

ATOMIC ENERGY AMENDMENT ACT (No. 2) 1978

No. 182 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* (No. 2) 1978.¹ Short title,
&c.

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

2. (1) Subject to sub-section (2), this Act shall come into operation on the day on which it receives the Royal Assent.¹ Commence-
ment

(2) Section 6 shall come into operation on a date to be fixed by Proclamation.

3. Section 5 of the Principal Act is amended by adding at the end thereof the following sub-sections: Interpret-
ation

“(4) A reference in this Act to persons engaged in a joint venture shall be construed as a reference to persons carrying on or proposing to carry on any operations together, whether or not in partnership.

“(5) The express references in this Act to the Commission do not imply that a reference in this Act to a person does not include a reference to the Commission.”.

4. Section 41 of the Principal Act is amended—

(a) by inserting in sub-section (1) “, or 2 or more persons engaged in a joint venture,” after “a person”; and

(b) by inserting after sub-section (2) the following sub-section:

“(2A) An authority under this section continues in force for the period for which the authority is conferred unless, before the expiration of that period, the authority—

(a) terminates or is terminated in accordance with a condition or restriction to which the authority is subject; or

(b) is revoked under section 41A or 41C.”.

Authority to
mine
prescribed
substances
on behalf of
or in
association
with the
Common-
wealth

5. After section 41 of the Principal Act the following sections are inserted:

Revocation
and
variation of
authorities
under section
41

“41A. (1) Subject to sections 41B and 41C, an authority under section 41 shall not be varied or revoked otherwise than under and in accordance with this section.

“(2) Subject to sub-section (3), where the person on whom an authority has been conferred under section 41 applies, or, in a case where an authority has been conferred under section 41 on 2 or more persons engaged in a joint venture, those persons apply, in writing to the Minister for the revocation of the authority, the Minister may, in his discretion, by instrument in writing under his hand, revoke the authority.

“(3) The Minister shall not, under sub-section (2), revoke an authority unless he is satisfied that the conditions or restrictions to which the authority is subject, being conditions or restrictions that relate to action to be taken by the person or persons on whom the authority has been conferred for the rehabilitation of the area affected by operations carried on under the authority, have been complied with and observed.

“(4) Subject to sub-section (5), where the person on whom an authority has been conferred under section 41 has, or, in a case where an authority has been conferred under section 41 on 2 or more persons engaged in a joint venture, the persons on whom the authority has been conferred have, refused or failed to comply with or observe a condition or restriction to which the authority is subject, the Minister may, by instrument in writing under his hand served on the person or each of those persons, as the case may be, vary the authority by imposing additional conditions or restrictions to which the authority is to be subject or by varying all or any of the conditions or restrictions to which the authority is subject, being additional conditions or restrictions or variations that have the effect of prohibiting, either indefinitely or for such period as is specified in the instrument, the person or those persons, as the case may be, from carrying on, upon or under the land to which the authority relates, any operations for mining, recovering, treating or processing prescribed substances or other minerals or such operations of those kinds as are specified in the instrument.

“(5) The Minister shall not, under sub-section (4), vary an authority by reason that the person or persons on whom the authority has been conferred has or have refused or failed to comply with or observe a condition or restriction to which the authority is subject unless—

- (a) he has, by instrument in writing under his hand served on the person or each of those persons, as the case may be, given notice of his intention to exercise his powers under that sub-section if the notice is not complied with;

- (b) he has, in the instrument, specified—
- (i) the refusal or failure by reason of which he intends to exercise his powers under that sub-section if the notice is not complied with; and
 - (ii) the action that the person is or those persons are, as the case may be, required to take in order to secure compliance with or observance of the relevant condition or restriction to which the authority is subject and the period within which the action is to be taken; and
- (c) the person has not or those persons have not, as the case may be, at the expiration of that period, taken that action.

“(6) An authority under section 41 may be varied under sub-section (4) by reason that the person or persons on whom the authority has been conferred has or have refused or failed to comply with or observe a condition or restriction to which the authority is subject notwithstanding that the person has, or any one or more of those persons have, as the case may be, been convicted of an offence by reason of his or their refusal or failure to comply with or observe the condition or restriction, as the case may be.

“(7) The person or persons on whom an authority has been conferred under section 41 may be convicted of an offence by reason that the person has or those persons have, as the case may be, refused or failed to comply with or observe a condition or restriction to which the authority is subject notwithstanding that the authority has been varied under sub-section (4) by reason that the person has or those persons have, as the case may be, refused or failed to comply with or observe the condition or restriction, as the case may be.

“(8) In exercising his powers under this section, the Minister shall not act in a manner that is inconsistent with the obligations of the Commonwealth under any agreement entered into under section 44 or 46 of the *Aboriginal Land Rights (Northern Territory) Act 1976*.

“41B. (1) Where—

- (a) a person (in this sub-section and in sub-section (2) referred to as the ‘assignor’), being the person on whom an authority has been conferred under section 41 or, in a case where an authority has been conferred under section 41 on two or more persons engaged in a joint venture, one of those persons, applies in writing to the Minister for the Minister’s consent to the assignment by the assignor of the whole of his interest in the authority to a person named in the application (in this sub-section and in sub-section (2) referred to as the ‘assignee’), not being, in a case where the authority has been conferred on 2 or more persons engaged in a joint venture, the other person or one of the other persons, as the case may be, on whom the authority has been conferred;

Assignment
of interests in
authorities
under section
41

- (b) the Minister is satisfied that the assignee agrees to the assignment; and
- (c) in a case where the authority has been conferred on 2 or more persons engaged in a joint venture, the Minister is satisfied that the assignor gave the other person or each of the other persons, as the case may be, on whom the authority has been conferred not less than 3 months' notice of the assignor's intention to make an application under this section,

the Minister may, in his discretion, by instrument in writing under his hand, consent to the assignment.

