

# ATOMIC ENERGY (CONTROL OF MATERIALS).

**No. 34 of 1946.**

An Act to make provision, in the interests of the Defence of the Commonwealth, for the Control of Materials which are or may be used in producing Atomic Energy, and for other purposes.

[Assented to 14th August, 1946.]

[Date of commencement, 11th September, 1946.]

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives, of the Commonwealth of Australia, as follows:—

1. This Act may be cited as the *Atomic Energy (Control of Materials) Act 1946*. Short title

2.—(1.) This Act shall bind the Crown in right of any State. Application Act.  
 (2.) This Act shall extend to every Territory of the Commonwealth.

3. In this Act, unless the contrary intention appears— Definitions.

“atomic energy” means the energy released in any process, including the fission process, which—

(a) involves the transformation of or re-actions between atomic nuclei; and

(b) has been influenced by special arrangements of matter or by other applied means,

but does not include energy released in any process of natural transmutation or radio-active decay which is not accelerated or influenced by external means;

“Australia” includes the Territories of the Commonwealth;

“licence” means a licence granted by the Minister under section nine of this Act;

“minerals” includes all substances obtained or obtainable from the soil by underground or surface working;

“prescribed substance” means uranium, thorium, plutonium, neptunium or any of their respective compounds, and includes any other substance (being a substance which, in the opinion of the Minister, is or may be used for the production or use of atomic energy or research into matters connected with atomic energy) which is declared by the Minister, by order published in the *Gazette*, to be a prescribed substance for the purposes of this Act.

Advisory  
Committee.

4.—(1.) The Minister may appoint an Advisory Committee of not more than five members to advise and assist him in, or in connexion with, the administration of this Act.

(2.) The Advisory Committee shall perform its functions in accordance with the regulations and the directions of the Minister.

(3.) A member of the Advisory Committee shall be paid such fees and allowances (if any) as the Minister determines.

Delegation.

5.—(1.) The Minister may, in relation to any matters or class of matters, or in relation to any particular part of Australia, by writing under his hand, delegate all or any of his powers and functions under this Act (except this power of delegation) so that the delegated powers and functions may be exercised by the delegate with respect to the matters or class of matters, or the part of Australia, specified in the instrument of delegation.

(2.) Where under this Act the exercise of any power or function by the Minister is dependent upon the opinion, belief or state of mind of the Minister in relation to any matter, that power or function may be exercised by the delegate upon the opinion, belief or state of mind of that delegate.

(3.) A delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power or function by the Minister.

Title of  
Crown to  
prescribed  
substances in  
Territories of  
Commonwealth.

6.—(1.) All prescribed substances existing in their natural condition, or in a deposit of waste material obtained from any underground or surface working, on or below the surface of any land in any Territory of the Commonwealth, whether alienated from the Crown or not and, if alienated, whether alienated before or after the commencement of this Act, is hereby declared to be the property of the Commonwealth.

(2.) The title of the Commonwealth to any prescribed substance under sub-section (1.) of this section shall be subject to any rights granted after the commencement of this Act, by or under the law of any Territory of the Commonwealth, with express reference to the prescribed substance, but to no other rights.

Notification of  
discovery of  
prescribed  
substance.

7. Every person who, whether before or after the commencement of this Act, has discovered that any prescribed substance or mineral containing any prescribed substance occurs at any place in Australia shall report that discovery by notice in writing to the Minister within one month after the commencement of this Act or after making the discovery, whichever is the later.

Power to  
obtain  
information.

8. The Minister may, if it appears to him to be desirable in the interests of the defence of the Commonwealth so to do, by notice in writing served on any person, require that person to furnish in writing, in the manner specified in the notice and within the time or times

and in respect of the period or periods (if any) so specified, a statement, return or returns containing such particulars as are specified in the notice relating to—

- (a) any prescribed substance in his possession or under his control ;
- (b) any minerals, specified in the notice, in his possession or under his control or present on or under land owned or occupied by him, being minerals from which, in the opinion of the Minister, any prescribed substance can be obtained ; or
- (c) any work carried out by him or on his behalf or under his direction in connexion with the production or use of any prescribed substance or any mineral from which, in the opinion of the Minister, any prescribed substance can be obtained.

**9.**—(1.) The Minister may, by order published in the *Gazette*, prohibit, except under the authority of a licence granted by the Minister—

Control of  
prescribed  
substances

- (a) the working of any minerals specified in the order, being minerals from which, in the opinion of the Minister, any prescribed substance can be obtained ; or
- (b) the acquisition, production, treatment, possession, use, disposal, export or import of any prescribed substance.

