work or activity which is incidental or supplementary to the performance of any of such functions.

Director.

5. (1) The Director of the New South Wales Government Engineering and Shipbuilding Undertaking shall be appointed by the Governor and shall be paid such remuneration as may be determined by the Governor.

A person who is of or above the age of sixty-five years shall not be appointed as Director.

(2) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to the appointment of the Director, and the Director shall not be subject to any of such Acts during his term of office.

(3) The Director shall, subject to this Act, be appointed for such term, not exceeding seven years, as may be specified in the instrument of appointment, and be eligible for reappointment from time to time.

Any such reappointment shall be for such term, not exceeding seven years, as may be specified in the instrument of reappointment.

(4) (a) The Director shall be deemed to have vacated his office if he—

(i) engages (whether in New South Wales or elsewhere) during his term of office in any paid employment outside the duties of his office;

(ii)

- (ii) becomes bankrupt, compounds with his creditors, or makes an assignment of his salary or estate for their benefit; No. 19, 1943.
- (iii) absents himself from duty for a period of more than fourteen consecutive days, except on leave granted by the Minister;
- (iv) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898;
- (v) resigns his office by writing under his hand addressed to the Governor;
- (vi) is removed from office by the Governor.

(b) A Director who is in any wise personally concerned or interested in any bargain or contract made by or on behalf of the Crown or the Minister for any purpose connected with or relating to the Undertaking, or who in any wise participates or claims to be entitled to participate in the profit of any such bargain or contract or in any benefit or emolument arising therefrom, shall thereby vacate his office as Director and shall be liable also upon summary conviction to a penalty not exceeding fifty pounds: cf. Act No.
65, 1941,
s. 5 (8).

Provided that a Director shall not vacate his office or be liable to any penalty as aforesaid by reason only of—

- (i) receiving or being entitled to receive any payment, benefit or emolument in consequence of his appointment as Director;
- (ii) being beneficially interested in any newspaper in which advertisements relating to the trade or business of the Undertaking may be inserted;
- (iii) being a shareholder or member (but not a director or manager) of any incorporated company of more than twenty persons with which the Crown or the Minister or any person on behalf of the Crown or the Minister has entered into any bargain or contract for any purpose connected with or relating to the Undertaking.

(c) A Director shall be deemed to have vacated his office on the day upon which he attains the age of sixty-five years.

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(5) The Governor may, for any cause which appears to him sufficient, remove the Director from office.

(6) (a) A person who, at the date of his appointment as Director, is an officer of the Public Service shall, in the event of his office as Director being discontinued or abolished, be entitled, if he is under the age of sixty years, to be appointed upon the recommendation of the Public Service Board to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment as Director.

This paragraph shall not, in the event of David Lyon McLarty being appointed Director, apply to and in respect of the said David Lyon McLarty.

(b) Nothing in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or under the Superannuation Acts, 1916-1940, or any Acts amending such Acts, to any person appointed as Director, who is at the time of his appointment or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Acts, 1916-1940, or any amendment thereof.

(c) Any officer of the Public Service or person who is an employee within the meaning of the Superannuation Acts, 1916-1940, or any amendment thereof, appointed as Director shall continue to contribute to any fund or account and be entitled to receive any deferred or extended leave, and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Acts, 1916-1940, as the case may be, or any Acts amending such Acts, and for such purpose his service as Director shall be deemed to be service for the purpose of such Acts.

(7) A deputy may be appointed by the Governor to act for the Director during the illness or absence of the Director and every such deputy shall, during the time he acts as deputy, have the same powers, authorities, duties and functions as the Director and shall receive

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receive such salary or remuneration as the Governor may No. 19, 1943.
direct.

No person shall be concerned to enquire whether or not any occasion has arisen requiring or authorising such deputy so to act or as to the necessity or propriety of such appointment and all such acts or things done or omitted by such deputy shall be as valid and effectual and shall have the same consequences as if the same had been done or omitted by the Director.

6. (1) The Governor may, under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, appoint and employ such officers and employees as may be necessary for the purposes of this Act. Officers and employees.
cf. Act No. 65, 1941,
s. 6.

(2) The officers and employees so appointed or employed shall be subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, during their tenure of office or employment.

