

THE COMMONWEALTH OF AUSTRALIA

ATOMIC ENERGY ACT 1953-1966*

An Act relating to Atomic Energy.

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

PART I.—PRELIMINARY.

1. This Act may be cited as the Atomic Energy Act 1953-1966.*

Short title.
Short title
amended;
No. 32, 1918,
s. 2.

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

Commence-
ment.

3. This Act is divided into Parts, as follows:—

Parts.

Part I.—Preliminary (Sections 1-7).

Part II.—The Australian Atomic Energy Commission.

Division 1.—Establishment and Constitution of the Commission (Sections 8-16).

Division 2.—Functions and Powers of the Commission (Sections 17-20).

Division 3.—The Service of the Commission (Sections 21-24).

Division 4.—Finance (Sections 25-33).

Part III.—Control of Materials (Sections 34-43).

Part IV.—Security (Sections 44-58).

Part V.—Miscellaneous (Sections 59-65).

4.—(1.) The Atomic Energy (Control of Materials) Act 1946 and the Atomic Energy (Control of Materials) Act 1952 are repealed.

Repeal and
saving.

(2.) An order or declaration made, or authority or notice given, under a provision of an Act repealed by this section continues in force as if made or given under the corresponding provision of this Act.

* The Atomic Energy Act 1953-1966 comprises the Atomic Energy Act 1953 as amended by the other Acts specified in the following table.

Act	Number and Year	Date of Assent	Date of Commencement
Atomic Energy Act 1953	No. 31, 1953	15 April 1953	15 April 1953
Atomic Energy Act 1958	No. 1, 1958	1 April 1958	1 April 1958
Statute Law Revision (Decimal Currency) Act 1966	No. 95, 1966	29 October 1966	1 December 1966

Interpretation.

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

“Advisory Committee” means an Advisory Committee appointed under section twenty of this Act;

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

(a) involves the transformation of, or reactions 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 a process of natural transmutation or radio-active decay which is not accelerated or influenced by external means;

“Australia” includes the Territories of the Commonwealth;

“Commonwealth officer” means a person holding office under, or employed by, the Commonwealth and includes—

(a) a person permanently or temporarily employed or serving in the Public Service of the Commonwealth or of a Territory of the Commonwealth, or in, or in connexion with, the Defence Force, or by or as a member of the Commission or of another authority or body constituted by or under an Act; and

(b) a peace officer appointed in pursuance of the *Peace Officers Act 1925*;^{*}

“constable” means a member of the Police Force of the Commonwealth or of a State or Territory of the Commonwealth;

“contractor” means a person (other than an officer of the Commission) who has entered into a contract or arrangement with the Commission, or with the Commonwealth in relation to a matter within the functions of the Commission, being a contract or arrangement in the performance or carrying out of which he or some other person has, or is likely to have, access to restricted information;

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

“peace officer” means a peace officer appointed in pursuance of the *Peace Officers Act 1925*;^{*}

“prescribed substance” means uranium, thorium, plutonium, neptunium or any of their respective compounds, and includes any other substance that is specified in the regulations as a substance that is or may be used for or in connexion with the production of atomic energy or for research into matters connected with atomic energy;

^{*} The *Peace Officers Act 1925* was repealed by sub-section (1) of section 3 of the *Commonwealth Police Act 1957-1966*. Sub-section (2.) of that section provides as follows:

“(2.) Any reference in any law of the Commonwealth to a Peace Officer appointed in pursuance of the *Peace Officers Act 1925* shall be read as a reference to a Commonwealth Police Officer holding office under this Act.”

“restricted information” means, subject to the next succeeding sub-section, information concerning—

- (a) quantities of a prescribed substance or of a mineral containing a prescribed substance;
- (b) the amount or proportion of a prescribed substance contained in, or obtained or obtainable from, any minerals;
- (c) production or treatment of a prescribed substance or of a mineral containing a prescribed substance;
- (d) methods of, rates of, or capacity for producing a prescribed substance;
- (e) specifications of substances, equipment or processes specially used, designed or adapted for the operation of atomic piles or reactors, isotope separation plants or plants for the extraction of prescribed substances;
- (f) quantities of substances resulting from the operation of atomic piles or reactors, isotope separation plants or plants for the extraction of prescribed substances;
- (g) the theory, design or operating procedure of atomic piles or reactors, isotope separation plants or plants for the extraction of prescribed substances;
- (h) the physical properties of the nuclei of prescribed substances;
- (i) the use of prescribed substances in the production of energy; or
- (j) the production, manufacture, testing or use of atomic weapons;

“the Commission” means the Australian Atomic Energy Commission constituted under this Act.

(2.) For the purposes of a prosecution under Part IV. of this Act, information shall be deemed not to have been restricted information at the time of the alleged offence if the accused person proves that, before that time—

- (a) that information had been published in scientific or technical literature or in a public statement made or authorized by or on behalf of the Commission or a Minister of State of the Commonwealth or of a State; or
- (b) the Minister or the Commission had determined that that information could be published without prejudicing the defence of the Commonwealth.

(3.) For the purposes of this Act, a reference to the defence of the Commonwealth shall be read as including a reference to the defence of countries associated with Australia in resisting, or preparing to resist, international aggression.

6. This Act binds the Crown in right of the Commonwealth or of a State.

Application to
Crown.

Application of Act.

