

SOUTH AUSTRALIA

**RADIATION PROTECTION AND CONTROL ACT, 1982**

*This Act is reprinted pursuant to the Acts Republication, Act 1967, and incorporates all amendments in force as at **15 November 1991**.*

*It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.*

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SCHEDULE

## **RADIATION PROTECTION AND CONTROL ACT, 1982**

being

Radiation Protection and Control Act, 1982, No. 49 of 1982  
[Assented to 29 April 1982]<sup>1</sup>

as amended by

Radiation Protection and Control Act Amendment Act, 1986, No. 117 of 1986 [Assented to 18 December 1986]<sup>2</sup>

Radiation Protection and Control Act Amendment Act, 1988, No. 52 of 1988 [Assented to 8 September 1988]<sup>2</sup>

*Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.*

<sup>1</sup> Came into operation (except ss. 3, 25, 28-33) 5 November 1982, s. 25 came into operation 1 April 1983: *Gaz.* 28 October 1982, p. 1212; ss. 29 and 30 came into operation 1 September 1985, ss. 3, 28, 31-33 came into operation 1 April 1986: *Gaz.* 4 April 1985, p. 978.

<sup>2</sup> Came into operation 30 September 1988: *Gaz.* 8 September 1988, p. 994.

**An Act to provide for the control of activities related to radioactive substances and radiation apparatus, and for protection against the harmful effects of radiation; to amend the Health Act, 1935-1980; and for other purposes.**

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PRELIMINARY

**Short title**

1. This Act may be cited as the *Radiation Protection and Control Act, 1982*.

**Commencement**

2. (1) This Act shall come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation made for the purposes of subsection (1), suspend the operation of any specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

**Amendment of Health Act, 1935-1980**

3. (1) The *Health Act, 1935-1980*, is amended—

(a) by striking out from section 3 the passage "Part IXB—Radio-active Substances and Irradiating Apparatus";

and

(b) by striking out Part IXB and the heading to that Part.

(2) The *Health Act, 1935-1980*, as amended by this Act, may be cited as the *Health Act, 1935-1982*.

**Arrangement**

4. This Act is arranged as follows:

PART I—PRELIMINARY

PART II—ADMINISTRATION

PART III—RADIATION PROTECTION AND CONTROL

DIVISION I—GENERAL OBJECTIVE

DIVISION II—RADIOACTIVE SUBSTANCES

DIVISION III—RADIATION APPARATUS

DIVISION IV—GENERAL PROVISIONS WITH RESPECT TO AUTHORITIES

DIVISION V—DANGEROUS SITUATIONS

DIVISION VI—REGULATIONS

PART IV—MISCELLANEOUS

### Interpretation

5. In this Act, unless the contrary intention appears—

"authority" means a licence or registration:

"authorized officer" means a person who is an authorized officer under Part II either by virtue of appointment as such or *ex officio*:

"the Commission" means the South Australian Health Commission established under the *South Australian Health Commission Act, 1975-1981*:

"the Committee" means the Radiation Protection Committee established under Part II:

"conversion" in relation to uranium means conversion of uranium oxides to uranium hexafluoride:

"enrichment" in relation to uranium means alteration of the isotopic composition of uranium:

"handle" includes manipulate by any indirect or remote means:

"the Indenture" has the same meaning as in the *Roxby Downs (Indenture Ratification) Act, 1982*:

"ionizing radiation" means electromagnetic or particulate radiation capable of producing ions directly or indirectly in passage through matter but does not include electromagnetic radiation of a wavelength greater than 100 nanometres:

"ionizing radiation apparatus" means apparatus capable of producing ionizing radiation by accelerating atomic particles:

"the Joint Venturers" has the same meaning as in the *Roxby Downs (Indenture Ratification) Act, 1982*:

"licence" means a licence or a temporary licence under Part III:

"milling", in relation to radioactive ores, means operations for the concentration or processing of such ores, and includes incidental operations for the management and disposal of waste, but does not include *in situ* leaching carried on in the course of mining radioactive ores:

"mines inspector" means an inspector as defined by the *Mines and Works Inspection Act, 1920-1978*:

"the Mines Minister" means the Minister for the time being responsible for the administration of the *Mining Act, 1971*:

"mining", in relation to radioactive ores, means operations (including exploratory operations) for the extraction of such ores, and includes—

- (a) incidental operations for the removal and storage of such ores;
- (b) incidental operations for the management and disposal of waste;

4.

and

(c) *in situ* leaching,

but does not include surface excavating that does not intersect radioactive ores, surface drilling or geophysical prospecting:

"mining licence" means a licence authorizing the carrying out of operations for the mining or milling of radioactive ores:

"non-ionizing radiation" means electromagnetic radiation of a wavelength greater than 100 nanometres:

"non-ionizing radiation apparatus" means apparatus capable of producing non-ionizing radiation but not ionizing radiation:

"owner" in relation to an apparatus or thing that has been let out on hire, means the person who takes it on hire:

"premises" means any land, any building or structure whether fixed or moveable, or any part of any land, building or structure:

\* \* \* \* \*

"radiation" means ionizing radiation or non-ionizing radiation:

"radiation apparatus" means ionizing radiation apparatus or non-ionizing radiation apparatus:

"radioactive ore" means an ore or mineral containing more than the prescribed concentrations of uranium or thorium:

"radioactive substance" means a substance occurring naturally or artificially produced (whether solid, liquid or gaseous) which consists of or contains any radioactive element or compound whether natural or artificial and includes any device or thing that contains such a substance:

"registered occupier" means a person in whose name premises are registered under Part III:

"registered owner" means a person in whose name a sealed radioactive source or radiation apparatus is registered under Part III:

"registration" means registration under Part III:

"sealed radioactive source" means a radioactive substance bonded within metals or sealed in a capsule or other container in such a way as to—

(a) minimize the possibility of escape or dispersion of the radioactive substance;

and

(b) allow the emission of ionizing radiation for use as required:

5.