(3) The Director may, subject to subsection five of this section, appoint, employ and dismiss such casual employees as are deemed necessary for the purposes of the Undertaking and may fix wages and conditions of employment of such casual employees where such wages and conditions are not fixed in accordance with the provisions of any other Act.

The appointment of casual employees under this subsection shall not be subject to the provisions of the Public Service Act, 1902, or any Act amending that Act, and a casual employee so appointed or employed shall not be subject to the provisions of any such Act during the period of his employment.

(4) For the purposes of the Undertaking the Director may, subject to subsection five of this section, with the approval of the Minister for the time being administering the department concerned, and on such terms as may be arranged, make use of the services of any of the officers or employees of any Government department.

(5) The Director shall, as far as practicable, make use of the services of the professional and technical staff employed in the Department of Public Works, and
shall

No. 19, 1943. shall not, without the previous consent of the Minister, engage or employ the services of other professional or technical advisers or consultants.

PART III.

FINANCE.

Capital cost. 7. (1) The capital cost of the Undertaking is hereby declared to be the sum of thirty thousand six hundred and fifty-three pounds one shilling and ten pence as at the twenty-eighth day of February, one thousand nine hundred and forty-two, but may be added to or reduced as in this section provided.

The sum specified in this subsection shall bear interest.

(2) The Minister shall as soon as practicable after the thirty-first day of March, one thousand nine hundred and forty-three, determine the amount by which the capital cost of the Undertaking shall be increased or decreased by reason of expenditure or receipts during the period of thirteen months immediately preceding, and shall as soon as practicable after the thirty-first day of March in each succeeding year determine the amount by which the capital cost of the Undertaking shall be increased or decreased by reason of expenditure or receipts during the accounting year immediately preceding.

The Minister shall notify in the Gazette the amount of such increase or decrease.

In any such notification the Minister may declare that the whole or any part of any such increase is not to bear interest.

Where part of the capital cost of the Undertaking has been so declared not to bear interest then in any future notification made under this subsection the Minister shall state that the amount is to be added to or deducted from that part of the capital cost of the Undertaking which bears interest, or that part of the capital cost of the Undertaking which does not bear interest, or that the amount is to be apportioned between such parts.

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Upon publication of any notification under this sub-
section the capital cost of the Undertaking shall be
deemed to be altered accordingly and such alteration shall
take effect from the date specified in the notification.

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In this subsection "expenditure" shall include the
value (as determined by the Minister) of capital assets
which the Minister has made available for use for the
purposes of the Undertaking, and "receipts" shall include
the value (as determined by the Minister) of capital
assets which the Minister has withdrawn from use for
the purposes of the Undertaking.

(3) A notification shall not be made under sub-
section two of this section unless its terms shall have
been approved by the Colonial Treasurer.

8. (1) An account shall be kept in the Special Deposits
Account in the Treasury, to be called the "New South
Wales Government Engineering and Shipbuilding Under-
taking Working Account," in this Act referred to as
the "Working Account."

Working
account.
cf. Act No.
3, 1942,
s. 13.

(2) (a) There shall be credited to the Working
Account—

- (i) all revenue, earnings and moneys received from
all sources in the course of the conduct of the
Undertaking; and
- (ii) such amounts as may from time to time be
appropriated by Parliament for the purpose.

(b) There shall be debited to the Working
Account in respect of each accounting year the following
charges in the order set out hereunder:—

Firstly, all costs and expenses whatsoever of and
incidental to the administration, management
and conduct of the Undertaking, and also the
costs of repair and minor renewal of plant and
equipment of the Undertaking, incurred in
respect of the accounting year;

Secondly, interest on the capital cost of the Under-
taking or, where a declaration has been made
that part of the capital cost is not to bear
interest, on the interest bearing part of the
capital cost, in respect of the accounting year,
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at a rate or rates to be determined by the Colonial Treasurer, but not exceeding the average rate payable during such accounting year by the Government for loan moneys and exchange at a rate or rates to be determined by the Colonial Treasurer, the amount of which interest and exchange shall be credited to the Consolidated Revenue Fund.

The charge of interest by this paragraph shall not include interest payable in respect of any advance made by the Commonwealth to the State and expended or applied by the State for or in connection with the establishment or conduct of the Undertaking and taken into account in fixing the capital cost of the Undertaking.

Thirdly, contributions to the Depreciation Reserve Account.

