

ATOMIC ENERGY AMENDMENT ACT 1978

No. 31 of 1978

An Act to amend the *Atomic Energy Act* 1953.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

1. (1) This Act may be cited as the *Atomic Energy Amendment Act* 1978.¹ Short title,
&c.

(2) The *Atomic Energy Act* 1953² is in this Act referred to as the Principal Act.

2. This Act shall come into operation on the day on which it receives the Royal Assent.¹ Commence-
ment

3. Section 5 of the Principal Act is amended—

(a) by omitting the definition of “atomic energy” and substituting the following definition:

“ ‘atomic energy’ means any form of energy released in the course of nuclear fission, nuclear fusion or other nuclear transmutation; ”; and

(b) by omitting the definition of “prescribed substance” and substituting the following definitions:

“ ‘prescribed substance’ means—

(a) uranium, thorium, and element having an atomic number greater than 92 or any other substance declared by the regulations to be capable of being used for the production of atomic energy or for research into matters connected with atomic energy; and

(b) any derivative or compound of a substance to which paragraph (a) applies;

“ ‘Ranger Project Area’ means the land described in Schedule 2 to the *Aboriginal Land Rights (Northern Territory) Act* 1976; ”.

4. Section 11 of the Principal Act is repealed and the following sections are substituted:

“11. Where a person appointed as a full-time member of the Commission was, immediately before his appointment, an officer of the Australian Public Service or a person to whom the *Officers’ Rights Declaration Act* 1928 applied— Officers’
Rights
Declaration
Act

- (a) he retains his existing and accruing rights; and
- (b) for the purpose of determining those rights, his service as a full-time member of the Commission shall be taken into account as if it were service in the Australian Public Service.

Remuner-
ation and
allowances

“11A. (1) A member of the Commission, or a deputy of a member of the Commission, shall be paid such remuneration as is determined by the Remuneration Tribunal.

“(2) A member of the Commission, or a deputy of a member of the Commission, shall be paid such allowances as are prescribed.

“(3) This section has effect subject to the *Remuneration Tribunals Act 1973*.”.

Functions of
Commission

5. Section 17 of the Principal Act is amended—

- (a) by omitting sub-paragraph (ii) of paragraph (a) of sub-section (4) and substituting the following sub-paragraph:

“(ii) uranium, and minerals found in association with uranium, to other countries; or”;

- (b) by inserting after paragraph (a) of sub-section (4) the following paragraph:

“(aa) for the purpose of ensuring the supply of uranium, and of minerals found in association with uranium, from the Ranger Project Area;”;

- (c) by omitting from paragraph (c) of sub-section (4) “the last two preceding paragraphs” and substituting “paragraphs (a), (aa), and (b)”.

Advisory
Committees

6. Section 20 of the Principal Act is amended by omitting sub-section (4) and substituting the following sub-sections:

“(4) A member of an Advisory Committee shall be paid such remuneration as is determined by the Remuneration Tribunal.

“(5) A member of an Advisory Committee shall be paid such allowances as are prescribed.

“(6) Sub-sections (4) and (5) have effect subject to the *Remuneration Tribunals Act 1973*.”.

Terms and
conditions of
employment
of officers

7. Section 22 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) Where an officer appointed under this Part was, immediately before his appointment, an officer of the Australian Public Service or a person to whom the *Officers’ Rights Declaration Act 1928* applied—

- (a) he retains his existing and accruing rights; and

- (b) for the purpose of determining those rights, his service as an officer appointed under this Part shall be taken into account as if it were service in the Australian Public Service.”.

8. Section 31 of the Principal Act is amended by omitting from paragraph (b) of sub-section (2) the words “ and the state of the affairs”.

