

Western Australia

**BHP Billiton (Termination of Agreements)
Agreement Bill 2005**

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Schedule 1 — The Agreement

Western Australia

LEGISLATIVE ASSEMBLY

**BHP Billiton (Termination of Agreements)
Agreement Bill 2005**

A Bill for

An Act to ratify an agreement between the State and BHP Billiton Limited and BHP Billiton Minerals Pty. Ltd. that provides for the termination of —

- **an agreement made on 7 October 1952 and subsequently varied; and**
- **an agreement made on 18 November 1960 and subsequently varied,**

between the State and BHP Billiton Limited (under its former name, The Broken Hill Proprietary Company Limited).

The Parliament of Western Australia enacts as follows:

s. 1

1. Short title

This is the *BHP Billiton (Termination of Agreements) Agreement Act 2005*.

2. Commencement

5 This Act comes into operation on the day on which it receives the Royal Assent.

3. Definition

In this Act —

10 “**Agreement**” means the agreement of which a copy is set out in Schedule 1.

4. Ratification and operation of Agreement

(1) The Agreement is ratified.

15 (2) Without limiting or otherwise affecting the application of the *Government Agreements Act 1979*, the Agreement operates and takes effect despite any enactment or other law.

Schedule 1 — The Agreement

[s. 3]

2004

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THE HONOURABLE GEOFFREY IAN GALLOP
BEc, MA, Mphil, Dphil, MLA

10

AND

BHP BILLITON LIMITED
ABN 49 004 028 077

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BHP BILLITON MINERALS PTY. LTD.
ABN 93 008 694 782

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AGREEMENT

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- (ii) the agreement dated the 23rd day of May 1973 approved by the *Broken Hill Proprietary Company's Integrated Steel Works Agreement Act Amendment Act 1973*; and
- (iii) the agreement dated the 23rd day of April 1980 approved by the *Broken Hill Proprietary Company Limited Agreements (Variation) Act 1980*;

and which, as so varied from time to time, is hereinafter referred to as “**the 1960 Agreement**”;

- (c) by an agreement dated the 18th day of March 1966 BHPB assigned certain of its rights and obligations under the 1952 Agreement and the 1960 Agreement to BHP Steel (AIS) Pty. Ltd. (formerly called Australian Iron and Steel Proprietary Limited) ABN 19 000 019 625 (“**AIS**”) and assigned certain of its rights and obligations under those Agreements to BHPM;
- (d) by a Deed of Covenant dated the 31st day of January 2002 AIS assigned (inter alia) all its rights and obligations under the 1952 Agreement and the 1960 Agreement to BHPM; and
- (e) the State and the Companies desire to terminate the 1952 Agreement and the 1960 Agreement in manner herein appearing.

NOW THIS AGREEMENT WITNESSES —

1. The State shall introduce and sponsor a Bill in the Parliament of Western Australia to ratify this Agreement and endeavour to secure its passage as an Act prior to 30 June 2005 or such later date as the parties hereto may agree.
2. (1) The provisions of this Agreement other than this Clause and Clause 1 shall not commence to operate until the Bill referred to in Clause 1 has been passed by the Parliament of Western Australia and comes into operation as an Act.
- (2) If before 30 June 2005 or such later date as may be agreed pursuant to Clause 1 the said Bill has not come into operation as an Act then unless the parties hereto otherwise agree this Agreement shall cease and determine and no party hereto shall have any claim against any other party hereto with respect to any matter or thing arising out of done performed or omitted to be done or performed under this Agreement.

- (3) On the said Bill coming into operation as an Act (“**the Operative Date**”) all the provisions of this Agreement shall operate and take effect notwithstanding the provisions of any Act or law.
3. (1) The 1952 Agreement and the 1960 Agreement are hereby terminated with effect on and from the Operative Date.
- (2) Notwithstanding subclause (1) of this Clause, the mineral leases set out in the Schedule to the 1952 Agreement shall continue in force subject to and in accordance with clause 4(mb) of the 1952 Agreement.
4. With effect on and from the Operative Date the State hereby —
- (a) grants a full unconditional release to each of BHPB and BHPM from their respective obligations (unfulfilled or otherwise and including, in the case of BHPM, the obligations of AIS assumed by BHPM under clause 3.1 of the Deed of Covenant dated the 31st day of January 2002 and made between the State, BHPB, AIS and BHPM (“the Deed of Covenant”)):
- (i) under or pursuant to the 1952 Agreement and the 1960 Agreement; and
- (ii) under Western Australian legislation and regulations or any laws or other requirements imposed by any government, governmental, semi-governmental or other relevant authority of the State in effect prior to or at the Operative Date, to the extent:
- (A) the release is lawful; and
- (B) the obligations were excluded from applying to the activities of BHPB or BHPM as the case may be under the terms of the 1952 Agreement or the 1960 Agreement; and
- (b) agrees that each of BHPB and BHPM will have no further liability for any action done or omission made which was permitted to be done or omitted to be done by the terms of the 1952 Agreement and the 1960 Agreement.
5. The State hereby confirms the release given by it to AIS in clause 3.2 of the Deed of Covenant.