"thorium" includes a chemical compound of thorium:

"unsealed radioactive substance" means a radioactive substance that is not a sealed radioactive source:

"uranium" includes a chemical compound of uranium:

"vehicle" includes any kind of aircraft or vessel.

**Application of Act**

6. (1) This Act binds the Crown.

(2) The provisions of this Act shall be in addition to, and shall not derogate from the obligations imposed by, the provisions of any other Act.

(3) The provisions of this Act shall not limit or derogate from any civil remedy at law or in equity.

PART II

ADMINISTRATION

**Administration of Act**

7. The Commission shall have the general administration of this Act but shall, in the administration of this Act, be subject to direction by the Minister.

**Delegation**

8. (1) The Commission may, by instrument in writing, delegate any of its powers or functions under this Act, to any member, or officer or employee, of the Commission or any officer of the public service of the State.

(2) Any powers or functions delegated under this section shall be exercised subject to and in accordance with any conditions contained in the instrument of delegation and any subsequent directions of the Commission.

(3) A delegation under this section may be revoked by the Commission by instrument in writing and shall not derogate from the power of the Commission to act itself in any matter.

(4) In any legal proceedings an apparently genuine document purporting to be a certificate under the seal of the Commission stating any matter with respect to a delegation under this section shall, in the absence of proof to the contrary, be accepted as proof of the matter stated.

**Radiation Protection Committee**

9. (1) There shall be a committee entitled the "Radiation Protection Committee".

(2) The Committee shall consist of ten members appointed by the Governor, of whom—

- (a) one (who shall be the chairman of the Committee) shall be a member, or officer or employee, of the Commission;
- (b) one shall be a radiologist;
- (c) one shall be a radiographer with expertise in the field of human diagnostic radiography;
- (d) one shall be a person with expertise in the industrial uses of radiation;
- (e) one shall be a person with expertise in the scientific uses of radiation;
- (f) one shall be a person with expertise in the field of health physics;
- (g) one shall be a medical practitioner with expertise in the field of nuclear medicine;
- (h) one shall be a person with expertise in the mining and milling of radioactive ores;

7.

(i) one shall be a person with expertise in the field of genetics and a knowledge of radiation genetics;

and

(j) one shall be a person with expertise in the field of environmental sciences.

**Terms and conditions of office**

**10.** (1) A member of the Committee shall be appointed for such term of office, not exceeding three years, and upon such conditions as may be determined by the Governor, and, upon the expiration of his term of office, shall be eligible for re-appointment.

(2) The Governor may appoint a suitable person to be a deputy of a member of the Committee and that person, while acting in the absence of that member, shall be deemed to be a member of the Committee with all the powers, rights and duties of the member of whom he is deputy.

(3) The Governor may remove a member of the Committee from office for—

(a) a breach, or non-compliance with, the conditions of his appointment;

(b) mental or physical incapacity to carry out satisfactorily the duties of his office;

(c) neglect of duty;

or

(d) dishonourable conduct.

(4) The office of a member of the Committee shall become vacant if—

(a) he dies;

(b) his term of office expires;

(c) he resigns by written notice addressed to the Minister;

or

(d) he is removed from office pursuant to subsection (3).

(5) Upon the office of a member of the Committee becoming vacant, a person may be appointed in accordance with this Act to the vacant office, but, where the office of a member becomes vacant before expiration of his term of office, the person appointed in his place shall be appointed only for the balance of the term of his predecessor.

**Quorum, etc.**

**11.** (1) Six members of the Committee shall constitute a quorum of the Committee and no business shall be transacted at a meeting of the Committee unless a quorum is present.

8.

(2) The chairman of the Committee or, in his absence, his deputy shall preside at a meeting of the Committee and, in the absence of both the chairman and his deputy from a meeting of the Committee, the members of the Committee present at the meeting shall decide who is to preside at the meeting.

(3) A decision carried by a majority of the votes of the members of the Committee present at a meeting of the Committee shall be a decision of the Committee.

(4) Each member of the Committee shall be entitled to one vote on a matter arising for decision by the Committee and the person presiding at the meeting of the Committee shall, in the event of an equality of votes, have a second or casting vote.

(5) The Committee shall cause proper minutes to be kept of its proceedings at meetings.

(6) Subject to this Act, the business of the Committee shall be conducted in a manner determined by the Committee.

### **Functions of the Radiation Protection Committee**

**12.** The functions of the Committee are—

(a) to advise the Minister in relation to the formulation of regulations under this Act;

\* \* \* \* \*

(c) to advise the Commission in relation to the granting of licences under this Act including the conditions to which they should be subject;

and

(d) to investigate and report upon any other matters relevant to the administration of this Act at the request of the Minister or the Commission or of its own motion.

### **Provision of resources by Commission**

**13.** (1) The Commission may appoint an officer or employee of the Commission or an officer of the public service of the State to be the secretary to the Committee.

(2) The Commission may provide the Committee with administrative assistance and facilities for the performance of its functions under this Act.

### **Sub-committees**

**14.** (1) There shall be the following sub-committees of the Committee:

(a) a sub-committee to report to the Committee on matters related to the diagnostic and therapeutic uses of radiation which shall consist of—

(i) the chairman of the Committee or his nominee;

(ii) the members of the Committee appointed under section 9(2)(b), (c), (g) and (i);

and

(iii) such other members of the Committee or other persons as may be appointed to the sub-committee by the Commission with the approval of the Minister;

(b) a sub-committee to report to the Committee on matters related to the industrial and scientific uses of radiation which shall consist of—

(i) the chairman of the Committee or his nominee;

(ii) the members of the Committee appointed under section 9(2)(d), (e) and (i);

and

(iii) such other members of the Committee or other persons as may be appointed to the sub-committee by the Commission with the approval of the Minister;

(c) a sub-committee to report to the Committee on matters related to the management and disposal of radioactive waste which shall consist of—

(i) the chairman of the Committee or his nominee;

(ii) the members of the Committee appointed under section 9 (2)(h) and (j);

and

(iii) such other members of the Committee or other persons as may be appointed to the sub-committee by the Commission with the approval of the Minister;

(d) a sub-committee to report to the Committee on matters related to the mining or milling of radioactive ores which shall consist of—

(i) the chairman of the Committee or his nominee;

(ii) the members of the Committee appointed under section 9(2)(f) and (h);

and

(iii) such other members of the Committee or other persons as may be appointed to the sub-committee by the Commission with the approval of the Minister.