(2.) The Minister may grant a licence to any person and may, at any time, revoke a licence.

(3.) The Minister shall not refuse to grant a licence, and shall not revoke a licence, unless he considers it necessary in the interests of the defence of the Commonwealth so to do.

(4.) A licence may be subject to such terms and conditions as the Minister considers to be required in the interests of the defence of the Commonwealth.

**10.**—(1.) The Minister may, if he considers it desirable in the interests of the defence of the Commonwealth so to do, by writing under his hand, authorize any person to enter on any land specified in the writing, or to enter on any land on or under which the person so authorized has reasonable grounds to believe that any prescribed substance, or minerals containing any prescribed substance, may exist, and the person so authorized may—

Power to  
enter on  
land, &c.

- (a) enter on land in accordance with the authority ;
- (b) make observations or tests, or carry on experimental mining operations ; and
- (c) extract and remove samples of minerals,

for the purpose of ascertaining the existence and extent of any prescribed substance, or minerals containing any prescribed substance, on or under the land, and of examining the method of working adopted for mining or extracting any prescribed substance or any mineral containing any prescribed substance.

(2.) A person shall not obstruct or hinder any person so authorized in the exercise of any power under this section.

Delivery of possession of prescribed substances.

11.—(1.) The Minister may, where he considers it desirable in the interests of the defence of the Commonwealth so to do—

- (a) by notice in writing, served on the person concerned, require any person who has in his possession any prescribed substance to deliver the prescribed substance to him at a time and place specified in the notice; or
- (b) take possession of any prescribed substance, and for that purpose enter and remain on any land or premises and do any other act, matter or thing.

(2.) Any prescribed substance received or taken possession of by the Minister in pursuance of this section shall, by force of this section, become the property of the Commonwealth.

Power to acquire prescribed substances in their natural state.

12.—(1.) Where he considers it necessary in the interests of the defence of the Commonwealth so to do, the Minister may, by notice in writing, served on any person appearing to be in possession of any land, declare that all prescribed substances, or all minerals specified in the notice, being minerals which, in the opinion of the Minister, contain a prescribed substance, on or under that land are acquired by the Commonwealth, and thereupon all such prescribed substances or minerals shall become the property of the Commonwealth.

(2.) The Minister may authorize any person to enter on any land in respect of which a notice has been given under this section, and to carry on mining operations and do all other acts and things necessary for the recovery of any prescribed substance which is or is believed to be on or under the land.

Acquisition of certain rights.

13. Where it appears to the Minister that any minerals from which, in the opinion of the Minister, any prescribed substance can be obtained are present on or under any land, either in a natural state or in a deposit of waste material obtained from any underground or surface working, the Minister may, by order served on the person appearing to be in possession of that land, provide for compulsorily vesting in the Commonwealth the exclusive right, so long as the order remains in force, to work those minerals and any other minerals which it appears to the Minister to be necessary to work with those minerals, and may also provide, by that order or a subsequent order so served, for compulsorily vesting in the Commonwealth any ancillary rights which appear to the Minister to be necessary for the purpose of working those minerals.

Compensation.

14. Where—

- (a) any prescribed substance is or any minerals are acquired by the Commonwealth by virtue of this Act; or
- (b) any person suffers loss or damage by reason of anything done in pursuance of section ten, eleven, twelve or thirteen of this Act,

the Commonwealth shall be liable to pay to any person who had any right, title or interest in the prescribed substance or minerals, or to the person who has suffered the loss or damage, as the case may be, such compensation as is agreed on between the Commonwealth and that person or, in default of agreement, is determined by action against the Commonwealth in any court of competent jurisdiction.

**15.** A person shall not—

Offences.

- (a) contravene or fail to comply with any provision of this Act or of any order under this Act;
- (b) refuse or fail to comply with any requirement made of him under this Act; or
- (c) refuse or fail to comply with or observe any term or condition subject to which a licence has been granted to him.

Penalty : Five hundred pounds or imprisonment for six months, or both.

(2.) In addition to any other punishment, the court by which a person is convicted of an offence against this Act or the regulations may order the forfeiture to the Commonwealth of any substance belonging to that person in respect of which the offence has been committed.

**16.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are by this Act required or permitted to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act, and, in particular, for prescribing penalties not exceeding Twenty pounds for any offence against the regulations.

Regulations.