Annual
report of
Commission

9. Section 34 of the Principal Act is repealed and the following section is substituted:

“34. (1) The powers conferred by this Part (including the power to make regulations for the purposes of section 38) shall, subject to sub-section (4) of section 38, be exercised only—

Exercise of
powers
conferred by
Part

- (a) for purposes related to the defence of the Commonwealth;
- (b) for purposes related to trade or commerce with other countries;
- (c) for purposes related to trade or commerce among the States, between a State and a Territory or between 2 Territories;
- (d) for purposes related to the external affairs of the Commonwealth, including, without limiting the generality of that expression, the carrying out by the Commonwealth of obligations under, or the exercise by the Commonwealth of rights under—
 - (i) the agreement between Australia and the International Atomic Energy Agency signed in Vienna on 10 July 1974, being the agreement known as the Agreement for the Application of Safeguards in connexion with the Treaty on the Non-Proliferation of Nuclear Weapons or, if that Agreement is amended, that Agreement as amended and in force from time to time; or
 - (ii) any other agreement between Australia and the International Atomic Energy Agency, another international organization or another country;
- (e) in relation to substances situated in or recovered from, or things done or proposed to be done in or in connexion with, the Ranger Project Area;
- (f) in relation to substances situated in or recovered from, or things done or proposed to be done in or in connexion with, a Territory; or
- (g) for other purposes of the Commonwealth.

“(2) In this section, ‘international organization’ means an organization of which 2 or more countries, or the Governments of 2 or more countries, are members.”.

10. Section 38 of the Principal Act is repealed and the following section is substituted:

Control of
prescribed
substances

“38. (1) The regulations may make provision for and in relation to regulating or controlling—

- (a) the working of minerals from which, in the opinion of the Governor-General, a prescribed substance can be obtained; or
- (b) the acquisition, production, transportation, treatment, processing, possession, storage, use or disposal of a prescribed substance.

“(2) Without limiting the generality of sub-section (1), the regulations may—

- (a) prohibit, or authorize the prohibition of, the working, except under and in accordance with a licence in force under this section, of minerals from which, in the opinion of the Governor-General, a prescribed substance can be obtained;
- (b) prohibit, or authorize the prohibition of, the acquisition, production, transportation, treatment, processing, possession, storage, use or disposal of a prescribed substance except under and in accordance with a licence in force under this section; or
- (c) make provision for or in relation to the granting of exemptions, either unconditionally or subject to conditions, from provisions of the regulations or from a prohibition authorized by the regulations and for the revocation of exemptions so granted.

“(3) The Minister may—

- (a) grant or refuse a licence for the purposes of this section;
- (b) subject to the regulations, from time to time specify conditions to which such a licence is to be subject;
- (c) suspend the operation of a licence for such period as he thinks fit; or
- (d) revoke a licence.

“(4) Notwithstanding the provisions of section 34, where a person applies for a licence under this section in respect of anything proposed to be done in a State, the Minister shall grant the licence unless he considers it necessary or desirable for a purpose referred to in paragraph (a), (b) or (d) of sub-section (1) of section 34 to refuse to grant the licence.

“(5) This section and the regulations shall not be construed as intended to exclude or limit the operation of any provision of a law of a State or Territory that is capable of operating concurrently with this section and the regulations.”.

Mining of
prescribed
substances
on behalf of
Common-
wealth

11. Section 41 of the Principal Act is amended—

- (a) by inserting in sub-section (1) “or in association with” after “on behalf of”;
- (b) by inserting after paragraph (e) of sub-section (2) the following paragraph:

- “(ea) remove from that land persons who enter upon, or are on, that land otherwise than—
- (ii) with the consent of the person so authorized; or
 - (ii) in pursuance of a right or power conferred by law;” and
- (c) by adding at the end thereof the following sub-section:
- “(4) Except as provided by the regulations, this section shall not be construed as intended to exclude or limit the operation of any provision of a law of a State or Territory that is capable of operating concurrently with this section.”.
- 12. Section 43 of the Principal Act is amended—** Offences
- (a) by adding at the end of paragraph (c) “or a condition or restriction subject to which an authority has been conferred on him under this Part”; and
 - (b) by inserting in paragraph (e) “or in pursuance of a right or power conferred by law” after “the land”.
- 13. Section 61 of the Principal Act is repealed.** Jurisdiction
of courts
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NOTES

1. Act No. 31, 1978; assented to 9 June 1978.
2. Act No. 31, 1953, as amended. For previous amendments *see* Act No. 1, 1958; No. 93, 1966; No. 131, 1973; No. 216, 1973 (as amended by No. 20, 1974); and No. 91, 1976.