(2) The Commission may, with the approval of the Minister, establish one or more other sub-committees of the Committee to report to the Committee on matters specified by the Commission.

(3) A sub-committee established under subsection (2) shall consist of—

(a) the chairman of the Committee or his nominee;

and

- (b) such other members of the Committee or other persons as may be appointed to the sub-committee by the Commission with the approval of the Minister.

(4) A sub-committee shall not act of its own motion but only in relation to matters referred to it by the Committee.

(5) Subject to this Act, the procedure for meetings of sub-committees shall be determined by the chairman of the Committee.

#### **Disclosure of interests**

**15.** (1) A member of the Commission, the Committee or a sub-committee of the Committee who has a direct or indirect pecuniary interest in any matter arising for decision by the body of which he is a member shall disclose the nature of his interest at a meeting of that body and the disclosure shall be recorded in the minutes of the body.

(2) A member of the Commission, the Committee or a sub-committee of the Committee who has a direct or indirect pecuniary interest in a matter arising for decision by the body of which he is a member shall not take part in the making of that decision.

#### **Authorized officers**

**16.** (1) The Commission may, with the approval of the Minister, appoint an officer or employee of the Commission or an officer of the public service of the State to be an authorized officer for the purposes of this Act.

(2) A mines inspector shall, by virtue of his office, be an authorized officer for the purposes of this Act.

(3) The Commission shall provide each authorized officer with a certificate of identification in the prescribed form.

(4) An authorized officer shall, upon demand by any person in relation to whom he is exercising or proposing to exercise any of his powers under this Act, produce his certificate of identification for the inspection of that person.

#### **Powers of authorized officers**

**17.** (1) An authorized officer may—

- (a) for the purpose of determining whether a provision of this Act is being or has been complied with, enter at any time into or upon and inspect any premises or vehicle or anything in or on the premises or vehicle;
- (b) where reasonably necessary for that purpose, break into or open any part of, or anything in or on, the premises or vehicle, or, in the case of a vehicle, give directions with respect to the stopping or moving of the vehicle;
- (c) for the purpose of determining whether a provision of this Act is being or has been complied with—
  - (i) remove and examine, analyse or test anything or cause it to be examined, analysed or tested;

- (ii) require any person to answer a question put to him (whether directly or through an interpreter);
- (iii) require any person to produce for inspection any books, documents or records in his custody or control;
- (iv) copy and take extracts from any books, documents or records;
- (d) where he suspects on reasonable grounds that an offence against this Act has been committed, seize and retain anything that affords evidence of the offence, or in relation to which the offence is suspected of having been committed;
- (e) require a person holding or required to hold an authority to produce the authority for inspection;

and

- (f) give such directions as are reasonably necessary for, or incidental to, the effective exercise of his powers under this Act.

(2) An authorized officer shall not exercise a power conferred by subsection (1)(a) or (b) except—

- (a) in pursuance of a warrant issued by a justice;
  - (b) in relation to premises or a vehicle used in the course of—
    - (i) a business, operation or activity carried on in pursuance of an authority;
- or
- (ii) mining or prospecting operations;

or

- (c) in a case in which the authorized officer has reasonable grounds to believe that urgent action is required.

(3) A justice may, on the application of an authorized officer, issue a warrant authorizing the exercise of powers under subsection (1)(a) or (b) if satisfied that the warrant is reasonably required for purposes related to the administration or enforcement of this Act.

(4) The powers conferred by subsection (1) are not exercisable by an authorized officer who is a mines inspector except in relation to a mining operation as defined by the *Mines and Works Inspection Act, 1920-1978*.

(5) In the exercise of his powers under this Act, an authorized officer may be accompanied by such other persons as he considers necessary or desirable in the circumstances.

(6) A person shall not hinder or obstruct an authorized officer, or a person accompanying an authorized officer, in the exercise of his powers under this Act.

(7) Subject to subsection (8), a person to whom a question is put under this section shall not refuse or fail to answer the question to the best of his knowledge, information or belief.

(8) A person is not required to answer a question if the answer to the question would tend to incriminate him.

(9) A person given any direction, or of whom a requirement is made, under this section shall not refuse or fail to comply with the direction or requirement.

(10) Where anything has been seized under this section the following provisions shall apply:

(a) if—

(i) proceedings are not instituted for an offence against this Act related to the thing seized within 12 months after its seizure;

or

(ii) proceedings having been so instituted, the thing seized is not ordered to be forfeited to the Crown,

the person from whom it was seized or any person with legal title to it shall be entitled to recover it, or, if it has been destroyed or damaged or has deteriorated, to recover from the Minister by action in any court of competent jurisdiction compensation for the loss suffered;

(b) a court convicting a person of an offence against this Act related to the thing seized may, in addition to imposing a penalty, order that it be forfeited to the Crown;

(c) where anything is ordered to be forfeited to the Crown, it shall be disposed of in such manner as the Minister directs, and, if sold, the proceeds of the sale shall be paid into the General Revenue of the State.

#### **Restriction on interests of authorized officers**

**18.** An authorized officer shall not, without the consent of the Minister—

(a) have any proprietary or pecuniary interest in a business, or a corporation or trust that has an interest in a business, that engages in any activity regulated by this Act;

or

(b) act as agent for a person who has any such proprietary or pecuniary interest in any matter connected with such a business.

#### **Secrecy**

**19.** A person who is engaged or has been engaged in any office or position connected with the administration of this Act shall not, otherwise than in the performance of the duties or functions appertaining to that office or position, divulge or communicate any information obtained by virtue of that office or position.

**False representation**

20. A person shall not falsely represent, by words or conduct, that he is engaged in or associated with the administration of this Act.

