

South Australia

# Port Pirie Smelting Facility (Lead-In-Air Concentrations) Act 2013

An Act to regulate the variation of conditions and application of laws relating to lead emissions in respect of a smelting facility at Port Pirie; and for other purposes.

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**The Parliament of South Australia enacts as follows:**

### 1—Short title

This Act may be cited as the *Port Pirie Smelting Facility (Lead-In-Air Concentrations) Act 2013*.

### 2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

### 3—Interpretation

- (1) In this Act, unless the contrary intention appears—

**Company** means Nyrstar Port Pirie Pty Ltd ACN 008 046 428 and includes its successors and assigns;

**Manufacturing Minister** means the Minister to whom the administration of the *Industries Development Act 1941* is committed;

**maximum lead-in-air condition** means a condition of the relevant environmental authorisation that specifies the maximum permissible air concentration of lead at a location or locations in Port Pirie specified in the relevant environmental authorisation;

*plant* means the metals processing facility owned and operated by the Company at Port Pirie as it is constituted from time to time, including all ancillary and associated plant, equipment and other works;

*project* means the redevelopment of the plant by the Company to transform it from a primary lead smelter to a poly-metallic processing facility by replacing the existing sinter technology with enclosed bath smelting processing technology and the carrying out of associated works;

*project completion date*—see subsection (2)(c);

*relevant environmental authorisation* means any environmental authorisation under the *Environment Protection Act 1993* applying from time to time in relation to the Company's operations in connection with the plant.

- (2) For the purposes of this Act—
- (a) the Company must, not more than 7 days after successfully commencing commercial operations of the enclosed bath smelting facility installed as part of the project, give notice to the Manufacturing Minister of the day on which those operations commenced (the *project completion notice*); and
  - (b) the Manufacturing Minister must, by notice published in the Gazette within 7 days of receipt of the project completion notice, give notice of that receipt; and
  - (c) the *project completion date* is the date on which the notice under paragraph (b) is published in the Gazette.

#### **4—Provisions relating to reduction of maximum lead-in-air condition by Environment Protection Authority**

- (1) The Environment Protection Authority may not, during the period commencing on the project completion date and ending on the commencement day, vary a maximum lead-in-air condition in a way that would have the effect of reducing the maximum specified in the condition unless the Environment Protection Authority has consulted with—
- (a) the Manufacturing Minister; and
  - (b) the Company.
- (2) The Environment Protection Authority may not, during the prescribed period, vary a maximum lead-in-air condition in a way that would have the effect of reducing the maximum specified in the condition.
- (3) Subsection (2) does not apply if—
- (a) the Manufacturing Minister approves the variation; or
  - (b) the Company consents to the variation.
- (4) Before granting an approval under subsection (3)(a), the Manufacturing Minister must—
- (a) consult with, and invite written submissions (to be provided within a reasonable period specified by the Manufacturing Minister) from—
    - (i) the Company; and

- (ii) the Minister to whom the administration of the *Environment Protection Act 1993* is committed; and
- (b) take into account the following:
  - (i) any written submissions received under paragraph (a);
  - (ii) recent medical and scientific advances relating to lead emissions;
  - (iii) international standards relating to lead emissions;
  - (iv) the impact of the proposed variation on—
    - (A) the Port Pirie community; and
    - (B) the Company;
  - (v) any other matter the Manufacturing Minister thinks fit.
- (5) Nothing in subsection (2)—
  - (a) applies to a condition of the relevant environmental authorisation other than a maximum lead-in-air condition; or
  - (b) affects any requirement for the Company to take reasonable and practicable measures to prevent or minimise any environmental harm that may result from its operations in connection with the plant.

- (6) In this section—

***commencement day*** means—

- (a) the day that falls 6 months after the project completion date; or
- (b) if the Environment Protection Authority varies a maximum lead-in-air condition after the project completion date (but before the day that falls 6 months after the project completion date)—the day on which the variation is made,

whichever day occurs first;

***prescribed period*** means the period that commences on the commencement day and ends 10 years after that day.

## **5—Maximum lead-in-air condition not affected by other laws of State**

- (1) The law of the State is modified so that any requirement applying (whether directly or indirectly) to the Company under—
  - (a) a law of the State; or
  - (b) a relevant authorisation,

that would have the effect of reducing the maximum permissible air concentrations of lead at a location or locations in Port Pirie specified in a condition of a relevant environmental authorisation (a ***relevant requirement***), is taken not to apply (but only to the extent that the relevant requirement has that effect and except as provided in subsection (3)) to the Company during the prescribed period.

- (2) The modification of the law under subsection (1) applies to a relevant requirement whether the relevant requirement was imposed before or after the commencement of this Act.

- (3) Subsection (1) does not apply to the extent that the Manufacturing Minister determines, by notice in writing to the Company, that a particular law or authorisation specified in the notice should not be so modified, or should only be modified as specified in the notice.
- (4) The Manufacturing Minister may only make a determination under subsection (3) if—
- (a) the Company consents to the making of the determination; or
  - (b) the Manufacturing Minister—
    - (i) consults with, and invites written submissions (to be provided within a reasonable period specified by the Manufacturing Minister) from—
      - (A) the Company; and
      - (B) if the particular law or authorisation specified in the notice is an Act, or is imposed under an Act (as the case may be), the Minister to whom the administration of the Act is committed; and
    - (ii) takes into account the following:
      - (A) any written submissions received under subparagraph (i);
      - (B) recent medical and scientific advances relating to lead emissions;
      - (C) international standards relating to lead emissions;
      - (D) the impact of the proposed determination on—
        - the Port Pirie community; and
        - the Company;
      - (E) any other matter the Manufacturing Minister thinks fit.
- (5) In this section—
- prescribed period** means the period starting on the commencement of this Act and ending—
- (a) if a project completion notice is given to the Manufacturing Minister—10 years after the project completion date; or
  - (b) in any other case—4 years after the commencement of this Act;

**relevant authorisation** means a licence, authorisation, permit, consent or approval imposed under a law of the State, but does not include a relevant environmental authorisation.

## 6—Immunity provision

No act or omission undertaken or made by the Manufacturing Minister or any other person engaged in the administration of this Act with a view to exercising or performing a power or function under this Act gives rise to any liability (whether based on a statutory or common law duty to take care or otherwise) against the Manufacturing Minister or other person or the Crown.

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal Act

Year	No	Title	Assent	Commencement
2013	38	<i>Port Pirie Smelting Facility (Lead-In-Air Concentrations) Act 2013</i>	19.9.2013	uncommenced