7.—(1.) This Act extends to all the Territories of the Commonwealth.

(2.) Part IV. of this Act applies both within and without the Commonwealth.

PART II.—THE AUSTRALIAN ATOMIC ENERGY COMMISSION.

Division 1.—Establishment and Constitution of the Commission.

Australian Atomic Energy Commission.

8.—(1.) For the purposes of this Act there shall be a Commission, to be known as the Australian Atomic Energy Commission.

(2.) The Commission shall be a body corporate with perpetual succession and a common seal, and shall be capable of acquiring, holding and disposing of real and personal property and of suing and being sued in its corporate name.

(3.) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Commission affixed to a document and shall presume that it was duly affixed.

(4.) The performance or exercise of the functions, powers, rights, authorities, duties or obligations of the Commission shall not be affected by reason only of there being a vacancy in the office of a member of the Commission.

Constitution of the Commission.
Sub-section (1.) substituted by No. 1, 1958, s. 3.

9.—(1.) The Commission shall consist of a Chairman, a Deputy Chairman, an Executive Member and not more than two other members.

(2.) The members of the Commission shall be appointed by the Governor-General.

(3.) A member of the Commission shall be appointed for a period not exceeding seven years but shall be eligible for re-appointment.

Substituted by No. 1, 1958, s. 3.

(4.) The Executive Member of the Commission shall, in accordance with the decisions and subject to the directions of the Commission, administer the affairs of the Commission.

Deputies of members.

10.—(1.) The Governor-General may appoint a person to be the deputy of a member of the Commission during the pleasure of the Governor-General.

(2.) A person so appointed shall, in the event of the absence from a meeting of the Commission of the member of whom he is the deputy, be entitled to attend that meeting and, when so attending, shall be deemed to be a member of the Commission.

(3.) A reference in this Act to the Chairman of the Commission or to the Deputy Chairman of the Commission shall not be construed as including a reference to the deputy of the Chairman or of the Deputy Chairman.

Remuneration, &c., of members and deputies.

11.—(1.) The members of the Commission and the deputies of members of the Commission shall be paid such remuneration and allowances as the Governor-General determines.

(2.) Where a member of the Commission was, immediately before his appointment, an officer of the Public Service of the Commonwealth, his service as a member of the Commission shall, for the purpose of determining his existing and accruing rights, be taken into account as if it were service in the Public Service of the Commonwealth, and the *Officers' Rights Declaration Act 1928-1953* applies as if this Act and this section had been specified in the Schedule to that Act.

12. The Governor-General may terminate the appointment of a member of the Commission for inability, inefficiency or misbehaviour.

Dismissal of member.

12A. A member may resign his office by writing under his hand addressed to the Governor-General, but the resignation is not effective unless and until it has been accepted by the Governor-General.

Resignation of members.
Inserted by No. 1, 1958, s. 4.

13.—(1.) If—

- (a) the Executive Member of the Commission or a member of the Commission who is appointed as a full-time member engages in paid employment outside the duties of his office without the approval of the Minister;
- (b) a member of the Commission becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (c) a member of the Commission is absent, except on leave granted by the Minister, from all meetings of the Commission held during a period of three months; or
- (d) a member of the Commission fails to comply with his obligations under the next succeeding sub-section,

Vacation of office.
Substituted by No. 1, 1958, s. 4.

the Governor-General shall, by notice in the *Gazette*, declare that the office of the member is vacant, and thereupon the office shall be deemed to be vacant.

(2.) A member of the Commission who is directly or indirectly interested in a contract made or proposed to be made by the Commission, otherwise than as a member, and in common with the other members, of an incorporated company consisting of not less than twenty-five persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Commission.

(3.) A disclosure under the last preceding sub-section shall be recorded in the minutes of the Commission, and the member of the Commission—

- (a) shall not take part after the disclosure in any deliberation or decision of the Commission with respect to that contract; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Commission for any such deliberation or decision.

Leave of
absence.

14. The Minister may grant leave of absence to a member of the Commission upon such terms and conditions as to remuneration or otherwise as the Minister determines.

Meetings of the
Commission.

15.—(1.) The Commission shall hold meetings at such times and places as the Commission determines.

(2.) The Minister may at any time convene a meeting of the Commission.

(3.) The Chairman of the Commission shall preside at all meetings of the Commission at which he is present.

(4.) In the event of the absence of the Chairman of the Commission from a meeting of the Commission, the Deputy Chairman shall preside at the meeting.

Substituted by
No. 1, 1958,
s. 5.

(5.) At a meeting of the Commission, a majority of the members of the Commission for the time being holding office constitutes a quorum.

(6.) A question arising at a meeting of the Commission shall be determined by a majority of the votes of the members present.

(7.) The member of the Commission presiding at a meeting of the Commission has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

Delegation of
powers of
Commission.

16.—(1.) The Commission may, in relation to a matter or class of matters, or to a particular place, by writing under its seal, delegate to any person all or any of its 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 matter or class of matters, or to the place, specified in the instrument of delegation.

(2.) A delegation under this section is revocable at will and no delegation prevents the exercise of a power or function by the Commission.

Division 2.—Functions and Powers of the Commission.

Functions of
Commission.