**Immunity from personal liability**

21. (1) No personal liability shall attach to a member of the Commission, the Committee or a sub-committee of the Committee, or an authorized officer, for any act or omission by him, or a body of which he is a member, in good faith and in the exercise or discharge, or purported exercise or discharge, of his or its powers, duties or functions under this Act.

(2) A liability that would, but for subsection (1), lie against a person shall lie against the Crown.

**Annual report**

22. (1) The Commission shall, not later than a date stipulated by the Minister, in each year present to the Minister a report on the administration of this Act during the financial year last expiring before that date.

(2) The Minister shall cause a copy of the report of the Commission to be laid before each House of Parliament as soon as practicable after his receipt of the report.

PART III

RADIATION PROTECTION AND CONTROL

DIVISION I—GENERAL OBJECTIVE

**General objective**

**23.** (1) The Minister, the Commission and the Committee shall, in exercising and discharging his or its powers, functions and duties under this Act and any other person shall, in carrying on any activity related to radioactive substances or ionizing radiation apparatus, endeavour to ensure that exposure of persons to ionizing radiation is kept as low as reasonably achievable, social and economic factors being taken into account.

(2) Subsection (1) does not apply to exposure of a person while the person is undergoing radiotherapy.

DIVISION II—RADIOACTIVE SUBSTANCES

**Licence to mine or mill radioactive ores**

**24.** (1) A person shall not carry out operations for the mining or milling of radioactive ores unless the operations are authorized by a licence under this section.

(2) Subsection (1) does not apply to operations of a prescribed class.

(3) Subject to this section, the Commission may, upon application in the prescribed form, grant a licence under this section.

(4) The Commission shall not grant a licence under this section unless satisfied that the proposed operations would comply with the regulations.

(4a) A fee of an amount determined in accordance with the regulations is payable in respect of each year of the term of a licence under this section.

(4b) The fee for the first year of the term of a licence under this section must be paid before the grant of the licence and the fee for each succeeding year must be paid on or before the anniversary of the date of the grant of the licence or, if it has been renewed, the anniversary of the date of its last renewal.

(4c) The amount of any annual fee for a licence not paid as required under this section may be recovered from the holder of the licence by action in a court of competent jurisdiction as a debt due to the Commission.

(5) A licence under this section must specify the operations to which it applies and the places at which those operations may be carried out.

(6) Contravention of, or failure to comply with, this section constitutes a minor indictable offence.

\* \* \* \* \*

**Limits of exposure to ionizing radiation for mining or milling operations not to be more stringent than limits fixed under certain codes, etc.**

26. Notwithstanding any other provisions of this Act, no limit of exposure to ionizing radiation shall be fixed by any regulation or condition made or imposed under this Act in relation to an operation for the mining or milling of radioactive ores that is more stringent than the most stringent of all the limits, or less stringent than the least stringent of all the limits, for the time being fixed in relation to such operations in the codes, standards and recommendations approved or published under the *Environment Protection (Nuclear Codes) Act 1978* of the Commonwealth or any other Act or law of the Commonwealth or by the National Health and Medical Research Council, the International Commission on Radiological Protection or the International Atomic Energy Agency.

**Operations for enrichment or conversion of uranium not to be carried on until proper controls imposed**

27. (1) No person shall carry on any operation for the conversion or enrichment of uranium.

(2) Contravention of subsection (1) shall constitute a minor indictable offence.

(3) This section shall expire on a date to be fixed by proclamation.

(4) A proclamation shall not be made for the purposes of subsection (3) unless the Governor is satisfied that proper provision has been made for the control of operations for the conversion or enrichment of uranium.

**Licence to use or handle radioactive substances**

28. (1) A natural person shall not use or handle a radioactive substance unless that use or handling is authorized by a licence or temporary licence under this section.

(2) Subsection (1) does not apply—

(a) to the use or handling of radioactive substances in the course of operations authorized under another provision of this Act;

or

(b) to a person or substance of a prescribed class.

(3) The Commission may, upon application in the prescribed form and payment of the prescribed fee, grant a licence or a temporary licence under this section.

(4) The Commission shall not grant a licence or temporary licence under this section unless the Commission is satisfied—

(a) that the applicant is a fit and proper person to hold a licence under this section;

and

(b) that the applicant has appropriate knowledge of the principles and practices of radiation protection to carry on the activities proposed to be carried on by the applicant in pursuance of the licence.

(5) Where the Commission grants a temporary licence under this section—

(a) the licence shall, subject to this Act, have effect for such period, not exceeding three months, as may be specified in the licence;

and

(b) the Commission shall ensure that the Committee is advised of the granting of the licence at the next meeting of the Committee held after the granting of the licence.

\* \* \* \* \*

**Registration of premises in which unsealed radioactive substances are handled or kept**

**29.** (1) Any premises in which an unsealed radioactive substance is kept or handled must be registered under this section in the name of the occupier of the premises.

(2) Where premises required to be registered under this section in the name of the occupier are not so registered, the occupier shall be guilty of an offence.

(3) Subsection (1) does not apply—

(a) in relation to the keeping or handling of radioactive substances in the course of operations authorized under another provision of this Act;

or

(b) to or in relation to any premises or substance of a prescribed class.

(4) The Commission may, upon application in the prescribed form and payment of the prescribed fee, register the premises in the name of the occupier of the premises.

(5) The Commission shall not register premises under this section unless the Commission is satisfied that the premises comply with the regulations.

\* \* \* \* \*

**Registration of sealed radioactive source**

**30.** (1) A sealed radioactive source must be registered under this section in the name of the owner of the source.

(2) Where a sealed radioactive source required to be registered under this section in the name of the owner is not so registered, the owner shall be guilty of an offence.

(3) Subsection (1) does not apply to a sealed radioactive source of a prescribed class.

(4) The Commission may, upon application in the prescribed form and payment of the prescribed fee, register a sealed radioactive source in the name of the owner of the source.

(5) The Commission shall not register a sealed radioactive source under this section unless the Commission is satisfied that the source has been constructed, contained, shielded and installed in accordance with the regulations.

