



ANNO TRICESIMO QUINTO

# ELIZABETHAE II REGINAE

A.D. 1986

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No. 117 of 1986

An Act to amend the Radiation Protection and Control Act, 1982.

[Assented to 18 December 1986]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Radiation Protection and Control Act Amendment Act, 1986".

(2) The Radiation Protection and Control Act, 1982, is in this Act referred to as "the principal Act".

Commencement.

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

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Amendment of  
s. 5—  
Interpretation.

3. Section 5 of the principal Act is amended—

(a) by striking out the definition of "authority" and substituting the following definition:

"authority" means a licence or registration;

(b) by inserting after the definition of "handle" the following definition:

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

(c) by inserting after the definition of "ionizing radiation apparatus" the following definition:

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

(d) by striking out the definition of "milling" and substituting the following definition:

"milling", in relation to radioactive ores, means operations for the concentration or processing of such ores, and

(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;

and

(b) by striking out from subparagraph (i) of paragraph (a) of subsection (10) "six months" and substituting "12 months".

Repeal of ss. 24  
and 25 and  
substitution of  
new section.

6. Sections 24 and 25 of the principal Act are repealed and the following section is substituted:

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) The Commission may, upon application in the prescribed form and payment of the prescribed fee, 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.

(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.

Amendment of  
s. 28—  
Licence to use or  
handle  
radioactive  
substances.

7. Section 28 of the principal Act is amended—

(a) by striking out subsections (1) and (2) and substituting the following subsections:

(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;

and

(b) by striking out subsections (6) and (7).

Amendment of  
s. 29—  
Registration of  
premises in which  
unsealed  
radioactive  
substances are  
handled or kept.

8. Section 29 of the principal Act is amended—

(a) by striking out paragraph (a) of subsection (3) and substituting the following paragraph:

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

and

(b) by striking out subsections (6) and (7).

9. Section 30 of the principal Act is amended by striking out subsections (7) and (8).

Amendment of  
s. 30—  
Registration of  
sealed radioactive  
source.

10. Section 31 of the principal Act is amended by striking out subsections (6) and (7).

Amendment of  
s. 31—  
Licences to  
operate radiation  
apparatus.

11. Section 32 of the principal Act is amended by striking out subsections (7) and (8).

Amendment of  
s. 32—  
Registration of  
radiation  
apparatus.

12. Section 35 of the principal Act is amended by striking out subsections (2) and (3).

Amendment of  
s. 35—  
Commission  
required to refer  
certain matters to  
the Committee.

13. Section 36 of the principal Act is repealed and the following section is substituted:

Repeal of s. 36  
and substitution  
of new section.

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

Conditions of  
authorities.

(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.

14. Section 39 of the principal Act is repealed.

Repeal of s. 39.

Amendment of  
s. 40—  
Surrender,  
suspension and  
cancellation of  
licences and  
registration.

**15. Section 40 of the principal Act is amended—**

(a) by inserting after subsection (2) the following subsections:

(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.;

(b) by striking out paragraph (a) from subsection (3) and substituting the following paragraphs:

(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;;

and

(c) by inserting after subsection (4) the following subsections:

(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).

- 16.** Section 41 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

Amendment of  
s. 41—  
Review of  
decisions relating  
to authorities.

- (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.

- 17.** Section 43 of the principal Act is amended—

Amendment of  
s. 43—  
Regulations.

- (a) by striking out from subsection (2) “exploring for,”;

and

- (b) by striking out paragraph (j) of subsection (3) and substituting the following paragraph:

- (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—

- (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;.

- 18.** Section 46 of the principal Act is amended—

Amendment of  
s. 46—  
Offences.

- (a) by inserting after subsection (2) the following subsection:

(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.;

- (b) by inserting after “shall” in subsection (3) “, if no other penalty is prescribed for that offence,”;

and

- (c) by inserting after “shall” in subsection (4) “, if no other penalty is prescribed for that offence,”.

- 19.** The following schedule is inserted after section 50 of the principal Act:

Insertion of  
schedule.

**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.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor