

Alcoa (Portland Aluminium Smelter) (Amendment) Bill

EXPLANATORY MEMORANDUM

The purpose of this Bill is to provide for the re-start to the construction of an aluminium smelter at Portland in the State of Victoria, to amend the *Victorian Economic Development Corporation Act 1981* and the *Mines (Aluminium Agreement) Act 1961* and for other purposes.

Clause 1 names the short title of the Act.

Clause 2 relates to the date of commencement of the Act.

Clauses 3 and 4 state that this Act will bind the Crown and that the Principal Act is the *Alcoa (Portland Aluminium Smelter) Act 1980*.

Clauses 5, 6 and 7 refer to the interpretation, ratification and required amendments in the Supplemental Agreement in this Act and the interpretations in the Principal Act.

Clause 8 provides for the Agreement to be varied by agreement between the Premier and Alcoa and with the approval of the Governor in Council, the variations to be subject to disallowance by resolution of both Houses of Parliament.

Clause 9 provides for the substitution of words and for the Governor in Council to grant a lease to enable the Company to supply electricity to the conveyor from company land.

Clause 10 provides for the Governor in Council to set conditions on leases granted and provides for substitution of words.

Clause 11 provides for the substitution of words.

Clause 12 provides for the substitution of words to give full effect to the major agreements between the various parties in the Joint Venture with respect to the recommencement of construction of the smelter.

Clause 13 refers to the following new sections of the Principal Act to be inserted after section 10:

New section 11 empowers the Registrar of Titles to make the relevant cancellations or entries to the records of Crown grants or certificates of title which are necessary to expedite the Act.

New section 12 ensures that land described in the Third Annexure to the Agreement cannot be developed for uses incompatible with the smelter's operation.

New section 13 provides that the *Archaeological and Aboriginal Relics Preservation Act 1972* shall not apply to the smelter and conveyor sites, except for the five sites which are the subject of an order made by Mr Justice Southwell in the Supreme Court.

New section 14 provides for the trustee concerned with the Portland project to be a participating authority under the *Victorian Public Authorities Finance Act 1984* and a relevant authority for the purpose of the Victorian Development Fund.

New section 15 provides that the reference in the Agreement to the valuation of certain land at Portland is a reference to the valuation as at 27 July 1984.

Clause 14 specifies the exemption of documents relating to the establishment, operation or carrying on of the smelter or the smelter at Point Henry from the *Freedom of Information Act 1982*.

Clause 15 amends the *Victorian Economic Development Corporation Act 1981* and provides for the Treasurer to guarantee the performance of anyone under contract or agreement relating to the establishment, carrying on or development of any industry whatsoever, specifies covenants and indemnities in respect of certain contracts at the discretion of the Treasurer after consideration of a Corporation report, authorizes sums of money to be paid by the Treasurer out of the Consolidated Fund under such covenants or indemnities executed by the Treasurer and further empowers the Treasurer to provide guarantees of performance as well as of borrowings to entities such as the Portland Smelter Unit Trust.

Clause 16 inserts three new sections in the *Mines (Aluminium Agreement) Act 1961* relating to the smelter at Point Henry:

New section 8 provides that Alcoa has the benefit of certain easements for electricity between the smelter at Point Henry and the Anglesea Power Station.

New section 9 provides that public statutory corporations may enter into agreements for purposes connected with the smelter at Point Henry.

New section 10 provides that the Agreement has effect as if it included certain obligations of the State in relation to certain actions by Governments.

Clause 17 makes a minor amendment to the *Mines (Aluminium Agreement) Act 1961* consequential on the *Transport Act 1983*.

The Schedule contains the Supplemental Agreement relating to the Portland Aluminium Smelter.

The recitals refer to the State's obligations, rights and privileges on Alcoa and the Company's obligations to the State in establishing an aluminium smelter at Portland, state that the State and Alcoa wish to make certain amendments under the terms of the Agreement and declare that the parties are desirous of entering into the Supplemental Agreement in order to complete the establishment and operation of the smelter.

Clause 1 establishes the name of the Company, Agreement and the State.

Clause 2 provides for the ratification, validation and approval of the Supplemental Agreement, states that the Supplemental Agreement shall have no effect until ratified, validated and approved by an Act of Parliament.

Clause 3 refers to the substitution of the words "economic development of the State" in lieu of "decentralization of industry".

Clause 4 seeks various amendments to clause 1 (a) of the Agreement which relate to the associated company, Companies (Victoria) Code, definition of "company", definition of "conveyor", Port of Portland Authority, and smelter site area.

Clause 5 relates to the change of date for the commencement of operation of the smelter from 1 April 1983 to 1 November 1986 and refers to the company's "endeavouring to procure the provision of housing for employees" in lieu of "ensuring necessary additional housing".

Clause 6 states that in paragraphs (b), (c) and (h) the words "Port of Portland Authority" be used instead of "Portland Harbor Trust Commissioners", provides for "the said Commissioners" to be substituted by "the Authority" and the use of "*Port of Portland Authority Act 1958*" in paragraph (c) and provides for other various amendments and additional paragraphs in clause 5 as a result of negotiating issues to recommence the smelter.

Clause 7 refers to the substitution of words embracing the new Port Authority and Portland Water Board.

Clause 8 refers to the State assisting the Company and the Portland Town Council to reach agreement relating to municipal rating; refers to the State assisting the Company and the Portland Water Board to reach agreement relating to water supply and sewerage rating; and refers to the State assisting the Company and the Port of Portland Authority to reach agreement relating to Portland Harbor matters.

Clause 9 embraces word substitution on riots and civil commotion, an additional sub-clause on *force majeure* and a substitution of sections in the Companies (Victoria) Code.

Clause 10 provides for other partners to become a party to this Agreement entitling them to share the benefits and liabilities under the Agreement; and grants exclusion of stamp duty payable by other parties entering into partnership with Alcoa for five years from the date on which the *Alcoa (Portland Aluminium Smelter) (Amendment) Act 1984* comes into operation.

The First Annexure is a description of all of the land known as the "smelter site".

The Second Annexure lists Crown grants which comprise the company land.

The Third Annexure describes land abutting the eastern and southern boundaries of the smelter site down to the sea-coast on which uses incompatible with the operation of the smelter will not be allowed.