(6) Where the Commission refuses to register a sealed radioactive source under this section, the Commission may, by notice in writing, forfeit the source to the Crown, in which case, the source may be seized by an authorized officer and disposed of in such manner as the Commission directs.

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### DIVISION III—RADIATION APPARATUS

#### **Licences to operate radiation apparatus**

**31.** (1) No person (being a natural person) shall operate—

(a) any ionizing radiation apparatus;

or

(b) any non-ionizing radiation apparatus of a prescribed class,

unless he holds a licence or temporary licence under this section.

(2) Subsection (1)(a) does not apply to a person or apparatus of a prescribed class.

(3) The Commission may, upon application in the prescribed form and payment of the prescribed fee, grant a licence or temporary licence under this section.

(4) The Commission shall not grant a licence or temporary licence under this section unless the Commission is satisfied—

(a) that the applicant is a fit and proper person to hold a licence under this section;

and

(b) that—

(i) the applicant has the qualifications prescribed in relation to the operations proposed to be carried on by the applicant in pursuance of the licence;

or

(ii) that the applicant has appropriate knowledge of the principles and practices of radiation protection to carry on such operations.

(5) Where the Commission grants a temporary licence under this section—

(a) the licence shall, subject to this Act, have effect for such period, not exceeding three months, as may be specified in the licence;

and

(b) the Commission shall ensure that the Committee is advised of the granting of the licence at the next meeting of the Committee held after the granting of the licence.

\* \* \* \* \*

**Registration of radiation apparatus**

**32.** (1) Any—

(a) ionizing radiation apparatus;

or

(b) non-ionizing radiation apparatus of a prescribed class,

must be registered under this section in the name of the owner of the apparatus.

(2) Where any ionizing radiation apparatus or non-ionizing radiation apparatus required to be registered under this section in the name of the owner is not so registered, the owner shall be guilty of an offence.

(3) Subsection (1)(a) does not apply to an apparatus of a prescribed class.

(4) The Commission may, upon application in the prescribed form and payment of the prescribed fee, register radiation apparatus in the name of the owner of the apparatus.

(5) The Commission shall not register any radiation apparatus under this section unless the Commission is satisfied that the apparatus has been constructed, shielded and installed in accordance with the regulations.

(6) Where the Commission refuses to register an ionizing radiation apparatus or non-ionizing radiation apparatus under this section, the Commission may, by notice in writing, forfeit the apparatus to the Crown, in which case, the apparatus may be seized by an authorized officer and disposed of in such manner as the Commission directs.

\* \* \* \* \*

**Offence for registered owner to cause, suffer or permit unlicensed person to operate radiation apparatus**

**33.** Where the registered owner of any radiation apparatus causes, suffers or permits the apparatus to be operated by a person who is required to hold but does not hold a licence under section 31 to operate the apparatus, the registered owner shall be guilty of an offence.

**DIVISION IV—GENERAL PROVISIONS WITH RESPECT TO AUTHORITIES**

**Commission may require information to determine applications**

**34.** The Commission may, before determining an application for a licence or registration—

(a) require the applicant to furnish such further information as the Commission may require to determine the application;

and

(b) require the applicant to verify by statutory declaration any information contained in, or furnished for the purposes of, the application.

**Commission required to refer certain matters to the Committee**

35. (1) The Commission shall, before determining an application for a licence (not being a temporary licence), refer the application to the Committee for its advice and give due consideration to the advice of the Committee.

\* \* \* \* \*

**Conditions of authorities**

36. (1) Subject to this section, a licence or registration is subject to—

(a) such conditions as are included in the licence or the certificate of registration at the time of grant;

and

(b) such conditions as are attached to the licence or registration under this section.

(2) The Commission may, by notice in writing to the holder of a licence or registration—

(a) attach a condition to the licence or registration;

or

(b) vary or revoke a condition of the licence or registration.

(3) A decision of the Commission to attach a condition to, or to vary a condition of, a licence or registration takes effect at the expiration of one month from the date on which notice is given under subsection (2), but if an application for review of the decision is made the Supreme Court may suspend the operation of the decision until the application is determined.

(4) The holder of a licence or registration shall not contravene, or fail to comply with, a condition of the licence or registration.

(5) Contravention of, or failure to comply with, a condition of a mining licence constitutes a minor indictable offence.

**Term of licences and registration and their renewal**

37. (1) A licence or registration shall, subject to this Act, remain in force for such term as the Commission may specify in the licence or certificate of registration.

(2) The Commission shall, subject to this Act, upon application made in the prescribed manner and form and payment of the prescribed fee, renew a licence or registration.

(3) A licence or registration renewed under this section shall, subject to this Act, remain in force for such term (being not less than twelve months) as the Commission may specify in the licence or certificate of registration.

(4) In this section—

"licence" does not include a temporary licence:

"prescribed fee" means—

- (a) in relation to a licence under section 24—the annual fee payable under that section in respect of the year of the term of the licence commencing on the date of its renewal;
- or
- (b) in any other case—the fee prescribed for renewal of the licence or registration.

**Register**

**38.** (1) The Commission shall keep a register of licences and registrations granted under this Act in such form and containing such information as may be prescribed.

(2) The register referred to in subsection (1) shall be made available for public inspection.

\* \* \* \* \*

**Surrender, suspension and cancellation of licences and registration**

**40.** (1) The holder of a licence or certificate of registration may surrender the licence or certificate.

(2) The Commission may suspend or cancel a licence or registration if it is satisfied—

- (a) that the grant of the licence or registration was obtained improperly;
- (b) that the holder of the licence or certificate of registration has contravened, or failed to comply with, a condition of the licence or registration;
- (c) that the holder of the licence or certificate of registration has been convicted of an offence against this Act;

or

(d) that, in the case of a licence, the holder of the licence has ceased to hold a qualification upon the basis of which the Commission granted the licence.

(2a) The Commission shall specify in every order for cancellation the time at which the order will take effect.

(2b) The Commission shall specify in every order for suspension the time at which the suspension will take effect.