Fourthly, such contributions to the Consolidated Revenue Fund as the Colonial Treasurer may from time to time direct; but in no case shall the total amount of the contributions directed to be paid under this paragraph in respect of any accounting year exceed such sum as will reimburse the State for the amount of sinking fund charges payable by the State in respect of that accounting year on the outstanding balance of loan moneys expended or applied by the State for or in connection with the establishment or conduct of the Undertaking, and taken into account in fixing the capital cost of the Undertaking.

Fifthly, an amount, in each accounting year, equivalent to the amount payable by the State to the Commonwealth in that accounting year in respect of interest and repayment of capital on advances made by the Commonwealth to the State and expended or applied by the State for or in connection with the establishment or conduct of the Undertaking and taken into account in fixing the capital cost of the Undertaking.

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The amount of the charge under this paragraph shall be paid to the Colonial Treasurer.

(3) Any balance remaining after meeting the charges referred to in subsection two of this section shall be applied either in reduction of the capital cost of the Undertaking or otherwise for any purpose whatsoever of or relating to the Undertaking or partly for one such purpose and partly for the other as the Minister may direct.

Where any balance or part thereof is so directed to be applied in reduction of the capital cost of the Undertaking the same shall be paid to the Colonial Treasurer.

The Minister shall notify in the Gazette the amount of any such reduction of the capital cost of the Undertaking and, where a declaration has been made that part of the capital cost is not to bear interest, shall in such notification state that such reduction is to be made from that part of the capital cost of the Undertaking which bears interest, or from that part of the capital cost of the Undertaking which does not bear interest, or that such reduction is to be apportioned between such parts. Upon publication of such notification the capital cost of the Undertaking shall be deemed to be altered accordingly and such alteration shall take effect as from the date specified in the notification.

9. (1) An account shall be kept in the Special Deposits Account in the Treasury, to be called the "New South Wales Government Engineering and Shipbuilding Undertaking Depreciation Reserve Account," in this Act referred to as the "Depreciation Reserve Account."

Deprecia-
tion Reserve
Account.
cf. Act No.
2, 1942,
s. 14.

(2) Contributions to the Depreciation Reserve Account shall be credited to that account as soon as practicable after the thirty-first day of March, one thousand nine hundred and forty-three, and after the same day in each succeeding year. Each such contribution shall be calculated as prescribed and shall be so calculated by reference to the total amount expended or applied on or before the thirty-first day of March next preceding upon the capital assets of the Undertaking (including the value, as determined by the Minister, of capital assets which

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(3) The Working Account shall be credited half-yearly with interest on the uninvested daily credit balance of the Depreciation Reserve Account at such rate as the Colonial Treasurer may from time to time direct.

(4) The whole or any part of the balance at the credit of the Depreciation Reserve Account may be invested in Commonwealth Government securities and interest accruing from such investments shall be regularly added to the Working Account.

(5) The Depreciation Reserve Account shall be drawn upon only for purposes of investment or re-investment, or for renewing or replacing capital assets of the Undertaking:

Provided that the Minister may from time to time authorise the expenditure of any balance at the credit of such account (which shall be deemed to include any amounts invested in pursuance of subsection four of this section) in excess of two-thirds of the value of the capital assets of the Undertaking (ascertained as hereinafter in this subsection provided) towards extending the trade or business of the Undertaking or the capital assets thereof:

Provided further that such sums as the Colonial Treasurer may direct shall be applied out of such account towards the reduction of the capital cost of the Undertaking, but in no case shall the Colonial Treasurer give any such direction which would have the effect of reducing the amount standing to the credit of such account to less than two-thirds of the value of the capital assets of the Undertaking ascertained as hereinafter in this subsection provided.

Where any sums are so directed to be applied in reduction of the capital cost of the Undertaking they shall be paid to the Colonial Treasurer.

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The Minister shall notify in the Gazette the amount of any such reduction of the capital cost of the Undertaking and, where a declaration has been made that part of the capital cost is not to bear interest, shall in such notification state that such reduction is made from that part of the capital cost of the Undertaking which bears interest or from that part of the capital cost of the Undertaking which does not bear interest or that the reduction is to be apportioned between such parts. Upon publication of such notification the capital cost of the Undertaking shall be deemed to be altered accordingly and such alteration shall take effect as from the date specified in the notification. **No. 19, 1943.**

For the purposes of this subsection the value of the capital assets of the Undertaking at any time shall be deemed to be the total amount expended or applied on or before the thirty-first day of March next preceding upon capital assets of the Undertaking (including the value, as determined by the Minister, of capital assets which the Minister has made available for use for the purposes of the Undertaking) after deducting therefrom the value of capital assets which have been disposed of (including the value, as determined by the Minister, of capital assets which the Minister has withdrawn from use for the purposes of the Undertaking).