17.—(1.) Subject to this Act, the functions of the Commission are—

- (a) to undertake, or arrange for or encourage other authorities or persons to undertake, exploration for, and mining and treatment of, uranium and minerals found in association with uranium;
- (b) to supervise the activities of persons who, in pursuance of contracts with the Commonwealth, are exploring for, mining, treating or selling uranium, or minerals found in association with uranium, and to exercise the rights and powers of the Commonwealth under any such contract;

Atomic Energy Act 1953-1966

9

- (c) to co-operate with the appropriate authorities of a State in matters associated with—
 - (i) the discovery and mining in the State of uranium and minerals found in association with uranium; or
 - (ii) the treatment, use or disposal of uranium, or of any such mineral, found in the State;
- (d) to negotiate on behalf of the Commonwealth, or enter into, agreements for the purchase and sale of uranium and minerals found in association with uranium;
- (e) to construct and operate plant and equipment for the liberation of atomic energy and its conversion into other forms of energy;
- (f) to sell or otherwise dispose of materials or energy produced as a result of the operations of the Commission;
- (g) to carry out research and investigations in connexion with matters associated with uranium or atomic energy, or in connexion with such other matters as the Minister determines;
- (h) to arrange for the training of scientific research workers and the establishment and award of scientific research studentships and fellowships in matters associated with uranium or atomic energy;
- (i) to make grants in aid of research into matters associated with uranium or atomic energy;
- (j) to make arrangements with universities and other institutions or persons for the conduct of research into matters associated with uranium or atomic energy;
- (k) to collect and distribute information relating to uranium or to atomic energy; and
- (l) to publish scientific and technical reports, periodicals and papers in connexion with the activities of the Commission and other similar activities.

(2.) The Commission may act as agent of the Commonwealth in relation to any matter within the functions of the Commission.

(3.) The Commission may make recommendations to the Minister in relation to activities of the Commonwealth in connexion with uranium and atomic energy.

(4.) The functions of the Commission specified in sub-section (1.) of this section shall be performed only—

- (a) for the purpose of ensuring the provision of—
 - (i) uranium or atomic energy for the defence of the Commonwealth;
 - (ii) uranium to be supplied by or on behalf of the Commonwealth to the Government of another country or to an authority acting on behalf of the Government or Governments of another country or countries; or
 - (iii) uranium or atomic energy for any other purpose of the Commonwealth;

- (b) for the purpose of ensuring that uranium from sources in Australia is not disposed of in a manner that may be prejudicial to the defence of the Commonwealth;
- (c) in a manner incidental to the performance of the functions of the Commission for the purposes specified in the last two preceding paragraphs; or
- (d) in or in relation to a Territory of the Commonwealth.

(5.) For the purposes of this section, "uranium" includes compounds of uranium and all other substances that are or may be used for or in connexion with the production of atomic energy, whether or not they are prescribed substances.

Powers of
Commission.

18.—(1.) The Commission has power to do all things that are necessary or convenient to be done for or in connexion with the performance of its functions.

(2.) Without limiting the generality of the last preceding subsection, the Commission has power—

- (a) to purchase land, and to purchase or construct buildings, for use in carrying on the operations of the Commission, and to dispose of land or buildings owned by the Commission;
- (b) to take on lease land or buildings for use in carrying on the operations of the Commission, and to dispose of any such lease;
- (c) to purchase or take on hire plant, machinery, equipment, or other goods necessary for carrying on the operations of the Commission and to dispose of any plant, machinery, equipment, or other goods owned by the Commission;
- (d) to appoint agents;
- (e) to pay rewards and bonuses; and
- (f) to do anything incidental to any of its functions or powers.

Commission
subject to
Minister.

19.—(1.) The Commission shall comply with the directions (if any) of the Minister in relation to the performance of a function or the exercise of a power by the Commission.

(2.) The Commission shall not perform a function or exercise a power in a manner which exclusively affects Norfolk Island, the Territory of Papua and the Territory of New Guinea, or any of those Territories, except with the approval of the Minister, and, before giving any such approval, the Minister shall confer with the Minister of State for Territories.

Advisory
Committees.

20.—(1.) Subject to this section, the Commission may appoint such Advisory Committees as it considers necessary for the efficient performance of its functions.

(2.) The number of Advisory Committees and the number of members of each committee shall be as determined by the Minister on the recommendation of the Commission.

(3.) An Advisory Committee shall advise the Commission on matters referred to it by the Commission.

(4.) Members of an Advisory Committee shall be paid such allowances as the Governor-General determines.

Division 3.—The Service of the Commission.

21.—(1.) The Commission may appoint such officers as it thinks necessary for the purposes of this Part. Appointment of officers.

(2.) The officers of the Commission shall constitute the Service of the Commission.

(3.) Subject to the next succeeding sub-section, a person shall not be admitted to the Service of the Commission unless—

- (a) he is a British subject;
- (b) the Commission is satisfied, upon medical examination, as to his health and physical fitness; and
- (c) he makes and subscribes, before a person authorized under the law of the Commonwealth or of a State or Territory of the Commonwealth to take affidavits, an oath or affirmation of allegiance in accordance with the form in the Schedule to the Constitution.

(4.) The Commission may, with the approval of the Minister, appoint to the Service of the Commission a person who is not a British subject and has not made and subscribed the oath or affirmation of allegiance.

(5.) The appointment, transfer or promotion of a person to a position the salary, or the maximum salary, of which exceeds Five thousand dollars, or such higher amount as is prescribed, per annum, is subject to the approval of the Minister. Amended by No. 1, 1958, s. 6; and No. 93, 1966, s. 3 and First Schedule.