(3) A licence or registration—

- (a) surrendered under this section shall, from the time of surrender, cease to be of any force or effect;
- (ab) cancelled under this section shall, from the time at which the order for cancellation takes effect, cease to be of any force or effect;

or

- (b) suspended under this section shall be of no force or effect for the period of the suspension.

(4) Where a licence or registration has been suspended under this section, it may be renewed but shall remain subject to suspension until the expiration of the period of suspension.

(4a) Where a registration is suspended, the Commission may give such directions in relation to—

- (a) the use or occupation of the premises and the use, handling or storage of the unsealed radioactive substance;

or

- (b) the operation, use or storage of the sealed radioactive source or radiation apparatus,

during the period of the suspension as the Commission considers appropriate.

(4b) Where a registration is cancelled, the Commission may—

- (a) in the case of premises, give such directions as it considers appropriate in relation to the use or occupation of the premises and the disposal of the unsealed radioactive substance;

or

(b) in the case of a sealed radioactive source or radiation apparatus—

- (i) give such directions as it considers appropriate in relation to the disposal of the source or apparatus;

or

- (ii) by notice in writing forfeit the source or apparatus to the Crown.

(4c) Where pursuant to subsection (4b)(b)(ii) the Commission forfeits a sealed radioactive source or radiation apparatus, the source or apparatus may be seized by an authorized officer and disposed of as the Commission directs.

(4d) The person in whose name any premises, sealed radioactive source or radiation apparatus was registered shall not contravene, or fail to comply with, a direction given by the Commission pursuant to subsection (4a) or (4b).

(5) Where the Commission suspends or cancels a licence or registration under this section, the Commission shall advise the Committee of that fact.

**Review of decisions relating to authorities**

**41.** (1) Any person aggrieved by a decision of the Commission—

- (a) to refuse to grant a licence or registration;
- (b) to attach a condition to a licence or registration;
- (c) to vary a condition of a licence or registration;
- (d) to suspend a licence or registration;
- (e) to cancel a licence or registration;

or

- (f) to give a direction in relation to the suspension or cancellation of a licence or registration,

may apply to the Supreme Court for a review of the decision.

(2) The application for review must be made within one month after the making of the decision to be reviewed, but the Supreme Court may, if it is satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that the application be so made.

(3) A person making a decision referred to in subsection (1) shall, if so requested in writing by any person affected by the decision, give a written statement of the reasons for the decision.

(4) If a written statement of the reasons for the decision is not given at the time of the making of the decision and the person affected by the decision within fourteen days requests in writing that he be given a written statement of the reasons, the time for making the application for review shall run from the time of service upon the person of the written statement of those reasons.

(5) The Supreme Court may, on the review, do one or more of the following, according to the nature of the case—

- (a) confirm the decision subject to the review;
- (b) substitute, or make in addition, any decision that should in the opinion of the Court have been made in the first instance;
- (c) make any further or other order as to costs or any other matter that the case requires.

## DIVISION V—DANGEROUS SITUATIONS

**Powers to deal with dangerous situations**

**42.** (1) Where the Commission considers that a dangerous or potentially dangerous situation exists involving actual or threatened exposure of any person to excessive radiation or contamination of any person or place by radioactive substances—

- (a) the person responsible for the danger or potential danger or any person affected by it may be directed to take, or refrain from taking, any specified action;

- (b) the radiation apparatus or radioactive substances giving rise to the danger or potential danger or anything contaminated or affected thereby may be seized, removed, disposed of, treated or otherwise dealt with;

or

- (c) any other direction may be given, or action taken,

to avoid, remove or alleviate the danger or potential danger.

(2) Directions may be given or action taken under subsection (1) by the Commission or, with the prior approval of the Commission, by an authorized officer, member of the police force, or other person appointed for the purpose by the Commission with the approval of the Minister.

(3) An authorized officer may exercise the powers conferred by subsection (1) without the prior approval of the Commission if he considers that the danger is imminent.

(4) Any directions under subsection (1) may be given—

- (a) by notice published in the *Gazette*;

- (b) by instrument in writing served upon the person to whom they are directed;

or

- (c) in the circumstances of any imminent danger, orally.

(5) Where a person—

- (a) hinders or obstructs any person exercising any power, or complying with any direction, under this section;

or

- (b) contravenes, or fails to comply with, a direction given under this section,

that person shall be guilty of a minor indictable offence.

(6) Where—

- (a) costs or expenses have been incurred by the Commission in taking any action, or causing any action to be taken, under this section;

and

- (b) the danger or potential danger in respect of which the action was taken resulted from an act done, or omission made, by any person in contravention of this Act,

the Commission may recover those costs or expenses from that person by order of the court made in proceedings for the recovery of any penalty in respect of the act or omission, or by separate action in any court of competent jurisdiction.

## DIVISION VI—REGULATIONS

**Regulations**

**43.** (1) The Governor may make regulations for the control of activities related to radioactive substances and radiation apparatus and for protection against the harmful effects of radiation.

(2) The activities referred to in subsection (1) include (but are not limited to) the activities of or mining or milling, radioactive ore, or producing, manufacturing, supplying, keeping, conveying, using, disposing of or otherwise dealing with radioactive substances or radiation apparatus.

(3) Without limiting the generality of the foregoing, the regulations may—

- (a) specify standards to be observed, practices and procedures to be followed and measures to be taken in relation to activities referred to in subsection (2);
- (b) recommend practices and procedures that may be followed, and measures that may be taken, to further the achievement of the standards referred to in paragraph (a);
- (c) regulate, restrict or prohibit any act or thing that is involved in or related to an activity referred to in subsection (2);
- (d) make provision for or in relation to the granting, issuing or giving of a licence, permit, authority or approval and the terms or conditions to which it is subject;
- (e) make provision for or in relation to the giving of directions for the purposes of the regulations;
- (f) make provision for or in relation to the protection of the health and safety, and the training, examination and certification, of persons who engage or seek to engage in activities referred to in subsection (2);
- (g) make provision for or in relation to the medical examination of persons exposed to radiation in the course of activities referred to in subsection (2);
- (h) make provision for or in relation to the keeping of records, furnishing of information, and notification of accidents or other matters or events by persons carrying on activities referred to in subsection (2);
- (i) make provision for the monitoring of levels of radiation exposure of persons engaged in activities referred to in subsection (2) and the monitoring of the health of such persons during and after such employment;
- (j) provide that contravention of, or failure to comply with, a provision of the regulations constitutes a summary offence or a minor indictable offence and fix maximum penalties for such offences not exceeding—

25.

