

South Australia

Whyalla Steel Works (Charge on Property) Amendment Act 2025

An Act to amend the *Whyalla Steel Works Act 1958*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Whyalla Steel Works (Charge on Property) Amendment Act 2025*.

2—Commencement

- (1) Subject to subsection (2), this Act comes into operation on the day on which it is assented to by, or on behalf of, the Crown.
- (2) Section 3A of the *Whyalla Steel Works Act 1958* (as inserted by section 3 of this Act) is taken to come into operation immediately after sections 3B and 3C of that Act (as inserted by section 3 of this Act).

Part 2—Amendment of *Whyalla Steel Works Act 1958*

3—Insertion of sections 3A, 3B and 3C

After section 3 insert:

3A—Charge on property

- (1) If any amount is owed by the Company to the Crown or an agency or instrumentality of the Crown, all property of the Company is, by operation of this section, subject to a first ranking charge securing payment of the amount so owed.

Note—

This will apply to all present and after-acquired property of the Company.

- (2) Subsection (1) applies to—
- (a) any amount owed by the Company on or after the commencement of this section (regardless of whether the amount first became owing before or after the commencement of this section); and
 - (b) property within the State and outside the State to the full extent of the extraterritorial legislative capacity of the Parliament.
- (3) If an amount referred to in subsection (1) remains unpaid on the prescribed day, the following provisions apply:
- (a) the charge referred to in that subsection is, on and after the prescribed day, presently enforceable by the Minister (and the Minister is not required to make any demand for payment or take any other steps before proceeding to enforce the charge);
 - (b) the charge may be immediately enforced by the Minister by taking any 1 or more of the following actions:
 - (i) entry into possession of, and control of, real and personal property of the Company;
 - (ii) sale of any real or personal property referred to in subparagraph (i) (in such manner as the Minister thinks fit);
 - (iii) the appointment of a receiver or of a receiver and manager;
 - (iv) any other lawful method of enforcement.
- (4) A person appointed as a receiver, or as a receiver and manager, under subsection (3)(b), has all the powers of a receiver under the *Corporations Act 2001* of the Commonwealth.

- (5) This section has effect—
- (a) notwithstanding any provision of the Indenture or the Indenture under the *Broken Hill Proprietary Company's Indenture Act 1937*; and
 - (b) notwithstanding the provisions of the *Real Property Act 1886*; and
 - (c) notwithstanding any other Act or law (including an Act or law providing for recovery of the amount owed but in such a case powers to recover the amount under that Act or law will apply in addition to the powers under this Act).
- (6) Nothing in this section derogates from a charge on property created—
- (a) pursuant to the Indenture and section 85 of the *Mining Act 1971*; or
 - (b) pursuant to section 18C of the *South Australian Water Corporation Act 1994*.
- (7) Section 8(1)(b) does not apply to any dispute or difference between the State and the Company arising out of or in connection with the operation of this section.
- (8) In this section—
- prescribed day***, in relation to an amount owed by the Company to the Crown or an agency or instrumentality of the Crown, means—
- (a) in the case of an amount that has, on the commencement of this section, been owing for more than 30 days—the day on which this section commences; or
 - (b) in any other case—the day occurring 30 days after the day on which the amount first became owing.

3B—Charge declared to be a statutory interest

A charge of a kind created pursuant to section 3A is declared to be a statutory interest to which section 73(2) of the *Personal Property Securities Act 2009* of the Commonwealth applies.

3C—Provision of reports and information etc

- (1) The Company must, within 7 days (or such longer period as the Minister may allow) after receiving the auditor's report in relation to the Company's financial report for a financial year (as required under the *Corporations Act 2001* of the Commonwealth), provide the Minister with a copy of the financial report and auditor's report.
- (2) The Minister may, by written notice given to the Company, require the Company to provide documents or information of a kind specified in the notice within 14 days after the date on which the notice was given.

- (3) For the avoidance of doubt, a notice under subsection (2) may require the provision of documents or information that—
 - (a) were created, or relate to, matters occurring before or after the commencement of this section; or
 - (b) were created, or are located, within or outside the State.
- (4) The Company must notify the Minister, in writing, as soon as practicable after becoming aware of any of the following events (as specified in any guidelines issued under subsection (5)):
 - (a) an unplanned significant disruption of relevant Company works or facilities;
 - (b) a planned significant disruption of relevant Company works or facilities if the planned significant disruption is to be, or becomes, for a period greater than 2 days;
 - (c) a risk (not being trivial or insubstantial) that a significant disruption of relevant Company works or facilities may occur.
- (5) The Minister may issue guidelines to the Company that specify the kinds of events that will constitute an unplanned or planned significant disruption, or a risk of a significant disruption, of relevant Company works or facilities for the purposes of subsection (4).
- (6) The Minister may, by written notice given to the Company, require the Company to provide information of a kind specified in the notice in relation to an event specified in subsection (4) within 14 days after the date on which the notice was given.
- (7) The Company must, at the written request of the Minister, facilitate access to relevant Company works or facilities (within 30 days after the giving of the notice) by any persons designated by the Minister for the purpose of—
 - (a) inspecting such works and facilities; and
 - (b) reporting to the Minister in relation to—
 - (i) the operation and condition of such works and facilities (including any plant, equipment or other thing at such works and facilities); and
 - (ii) any other matter arising from the inspection.
- (8) Any persons designated by the Minister for the purpose of an inspection under subsection (7) may, for the purposes of carrying out the inspection, require an employee or agent of the Company to—
 - (a) open or facilitate access to any place or thing at the relevant Company works or facilities; or
 - (b) operate any plant, equipment or thing at the relevant Company works or facilities; or
 - (c) answer any questions.

- (9) If the Company, or an employee or agent of the Company, refuses or fails to comply with a provision of, or requirement under, this section, the Company is guilty of an offence.
Maximum penalty: \$1 000 000.
- (10) A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any document, information or answer given under this section.
Maximum penalty: \$1 000 000 or imprisonment for 2 years.
- (11) If a person is required to provide documents or information, or to answer a question, under this section and the documents, information or answer would tend to incriminate the person of an offence, the person must nevertheless provide the documents, information or answer but, if the person is a natural person, the documents, information or answer so provided will not be admissible in evidence against the person in proceedings for an offence (other than an offence relating to the making of a false or misleading statement).
- (12) Information obtained under this section is not liable to disclosure under the *Freedom of Information Act 1991*.
- (13) In this section—
relevant Company works or facilities has the same meaning as in section 14.