(6.) For the purposes of the last preceding sub-section, the salary of a position shall not be deemed to be affected by variations made in accordance with variations in the cost of living, and shall not include any allowance.

22.—(1.) The terms and conditions of employment of officers appointed under this Part are such as are determined by the Commission with the approval of the Public Service Board. Terms and conditions of employment of officers.

(2.) Where an officer appointed under this Part was, immediately before his appointment, an officer of the Public Service of the Commonwealth, his service as an officer of the Commission shall, for the purpose of determining his existing and accruing rights, be taken into account as if it were service in the Public Service of the Commonwealth, and the *Officers' Rights Declaration Act 1928-1953* applies as if this Act and this section had been specified in the Schedule to that Act.

23. The Commission may employ such temporary or casual employees as it thinks fit on such terms and conditions as are, subject to the approval of the Public Service Board, determined by the Commission. Temporary and casual employees.

Maximum number of officers and employees of certain designations.

24. The maximum number of officers and employees of each designation whose duties are primarily of an administrative or clerical nature shall be a number approved by the Public Service Board.

Division 4.—Finance.

Bank accounts. Substituted by No. 1, 1958, s. 7.

25.—(1.) The Commission shall open and maintain an account or accounts with the Commonwealth Bank of Australia and may open and maintain an account or accounts with such other bank or banks as the Treasurer approves.

(2.) The Commission shall pay all moneys received by it into an account referred to in this section.

Application of moneys by the Commission.

Substituted by No. 1, 1958, s. 7.

26.—(1.) Subject to this section, the moneys of the Commission shall be applied only—

(a) in payment or discharge of the expenses, charges and obligations incurred or undertaken by the Commission in the performance of its functions under this Act;

(b) in payment of the remuneration and allowances of members of the Commission, deputies of members of the Commission, and members of Advisory Committees; and

(c) in making any other payments which the Commission is authorized or required to make under this Act.

(2.) No moneys shall be expended by the Commission otherwise than in accordance with estimates of expenditure approved by the Treasurer.

(3.) Moneys of the Commission not immediately required for the purposes of the Commission may be invested on fixed deposit with the Commonwealth Bank of Australia or with any other bank approved by the Treasurer, or in securities of the Commonwealth.

Borrowing. Substituted by No. 1, 1958, s. 7.

27.—(1.) The Commission may, with the consent of the Treasurer, borrow moneys for temporary purposes on overdraft from the Commonwealth Bank of Australia, or from such other bank as the Treasurer approves.

(2.) The Treasurer may, out of moneys appropriated by the Parliament for the purposes of this Act, make advances to the Commission of such amounts, and on such terms, as he thinks fit.

(3.) The Treasurer may permit the borrowing of moneys by the Commission, whether for a temporary purpose or not, otherwise than in accordance with the preceding provisions of this section.

(4.) The Commission shall not borrow moneys otherwise than in accordance with this section.

Estimates.

28. The Commission shall prepare estimates, in such form as the Minister directs, of its receipts and expenditure for each financial year and shall submit those estimates to the Minister.

Certain contracts to be approved by Minister. Amended by No. 93, 1966, s. 3 and First Schedule.

29. The Commission shall not, except with the approval of the Minister, enter into a contract involving the payment by the Commission of an amount exceeding Fifty thousand dollars.

30. The Commission shall keep proper accounts and records in accordance with generally accepted accounting principles and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorized and that adequate control is maintained over the assets of the Commission and the incurring of liabilities of the Commission.

Proper
accounts
to be kept.
Substituted by
No. 1, 1958,
s. 8.

30A.—(1.) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Commission, and shall forthwith draw the Minister's attention to any irregularity disclosed by the inspection and audit which, in the opinion of the Auditor-General, is of sufficient importance to justify his so doing.

Audit.
Inserted by
No. 1, 1958,
s. 8.

(2.) The Auditor-General shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under the last preceding sub-section.

(3.) The Auditor-General or a person authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Commission relating directly or indirectly to the receipt or payment of moneys by the Commission or to the acquisition, receipt, custody or disposal of assets of the Commission.

(4.) The Auditor-General or a person authorized by him may make copies of or take extracts from any such accounts, records, documents or papers.

(5.) The Auditor-General or a person authorized by him may require a member, officer or employee of the Commission to furnish him with such information in the possession of the member, officer or employee or to which the member, officer or employee has access as the Auditor-General or authorized person considers necessary for the purposes of an inspection or audit under this section, and the member, officer or employee shall comply with the requirement.

31.—(1.) The Commission shall, as soon as practicable after each thirtieth day of June, prepare and furnish to the Minister a report of its operations during the year ended on that date, together with financial statements in respect of that year in such form as the Treasurer approves.

Annual
report of the
Commission.
Substituted by
No. 1, 1958,
s. 8.

(2.) Before furnishing the financial statements to the Minister, the Commission shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records and show fairly the financial operations and the state of the affairs of the Commission;
- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Commission during the year have been in accordance with this Act; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

(3.) The Minister shall lay the report and financial statements of the Commission, together with the report of the Auditor-General, before each House of the Parliament within fifteen sitting days of that House after their receipt by the Minister.

Exemption
from taxation.