- (i) in the case of a minor indictable offence—\$50 000 or imprisonment for 5 years or both;
  - or
  - (ii) in the case of a summary offence— \$10 000;
  - (k) prescribe the manner and form in which applications are to be made for the purposes of this Act;
  - (l) prescribe fees for licences or registration or otherwise for the purposes of this Act, being fees which may vary according to prescribed factors;
  - (m) authorize the release of information obtained in the administration of this Act to any prescribed body.
- (4) The regulations may—
- (a) refer to, or incorporate, in whole or in part, and with or without specified modifications, a code of practice or standards, as in force at a particular time, or as in force from time to time, being a code of practice or standards approved or published under the *Environment Protection (Nuclear Codes) Act 1978* of the Commonwealth or any other Act or law of the Commonwealth, or by the Standards Association of Australia, the National Health and Medical Research Council, or any other prescribed body;
  - (b) be of general application or limited according to time, place or circumstances.

PART IV

MISCELLANEOUS

**Exemptions by Commission**

**44.** (1) Subject to the provisions of this section, the Commission may, by notice published in the *Gazette*, exempt any person or class of persons from compliance with any specified provisions of this Act.

(2) An exemption granted under this section shall have effect for such period, and be subject to such conditions, as the Commission may specify in the notice.

(3) The Commission shall not grant an exemption from compliance with a provision of this Act unless it is satisfied that, if the exemption were granted subject to appropriate conditions, the activity subject to the exemption would not endanger the health or safety of any person.

(4) The Commission may, by notice published in the *Gazette*, vary or revoke a condition of an exemption or impose a further condition.

(5) The Commission may, after due inquiry and for good cause, by notice published in the *Gazette*, revoke an exemption under this section.

(6) Any person who has the benefit of an exemption under this section and who contravenes, or fails to comply with, a condition of the exemption shall be guilty of an offence.

(7) Where contravention of the provision in relation to which an exemption was granted—

(a) constitutes a minor indictable offence—the offence referred to in subsection (6) shall be a minor indictable offence;

or

(b) constitutes a summary offence—the offence referred to in subsection (6) shall be a summary offence.

**False or misleading information**

**45.** A person shall not, in furnishing any information in or in connection with an application or otherwise in pursuance of this Act, make or cause to be made a statement that is false or misleading in a material particular.

**Offences**

**46.** (1) Any contravention of, or failure to comply with, a provision of this Act, shall constitute an offence.

(2) Proceedings for an offence against this Act (other than an offence declared by this Act to be a minor indictable offence) shall be disposed of summarily.

(2a) Proceedings for an offence against this Act may be commenced at any time within 12 months after the date of the alleged commission of the offence.

(3) A person convicted of an offence against this Act that is a minor indictable offence shall, if no other penalty is prescribed for that offence, be liable to a penalty not exceeding fifty thousand dollars, or imprisonment for a term not exceeding five years, or both.

(4) A person convicted of an offence against this Act that is a summary offence shall, if no other penalty is prescribed for that offence, be liable to a penalty not exceeding ten thousand dollars.

### **Offences by bodies corporate**

**47.** (1) Where a body corporate is guilty of an offence against this Act, every member of the governing body of the body corporate shall be guilty of an offence unless he proves that he exercised all reasonable diligence to prevent the commission of the offence.

(2) Where the offence of which the body corporate is guilty—

(a) is a minor indictable offence—the offence created by subsection (1) is a minor indictable offence;

or

(b) is a summary offence—the offence created by subsection (1) is a summary offence.

### **Continuing offences**

**48.** (1) A person convicted of an offence against any provision of this Act in respect of a continuing act or omission—

(a) shall be liable, in addition to the penalty otherwise applicable to the offence, to a penalty for each day during which the act or omission continued of not more than the amount equal to one-tenth of the maximum penalty prescribed for that offence;

and

(b) shall, if the act or omission continues after he is convicted, be guilty of a further offence against the provision and liable, in addition to the penalty otherwise applicable to the further offence, to a penalty for each day during which the act or omission continued after the conviction of not more than the amount equal to one-tenth of the maximum penalty prescribed for the offence.

(2) Where an offence against a provision of this Act consists of an omission to do something that is required or directed to be done, the omission shall for the purposes of subsection (1), be deemed to continue for so long as the thing required or directed to be done remains undone after the expiration of the period for compliance with the requirement or direction.

### **Evidentiary provisions**

**49.** (1) In proceedings for an offence against this Act, an allegation in the complaint—

(a) that any person named holds or held at a specified time a specified office;

(b) that any person named was or was not at a specified time the holder of a specified authority;

(c) that any specified substance was or was not at a specified time a radioactive substance of a specified class;

or

(d) that any specified apparatus was or was not at a specified time radiation apparatus of a specified class,

shall, in the absence of proof to the contrary, be deemed to be proved.

(2) In proceedings for an offence against this Act, any conditions of an authority or the terms of any direction or other notice under this Act may be proved by production of an apparently genuine document purporting to be a copy of the conditions, directions, or other notice certified by the Minister, the Commission or any officer authorized under this Act to impose the conditions or give the direction or notice.

#### **Service of documents**

**50.** (1) Any notice or document required or authorized by this Act to be given to or served on any person shall be deemed to have been duly served if it has been—

(a) served on the person personally;

or

(b) in the case of the holder of an authority, sent by registered or certified mail addressed to him at his address for service, or left for him at that address with a person apparently over the age of sixteen years.

(2) The address for service of the holder of an authority is the last address for service of that person of which notice has been given in accordance with the regulations.