(6) If the Minister considers the amount at the credit of the Working Account insufficient to meet the contribution referred to in subsection two of this section, having regard to the charges referred to in subsection two of section eight of this Act, such contribution or portion thereof may be allowed to remain a charge on the Working Account.

10. When in any accounting year the revenue, earnings and moneys received from all sources in the course of the conduct of the Undertaking are insufficient to meet the charges referred to in subsection two of section eight of this Act, the Colonial Treasurer may, out of moneys provided by Parliament, pay to the Working Account the amount of such deficiency. Payments by Colonial Treasurer. cf. Act No. 3, 1942, s. 15.

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PART IV.

GENERAL.

**Purchase
of land.**

11. (1) For the purposes of and subject to the provisions of this Act, the Minister may under the Public Works Act, 1912, and any Act amending the same, purchase any land. For the purposes of the Public Works Act, 1912, as amended by subsequent Acts, any such purchase shall be deemed to be for an authorised work, and the Minister shall be deemed to be the Constructing Authority within the meaning of the said Act as so amended:

Provided that sections thirty-four, thirty-five, thirty-six and thirty-seven of the Public Works Act, 1912, as amended by subsequent Acts, shall not apply to any such purchase, but section thirty-eight of such Act shall, *mutatis mutandis*, apply to and in respect of any contracts relating to any such purchase.

(2) For the purposes of this Act, the Minister may exchange lands vested in him as Constructing Authority under the Public Works Act, 1912, as amended by subsequent Acts, or under any other Act, for other lands. Lands acquired by exchange under this subsection shall be deemed for all purposes to have been acquired by the Minister as Constructing Authority under the Public Works Act, 1912, as amended by subsequent Acts, for an authorised work.

(3) The Minister may make available for use for the purposes of the Undertaking—

- (a) any land for the time being vested in him as Constructing Authority under any Act and not required for the purpose for which the same was acquired;
- (b) any land purchased or acquired by exchange under the authority of this Act.

The Minister may from time to time withdraw from use for the purposes of the Undertaking any land so made available.

12. The Director shall furnish to the Minister through the Under Secretary as soon as practicable after the thirty-first day of March in each year, a full and particular report in writing on the operations and activities of the Undertaking, and shall at all times keep the Minister fully and accurately informed regarding all matters relating to the Undertaking. **No. 19, 1943.**
Annual report.

13. (1) The Director shall cause to be kept proper books of account in relation to the Undertaking and as soon as practicable after the thirty-first day of March in each year shall prepare and submit to the Auditor-General statements of account and balance sheet setting forth a true statement of the financial position and transactions of the Undertaking for the immediately preceding accounting year. **Accounts and audit.**

Such statements of account and balance sheet shall be in a form approved by the Auditor-General.

The Auditor-General shall examine and audit the said statements of account and balance sheet and if found to be correct he shall so certify and sign the said statements of account and balance sheet.

After such examination and audit the Director shall forthwith transmit the said statements of account and balance sheet to the Minister through the Under Secretary.

(2) The Auditor-General shall have in respect of such audit all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of public accounts; and the Audit Act, 1902, and the Acts amending the same shall apply to the Director and his officers and employees in the same manner as it applies to accounting officers of public departments.

14. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out the provisions of this Act. **Regulations.**

(2)

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(2) In particular and without prejudice to the generality of subsection one of this section, the Governor may make regulations in respect of the following matters:—

- (a) the division of the capital assets of the Undertaking into classifications for the purpose of calculating contributions to the Depreciation Reserve Account;
- (b) the determination of the amount expended or applied upon the capital assets of the Undertaking contained in each classification as at the thirty-first day of March, one thousand nine hundred and forty-three, or at any time thereafter;
- (c) the rate at which contributions to the Depreciation Reserve Account shall be calculated for each classification.

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of such publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

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