32. The income, property and operations of the Commission are not subject to income tax under a law of the Commonwealth, or to taxation under a law of a State or Territory of the Commonwealth to which the Commonwealth is not subject.

Application of
profits.

33. The profits (if any) of the Commission shall be applied in such manner as the Minister, with the concurrence of the Treasurer, determines.

PART III.—CONTROL OF MATERIALS.

Exercise of
Minister's
powers.

34. The powers conferred by this Part shall be exercised only—
(a) for the purposes of the defence of the Commonwealth; or
(b) in relation to substances situated, or things done or proposed to be done, in a Territory of the Commonwealth.

Title of Crown
to prescribed
substances in
Territories
of the
Commonwealth.

35.—(1.) This section applies to substances which, on or after the commencement of this Act, are prescribed substances existing in their natural condition, or in a deposit of waste material obtained from an underground or surface working, on or below the surface of land in a Territory of the Commonwealth, whether alienated from the Crown or not and, if alienated, whether alienated before or after the commencement of this Act.

(2.) A substance to which this section applies which—

- (a) is a prescribed substance at the commencement of this Act; and
- (b) was not the property of the Commonwealth immediately before the eleventh day of September, One thousand nine hundred and forty-six (being the date of commencement of the *Atomic Energy (Control of Materials) Act 1946*),

is declared to have become the property of the Commonwealth on that date.

(3.) A substance to which this section applies which—

- (a) becomes a prescribed substance after the commencement of this Act; and
- (b) is not, immediately before the date on which it becomes a prescribed substance, the property of the Commonwealth,

becomes, by force of this Act, the property of the Commonwealth on that date.

(4.) The title of the Commonwealth to any substance to which this section applies is subject to any rights granted after the tenth day of September, One thousand nine hundred and forty-six, by or under the law of a Territory of the Commonwealth, with express reference to that substance, but to no other rights.

36.—(1.) A person who, whether before or after the commencement of this Act, has discovered that a substance that is or becomes a prescribed substance, or minerals containing a substance that is or becomes a prescribed substance, occurs or occur at any place in Australia shall report that discovery by notice in writing to the Minister within one month after—

Notification of discovery of prescribed substance.

- (a) the commencement of this Act;
- (b) the date of the making of the discovery; or
- (c) the date on which the substance becomes a prescribed substance,

whichever is the latest.

(2.) The last preceding sub-section does not require a person to report a discovery that he has reported to a Minister before the commencement of this Act.

37. The Minister may, by notice in writing served on a 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—

Power to obtain information.

- (a) prescribed substances in his possession or under his control;
- (b) minerals of a kind 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, a prescribed substance can be obtained; or
- (c) work carried out by him or on his behalf or under his direction in connexion with the production or use of a prescribed substance or of minerals from which, in the opinion of the Minister, a prescribed substance can be obtained.

38.—(1.) The regulations may—

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

Control of prescribed substances.

except under and in accordance with a licence in force under this section.

(2.) The Minister may—

- (a) grant or refuse a licence for the purposes of this section;
- (b) include in a licence such conditions as he thinks fit; and
- (c) revoke a licence.

(3.) Notwithstanding the provisions of section thirty-four of this Act, 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 the purposes of the defence of the Commonwealth to refuse to grant the licence.

Amended by
No. 1, 1953,
s. 9.

(4.) Nothing in this section affects the operation of a law of a State or Territory of the Commonwealth, except to the extent that that law is inconsistent with regulations made by virtue of this section.

Power to enter
on land, &c.

39. The Minister may, by writing under his hand, authorize a person to enter on land specified in the writing, or to enter on land on or under which the person so authorized has reasonable grounds to believe that a prescribed substance, or minerals containing a prescribed substance, may exist, and the person so authorized may—

- (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 a prescribed substance, on or under the land, and of examining the method of working adopted for mining or extracting a prescribed substance or a mineral containing a prescribed substance.

Delivery or
possession of
prescribed
substances

40.—(1.) The Minister may—

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

(2.) Prescribed substances or minerals received or taken possession of by the Minister in pursuance of this section become, by force of this section, the property of the Commonwealth.

Mining of
prescribed
substances
on behalf of
Commonwealth.

41.—(1.) Where it appears to the Minister that a prescribed substance, or minerals from which, in the opinion of the Minister, a prescribed substance can be obtained, is or are present on or under the whole or a part of an area of land, either in a natural state or in a deposit of waste material obtained from an underground or surface working, the Minister may, by writing under his hand, authorize a person to carry on, on behalf of the Commonwealth, operations in accordance with this section on that land.

(2.) Subject to any conditions or restrictions specified in the authority, the person so authorized in relation to any land may—

- (a) enter upon that land, with such workmen and other persons as he thinks fit, and bring on to that land such machinery, vehicles and other things as he thinks fit;
- (b) take possession of the whole or a part of that land;
- (c) carry on, upon or under that land, operations for discovering prescribed substances, and for mining, recovering, treating and processing prescribed substances and such other minerals as it is necessary or convenient to mine or recover in order to obtain prescribed substances;

- (d) for the purposes of the operations referred to in the last preceding paragraph—
- (i) erect or install buildings (including residential buildings), structures and machinery on that land;
 - (ii) cut and construct water races, drains, dams, tramways and roads on that land;
 - (iii) bore or sink for water, and pump, raise or use water, on that land; and
 - (iv) do other work on that land;
- (e) demolish or remove buildings, structures and machinery erected or installed on that land;
- (f) pass over, or authorize persons and things to pass or be carried over, land giving access to that land; and
- (g) do all such other things as are necessary or convenient for the effectual exercise of the powers specified in the preceding paragraphs of this sub-section.