## SCHEDULE

## APPLICATION OF THIS ACT TO THE ROXBY DOWNS JOINT VENTURERS

1. This Act applies in relation to operations of the Joint Venturers carried out or to be carried out pursuant to the Indenture subject to the modifications set out in this Schedule.

2. An application by the Joint Venturers for a mining licence must be made to the Minister.

3. The Minister must, in connection with such an application, consult with the Mines Minister, the Commission and the Joint Venturers.

4. The Commission must, for the purposes of preparing its response to such an application, refer the application to the Committee and give due consideration to the advice of the Committee.

5. (1) The following matters may be referred to arbitration by the Minister or the Joint Venturers:

(a) a question, difference or dispute concerning the conditions proposed to be included at the time of grant in the mining licence to be granted to the Joint Venturers;

(b) a question, difference or dispute concerning a decision of the Minister to attach a condition to, or vary or revoke a condition of, the mining licence granted to the Joint Venturers.

(2) A reference to arbitration under subparagraph (1) is deemed to be a reference to arbitration under clause 49 of the Indenture, and that clause applies, with such modifications as are necessary, to such a reference.

(3) The Minister must comply with the decision of the arbitrator on a reference under subparagraph (1).

(4) No other matter arising under this Act in relation to operations of the Joint Venturers carried out or to be carried out pursuant to the Indenture may be referred to arbitration under the Indenture, but nothing in this Act affects any right to arbitration under the Indenture or the *Roxby Downs Indenture Ratification Act, 1982*.

6. (1) The Minister must, within one month after the Joint Venturers apply for a mining licence, give notice in writing to the Joint Venturers of the terms of the licence proposed to be granted and of the conditions proposed to be included in the licence at the time of grant.

(2) The Minister must grant a mining licence to the Joint Venturers—

(a) within two months after the application was made;

or

(b) if a question, difference or dispute concerning the conditions proposed to be included in the licence at the time of grant is referred within that period to arbitration but the arbitrator does not make a decision within that period, as soon as practicable after the arbitrator makes the decision.

7. (1) After consultation with the Mines Minister, the Commission and the Joint Venturers, the Minister may, by notice in writing to the Joint Venturers, attach a condition to, or vary or revoke a condition of, the mining licence granted to the Joint Venturers.

(2) At least one month before the Minister gives a notice under subparagraph (1), the Minister must give notice in writing to the Joint Venturers of the terms of any condition proposed to be attached to the mining licence granted to the Joint Venturers or of any proposed variation or revocation of the conditions of the licence.

8. A decision of the Minister to attach a condition to, or vary or revoke a condition of, the mining licence granted to the Joint Venturers takes effect at the expiration of one month from the date on which notice is given under paragraph 7(1) or at the expiration of such greater period as the Minister may determine, but if a question, difference or dispute concerning the decision is referred within that period to arbitration the operation of the decision is suspended until the arbitrator makes a decision.

9. The conditions of the mining licence granted to the Joint Venturers must not be more stringent than the most stringent requirements and standards contained in any of the codes, standards or recommendations referred to in clause 10 of the Indenture.

10. The mining licence granted to the Joint Venturers must not be suspended or cancelled while the Indenture is in force.

11. In sections 24(3), 34 and 37 a reference to the Commission is to be taken to be a reference to the Minister.

12. In subsection (1)(b) of section 36 the reference to conditions attached under that section is to be taken to be a reference to conditions attached under this Schedule.

13. Sections 24(4), 35, 36(2), 36(3), 40 and 41 do not apply.

**APPENDIX****LEGISLATIVE HISTORY**

Section 5:	definition of "authority" substituted by 117, 1986, s. 3(a) definition of "the Indenture" inserted by 117, 1986, s. 3(b) definition of "the Joint Venturers" inserted by 117, 1986, s. 3(c) definition of "milling" substituted by 117, 1986, s. 3(d) definition of "the Minister of Mines" repealed and definition of "the Mines Minister" inserted in its place by 117, 1986, s. 3(e) definition of "mining" substituted by 117, 1986, s. 3(e) definition of "mining tenement" repealed and definition of "mining licence" inserted in its place by 117, 1986, s. 3(e) definition of "prescribed mining tenement" repealed by 117, 1986, s. 3(f)
Section 12(b):	repealed by 117, 1986, s. 4
Section 17(2) and (3):	substituted by 117, 1986, s. 5(a)
Section 17(10):	amended by 117, 1986, s. 5(b)
Section 24:	substituted by 117, 1986, s. 6
Section 24(3):	substituted by 52, 1988, s. 3(a)
Section 24(4a) - (4c):	inserted by 52, 1988, s. 3(b)
Section 25:	repealed by 117, 1986, s. 6
Section 28(1) and (2):	substituted by 117, 1986, s. 7(a)
Section 28(6) and (7):	repealed by 117, 1986, s. 7(b)
Section 29(3):	amended by 117, 1986, s. 8(a)
Section 29(6) and (7):	repealed by 117, 1986, s. 8(b)
Section 30(7) and (8):	repealed by 117, 1986, s. 9
Section 31(6) and (7):	repealed by 117, 1986, s. 10
Section 32(7) and (8):	repealed by 117, 1986, s. 11
Section 35(2) and (3):	repealed by 117, 1986, s. 12
Section 36:	substituted by 117, 1986, s. 13
Section 37(4):	substituted by 52, 1988, s. 4
Section 39:	repealed by 117, 1986, s. 14
Section 40(2a) and (2b):	inserted by 117, 1986, s. 15(a)
Section 40(3):	amended by 117, 1986, s. 15(b)
Section 40(4a) - (4d):	inserted by 117, 1986, s. 15(c)
Section 41(1):	substituted by 117, 1986, s. 16
Section 43(2):	amended by 117, 1986, s. 17(a)
Section 43(3):	amended by 117, 1986, s. 17(b)
Section 46(2a):	inserted by 117, 1986, s. 18(a)
Section 46(3):	amended by 117, 1986, s. 18(b)
Section 46(4):	amended by 117, 1986, s. 18(c)
Schedule:	inserted by 117, 1986, s. 19