“(2) Where the Minister consents, under sub-section (1), to the assignment by a person of his interest in an authority under section 41, the name of the assignee shall be deemed, from the time of the signing of the instrument of consent, to be specified in the authority in lieu of the name of the assignor.

“(3) Where—

- (a) an authority has been conferred under section 41 on 2 or more persons engaged in a joint venture;
- (b) one of those persons (in this sub-section and sub-section (4) referred to as the ‘assignor’) applies in writing to the Minister for the Minister's consent to the assignment by the assignor of the whole of his interest in the authority to the other person or to one or more of the other persons, as the case may be;
- (c) the Minister is satisfied that the person or persons to whom the interest is to be assigned agrees or agree to the assignment; and
- (d) in a case where the authority has been conferred on more than 2 persons and the interest is to be assigned to some only of the other persons referred to in paragraph (b), the Minister is satisfied that the assignor gave to the person or each of the persons, as the case may be, to whom the interest is not to be assigned not less than 3 months' notice of his intention to make an application under this sub-section,

the Minister may, in his discretion, by instrument in writing under his hand, consent to the assignment.

“(4) Where the Minister consents, under sub-section (3), to the assignment of an interest in an authority under section 41, the name of the assignor shall be deemed, from the time of the signing of the instrument of consent, to be omitted from the authority.

“(5) A reference in this Act to the person or persons on whom an authority has been conferred under section 41 shall, in a case where the Minister has consented under sub-section (1) or (3) to the assignment of an interest in the authority, be construed as a reference to the person or persons for the time being specified, or deemed by the operation of sub-section (2) or (4) to be specified, in the authority as the person or persons on whom the authority has been conferred.”

6. Before section 42 of the Principal Act the following section is inserted:

“41C. (1) Where—

- (a) an authority under section 41 (in this section referred to as the ‘current authority’), other than an authority conferred by virtue of this section, is in force in respect of the Ranger Project Area;
- (b) the persons on whom the current authority has been conferred (in this section referred to as the ‘applicants’) apply in writing to the Minister, not earlier than 6 years and not later than 4 years before the expiration of the period (in this section referred to as the ‘mining period’) during which the applicants are authorized under that authority to carry on, upon or under the Ranger Project Area, operations for mining prescribed substances or other minerals, for the conferring under section 41 of a new authority in respect of the Ranger Project Area for a further period (being a period that is not less than 7 years and not longer than the period for which the current authority was conferred) specified in the application; and
- (c) the application is not deemed by sub-section (6) to be withdrawn,

Further
authority
under section
41 in respect
of Ranger
Project Area

the applicants are entitled in accordance with this section to have a new authority conferred on them under section 41 in respect of the Ranger Project Area for a period (in this section referred to as the ‘relevant period’) equal to the period specified in the application and commencing at the expiration of the mining period.

“(2) The applicants are not entitled under sub-section (1) to have the new authority referred to in that sub-section conferred on them unless, not later than 9 months before the expiration of the mining period—

- (a) the agreement dated 3 November 1978 entered into under section 44 of the *Aboriginal Land Rights (Northern Territory) Act 1976* between the Commonwealth and the Northern Land Council established under that Act is extended so as to apply in respect of the relevant period; or
- (b) a further agreement is entered into under that section between the Commonwealth and the relevant Land Council established under that Act in respect of the relevant period (being an agreement in relation to such part of the Ranger Project Area as is or becomes Aboriginal land within the meaning of that Act).

“(3) Where an application is made under sub-section (1), the Minister administering the *Aboriginal Land Rights (Northern Territory) Act 1976* shall endeavour to obtain, not later than one year before the expiration of the mining period, the extension of the agreement referred to in paragraph (a) of sub-section (2) or the further agreement referred to in paragraph (b) of that sub-section.”.

“(4) If the agreement referred to in paragraph (a) of sub-section (2) is extended as mentioned in that paragraph or a further agreement is entered into as mentioned in paragraph (b) of that sub-section, the Minister shall—

- (a) as soon as practicable, after consulting with the applicants, determine the conditions and restrictions to which the new authority is to be subject, being conditions and restrictions that—
 - (i) subject to sub-paragraph (ii), include conditions and restrictions that the Minister is satisfied will ensure the rehabilitation, in the manner and to the extent provided by the current authority, of the area affected by operations carried on under the current authority; and
 - (ii) are not inconsistent with the obligations of the Commonwealth under the extended agreement or the further agreement, as the case may be; and
- (b) as soon as practicable, but not later than 6 months before the expiration of the mining period, give to the applicants a notice in writing setting out those conditions and restrictions.

“(5) Where the applicants have within 3 months following the receipt by them of the notice referred to in paragraph (b) of sub-section (4) informed the Minister in writing that they wish to proceed with the application, the Minister shall, before the expiration of the mining period, by instrument in writing under his hand, revoke the current authority with effect from the expiration of the mining period and confer a new authority under section 41 on the applicants in respect of the Ranger Project Area in accordance with sub-section (1), being a new authority that is subject to the conditions and restrictions determined in accordance with sub-section (4).

“(6) Where the applicants have not within the 3 months referred to in sub-section (5) informed the Minister in writing that they wish to proceed with the application, they shall be deemed to have withdrawn the application and are not entitled to make a further application under sub-section (1).”.

Compensation

7. Section 42 of the Principal Act is amended by omitting from paragraph (b) “any of the last three preceding sections” and substituting “section 39, 40 or 41”.

NOTES

1. Act No. 182, 1978; assented to 4 December 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); No. 91, 1976; and Nos. 31 and 36, 1978.