(3.) All prescribed substances and minerals mined or otherwise recovered in pursuance of an authority under this section that are not otherwise the property of the Commonwealth are, by force of this section, vested in the Commonwealth.

42. Where—

- (a) any prescribed substance is or any minerals are acquired by the Commonwealth by virtue of this Part; or
- (b) a person suffers loss or damage by reason of anything done in pursuance of any of the last three preceding sections,

the Commonwealth is liable to pay to a person who had a 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 a court of competent jurisdiction.

Compensation.

43. A person shall not—

- (a) contravene or fail to comply with a provision of this Part or the regulations referred to in section thirty-eight of this Act;
- (b) refuse or fail to comply with a notice served on him under this Part;
- (c) refuse or fail to comply with or observe a term or condition subject to which a licence has been granted to him under this Part;
- (d) obstruct or hinder a person in the exercise of a power or authority conferred on that person by or under this Part; or
- (e) except with the consent of the person in possession of the land, enter or be upon land of which a person is in possession in pursuance of this Part.

Offences.
Amended by
No. 93, 1966,
s. 3 and First
Schedule.

Penalty: One thousand dollars or imprisonment for six months, or both.

PART IV.—SECURITY.

Communication of restricted information with intent to prejudice defence.

44. A person who, whether lawfully or unlawfully, has knowledge of or access to, or has in his possession or under his control, a photograph, sketch, plan, model, article, instrument, appliance, note or other document, or any information, which is capable of conveying, or is or includes, restricted information—

- (a) shall not, with intent to prejudice the defence of the Commonwealth, publish it, or communicate, give, transmit or disclose it to some other person; and
- (b) shall not, having reason to believe that it will be used to prejudice the defence of the Commonwealth, publish it, or communicate, give, transmit or disclose it to some other person.

Penalty: Imprisonment for twenty years.

Acquisition of restricted information with intent to prejudice defence.

45. A person shall not, with intent to prejudice the defence of the Commonwealth, acquire a photograph, sketch, plan, model, article, instrument, appliance, note or other document, or any information, which is capable of conveying, or is or includes, restricted information.

Penalty: Imprisonment for twenty years.

Removal, &c., of restricted information with intent to prejudice defence.

46. A person shall not, with intent to prejudice the defence of the Commonwealth, remove, conceal, tamper with, alter, mutilate or destroy a photograph, sketch, plan, model, article, instrument, appliance, note or other document which is capable of conveying, or is or includes, restricted information and is used or intended to be used by the Commonwealth, the Commission, a contractor, a State or an authority or agency of the Commonwealth or of a State in connexion with the production of a prescribed substance or in connexion with research or development relating to atomic energy.

Penalty: Imprisonment for twenty years.

Proof of intent.

47. On a prosecution of a person under paragraph (a) of section forty-four, section forty-five or section forty-six of this Act—

- (a) it is not necessary to show that he was guilty of a particular act tending to show an intent to prejudice the defence of the Commonwealth and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case, his conduct, or his known character as proved, it appears that he acted with intent to prejudice the defence of the Commonwealth; and
- (b) if it is proved that a photograph, sketch, plan, model, article, instrument, appliance, note or other document, or any information, which is capable of conveying, or is or includes, restricted information, has been dealt with by that person in a manner referred to in paragraph (a) of section forty-four, section forty-five or section forty-six of this Act otherwise than under lawful authority, it shall be deemed, unless the contrary is proved, to have been so dealt with with intent to prejudice the defence of the Commonwealth.

48.—(1.) A person who has knowledge of or access to, or has in his possession or under his control, a photograph, sketch, plan, model, article, instrument, appliance, note or other document, or any information, which is capable of conveying, or is or includes, restricted information and—

Unlawful communication of restricted information by certain persons.

- (a) has been entrusted in confidence to him by a Commonwealth officer; or
- (b) has come to his knowledge, into his possession or under his control by reason of his position as a person—
 - (i) who is or has been a Commonwealth officer or a member of an Advisory Committee;
 - (ii) who is or has been a contractor or a person employed by a contractor;
 - (iii) who is or has been a professional, scientific, technical or other adviser engaged or consulted by the Commonwealth, the Commission or a contractor; or
 - (iv) acting with the permission of a Minister,

shall not—

- (c) publish it without authority, or communicate or give it to a person other than a person to whom he is authorized to communicate or give it or to whom it is, in the interests of the Commonwealth, his duty to communicate or give it;
- (d) use or retain it in his possession or control, when he has no right to use or retain it or when it is contrary to his duty to use or retain it;
- (e) fail to comply with a direction given by lawful authority with respect to its return or disposal;
- (f) fail to take reasonable care of it; or
- (g) so conduct himself as to endanger its safety.

Penalty: Imprisonment for seven years.

(2.) A person shall not receive a photograph, sketch, plan, model, article, instrument, appliance, note or other document, or any information, knowing, or having reasonable ground to believe, at the time when he receives it, that it is communicated or given to him in contravention of this Act.

Penalty: Imprisonment for seven years.

(3.) It is a defence to a prosecution under the last preceding subsection if the accused person proves that the communication to him was contrary to his desire.

(4.) A person shall not, without reasonable excuse, publish, or communicate or give to another person, a photograph, sketch, plan, model, article, instrument, appliance, note or other document, or any information, knowing, or having reasonable ground to believe, that it was communicated or given to him in contravention of this Act.

Penalty: Imprisonment for seven years.

Sabotage.

49. A person shall not, without lawful authority or excuse, destroy, damage, pollute, tamper or interfere with, or do an act which is likely to destroy, damage, pollute or impair the efficiency of, any real or personal property which—

- (a) belongs to or is used for the purposes of the Commission; or
- (b) is used or intended to be used in connexion with a contract or arrangement with the Commission or with the Commonwealth in relation to a matter within the functions of the Commission.

Penalty: Imprisonment for seven years.

Search and arrest of suspected persons.

50.—(1.) Where a person is found committing an offence against section forty-four, forty-five, forty-six, forty-eight or forty-nine of this Act, or is reasonably suspected of having committed or of having attempted to commit such an offence, a constable or a peace officer may, without warrant—

- (a) detain, for the purpose of search, and search, that person; and
- (b) arrest that person.

(2.) The person conducting a search in pursuance of the last preceding sub-section may seize a thing which appears to that person to be a thing in respect of which a person has committed or has attempted to commit an offence against any of the sections specified in that sub-section, or which the first-mentioned person has reasonable ground for believing to be evidence of such an offence or attempt.

(3.) A female shall not be searched under this section except by a female.

Person seeking employment to furnish certain information.

51. The Commission shall, before appointing a person to be an officer or employee of the Commission or a member of an Advisory Committee, require him to furnish to the Commission, in writing verified by statutory declaration, information on such matters as the Minister directs, being information which the Minister is satisfied it is desirable to obtain for the purposes of ensuring the security, safety or secrecy of the operations of the Commission.

Oath or affirmation of secrecy.

52. A member of the Commission or of an Advisory Committee, or an officer or employee of the Commission, shall, before entering upon the performance of his duties, make and subscribe, before a person authorized under the law of the Commonwealth or of a State or Territory of the Commonwealth to take affidavits, an oath or affirmation of secrecy in accordance with the form in the Schedule to this Act.

Secrecy to be observed by members and employees of Commission.

53. A member of the Commission or of an Advisory Committee, or an officer or employee of the Commission, shall not, except in the course of his duty or with the approval of the Commission, communicate to a person any information concerning the activities of the Commission or the contents of a document to which he has had access by reason of his position as such a member, officer or employee.

Penalty: Imprisonment for seven years.

54. No action lies against the Commonwealth, a State, the Commission, a constable or a peace officer in respect of an arrest, apprehension, detention, search, seizure or act in pursuance of or for the purposes of this Part, but, if the Governor-General is satisfied that an arrest, apprehension, detention, search, seizure or act was made or done without reasonable cause, he may award reasonable compensation in respect of it.

No action
against
Commonwealth.

55.—(1.) If, in the opinion of the Minister, it is necessary or desirable for the purposes of the defence of the Commonwealth so to do, the Minister may, by notice published in the *Gazette*, declare an area of land or water or an area of land and water (whether or not it belongs to or is used for the purposes of the Commonwealth or a State), being an area in or near which prescribed substances exist or may exist, or an area in or near which are carried on operations in connexion with the production or treatment of prescribed substances or in connexion with atomic energy, to be, for the purposes of this Act, a restricted area.*

Restricted
areas.

(2.) It is not necessary for a notice under the last preceding sub-section to indicate the matters by reason of which the area is one to which that sub-section applies.

56.—(1.) The Minister, or a person authorized by the Minister to act under this section, may, by notice in writing under his hand served personally on a person—

Minister may
forbid entry.
&c.

- (a) forbid that person to enter a restricted area; or
- (b) direct that person to leave a restricted area.

(2.) A person on whom has been served a notice under the last preceding sub-section shall not enter the restricted area referred to in the notice.

(3.) If, at the time of the service on him of a notice under sub-section (1.) of this section, a person is in a restricted area, he shall leave that area within the time specified in the notice.

(4.) A person who is in a restricted area in contravention of this section may be removed from that area by or under the direction of a Commonwealth officer acting in the course of his duty or employment, or by or under the direction of a constable.

Penalty: Imprisonment for two years.

57. A person who is or has been a contractor shall not permit another person to have access to restricted information which has come to his knowledge, into his possession or under his control by reason of his being a contractor, unless the Commission has authorized that other person to have access to restricted information.

Access to
restricted
information in
possession of
contractors.

Penalty: Imprisonment for seven years.

58. A person who does an act preparatory to the commission of an offence against this Part is guilty of that offence.

Acts
preparatory to
commission of
offence.

* The only notice published before 1 November 1970 was still in force at that date and relates to the Australian Atomic Energy Commission's Research Establishment at Lucas Heights, N.S.W.; see *Commonwealth Gazette* 1955, p. 2685.

PART V.—MISCELLANEOUS.

Delegation.

59.—(1.) The Minister may, in relation to a matter or class of matters, or in relation to a part of Australia, by writing under his hand, delegate to any person 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 matter or class of matters, or the part of Australia, specified in the instrument of delegation.

(2.) A delegation under this section is revocable at will and does not prevent the exercise of a power or function by the Minister.

Application of
Approved
Defence
Projects
Protection Act.

60. The *Approved Defence Projects Protection Act 1947* applies to and in relation to all works carried out by or on behalf of the Commission as if those works were approved defence projects within the meaning of that Act.

Jurisdiction
of courts.

61.—(1.) Subject to the succeeding provisions of this section—

(a) the several courts of the States are invested with federal jurisdiction; and

(b) jurisdiction is conferred on the several courts of the Territories of the Commonwealth,

with respect to offences against Part IV. of this Act.

(2.) The jurisdiction invested in or conferred on courts by the last preceding sub-section is invested or conferred within the limits (other than limits having effect by reference to the places at which offences are committed) of their several jurisdictions, whether those limits are as to subject-matter or otherwise.

(3.) The trial on indictment of an offence against this Act, not being an offence committed within a State, may be held in any State or Territory of the Commonwealth.

(4.) The jurisdiction invested in, or conferred on, a court of summary jurisdiction by this section shall not be judicially exercised except by a Judge, a Chief, Police, Stipendiary, Resident or Special Magistrate, or a District Officer or Assistant District Officer of a Territory of the Commonwealth.

(5.) Where an appeal lies from a court to the Supreme Court of a State or Territory of the Commonwealth, an appeal from a decision of the first-mentioned court exercising jurisdiction by virtue of this section may be brought to the High Court.

(6.) The High Court may grant special leave to appeal to the High Court from a decision of a court of a State or Territory of the Commonwealth exercising jurisdiction by virtue of this section notwithstanding that the law of that State or Territory prohibits an appeal from the last-mentioned court.

(7.) Subject to the provisions of this Act other than this section, the laws of a State or Territory of the Commonwealth with respect to the arrest and custody of offenders or persons charged with offences and the procedure for—

(a) their summary conviction;

- (b) their examination and commitment for trial on indictment;
- (c) their trial and conviction on indictment; and
- (d) the hearing and determination of appeals arising out of any such trial or conviction or out of any proceedings connected therewith,

and with respect to holding accused persons to bail apply, so far as they are applicable, to a person who is charged in that State or Territory with an offence against this Act or the regulations.

(8.) Except as provided by this section, the *Judiciary Act 1903-1950* applies in relation to offences against this Act or the regulations.

(9.) For the purposes of this section, "court of summary jurisdiction" includes a court of a Territory of the Commonwealth sitting as a court for the making of summary orders or the summary punishment of offences under the law of the Territory.

62.—(1.) At any time before or during the hearing of proceedings in respect of an offence against this Act or the regulations, the judge, magistrate or other person presiding or competent to preside over the proceedings may, if satisfied that such a course is expedient in the interests of the defence of the Commonwealth—

Hearing
in camera, &c.

- (a) order that some or all of the members of the public shall be excluded during the whole or a part of the proceedings;
- (b) order that no report of the whole or a specified part of the proceedings shall be published; or
- (c) make such other order and give such directions as he thinks necessary for ensuring that an affidavit, exhibit, information or other document used in the proceedings does not remain on the file in the court or in the records of the court after the hearing of the proceedings has been completed.

(2.) A person shall not contravene or fail to comply with an order made or direction given in pursuance of this section.

Penalty: Imprisonment for five years.

63.—(1.) A prosecution under this Act or the regulations shall be instituted only by or with the consent of the Attorney-General or of a person acting under his direction.

Prosecution of
offences.

(2.) A person charged with an offence against this Act or the regulations may be arrested, or a warrant for his arrest may be issued and executed, and he may be remanded in custody or on bail, notwithstanding that the consent of the Attorney-General or of a person acting under his direction has not been obtained, but no further proceedings shall be taken until that consent has been obtained.

(3.) Nothing in this section prevents the discharge of a person charged if proceedings are not continued within a reasonable time.

64.—(1.) An offence against this Act may be prosecuted either summarily or upon indictment but an offender is not liable to be punished more than once in respect of the same offence.

Punishment
of offences.

Amended by
No. 93, 1966,
s. 3 and First
Schedule.

(2.) The punishment for an offence against this Act is—

- (a) if the offence is prosecuted summarily—a fine not exceeding Two hundred dollars or imprisonment for a term not exceeding six months, or both; or
- (b) if the offence is prosecuted upon indictment—a penalty not exceeding the penalty provided by this Act in respect of the offence.

(3.) In addition to any other punishment, a court may, if it thinks fit, order the forfeiture of a photograph, sketch, plan, model, article, instrument or appliance, or of a note or other document, in respect of which an offence against Part IV. of this Act has been committed.

Regulations.
Amended by
No. 93, 1966,
s. 3 and First
Schedule.

65. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing penalties for offences against the regulations, but so that no prescribed period of imprisonment shall exceed six months and no prescribed pecuniary penalty shall exceed Four hundred dollars.

Section 52.

THE SCHEDULE.

OATH OR AFFIRMATION OF SECRECY.

I, _____ do swear by Almighty God (or do solemnly and sincerely affirm and declare) that I will not, except as permitted by law, divulge or communicate to any person, or give any person access to, any information or document coming to my knowledge or to which I have access by virtue of my position as a member of the Australian Atomic Energy Commission (or an officer of the Australian Atomic Energy Commission or an employee of the Australian Atomic Energy Commission or a member of an Advisory Committee appointed under the *Atomic Energy Act 1953*, as the case requires).

