

South Australia

# **Radiation Protection and Control Bill 2014**

A BILL FOR

An Act to control activities involving radiation sources and to provide for the protection of people and the environment from the harmful effects of radiation; to repeal the *Radiation Protection and Control Act 1982*; and for other purposes.

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## **Contents**

### **Part 1—Preliminary**

- 1 Short title
- 2 Commencement
- 3 Objects and principles
- 4 Interpretation
- 5 Interaction with other Acts and laws

### **Part 2—Administration and enforcement**

#### **Division 1—Minister**

- 6 Delegation

#### **Division 2—Radiation Protection Committee**

- 7 The Committee
- 8 Terms and conditions of office
- 9 Presiding member and deputy presiding member
- 10 Functions of Committee
- 11 Committee's procedures
- 12 Sub-committees
- 13 Application of Public Sector (Honesty and Accountability) Act
- 14 Provision of services

#### **Division 3—Authorised officers**

- 15 Appointment of authorised officers
- 16 Identity cards
- 17 Powers of authorised officers
- 18 Provisions relating to seizure
- 19 Hindering etc persons engaged in administration of Act

#### **Division 4—Power to require or obtain information**

- 20 Information discovery orders
- 21 Obtaining of information on non-compliance with order or condition of accreditation or authority

**Division 5—Miscellaneous**

- 22 Annual report

**Part 3—Radiation protection and control****Division 1—radioactive materials**

- 23 Licence to test for developmental purposes  
24 Licence to carry out mining or mineral processing  
25 Limits of exposure to ionising radiation for mining or mineral processing operations not to be more stringent than limits fixed under certain codes etc  
26 Operations for enrichment or conversion of uranium not to be carried on until proper controls imposed  
27 Licence to use or handle radioactive materials  
28 Offence for owner to cause, suffer or permit unlicensed person to use or handle radioactive materials  
29 Registration of premises in which unsealed radioactive materials are handled or kept  
30 Facilities licence  
31 Registration of sealed radioactive source  
32 Protection of security enhanced radioactive source  
33 Offence to abandon radiation source

**Division 2—Radiation apparatus**

- 34 Licences to operate radiation apparatus  
35 Registration of radiation apparatus  
36 Offence for owner to cause, suffer or permit unlicensed person to operate radiation apparatus

**Division 3—Licence to possess a radiation source**

- 37 Licence to possess a radiation source

**Division 4—Accreditation of third party service providers**

- 38 Accreditation process  
39 Authority conferred by accreditation  
40 Reliance on professional advice  
41 Offences

**Division 5—Financial assurances**

- 42 Minister may require financial assurance to secure compliance with conditions of authority

**Division 6—General provisions with respect to accreditations and authorities**

- 43 Application for an accreditation or authority  
44 Minister required to refer certain matters to Committee  
45 Annual fee payable for accreditations and authorities  
46 Conditions of accreditations and authorities  
47 Term of accreditations and authorities and their renewal  
48 Register of accreditations and authorities  
49 Transfer or surrender of accreditations and authorities  
50 Suspension and cancellation of accreditations and authorities  
51 Review of decisions  
52 Obligation of holders of accreditations and authorities to notify Minister of certain matters

53 Death, bankruptcy etc of holder of authority

#### Division 7—Dangerous situations

54 Powers to deal with dangerous situations

#### Part 4—General offences

55 Causing serious radiation risk

56 Causing radiation risk

57 Alternate finding

#### Part 5—General duty of care

58 General duty of care

#### Part 6—Civil remedies

#### Division 1—Orders issued by Minister

59 Protection orders

60 Action on non-compliance with protection order

61 Reparation orders

62 Action on non-compliance with reparation order

63 Reparation authorisations

64 Related matter

65 Registration of orders or authorisations by Registrar-General

66 Effect of charge

#### Division 2—Orders made by ERD Court

67 Orders made by ERD Court

#### Part 7—Miscellaneous

68 Adoption of documents forming part of National Directory

69 Confidentiality

70 Exemptions

71 Offences and ERD Court

72 Constitution of Environment, Resources and Development Court

73 Commencement of prosecutions

74 Offences by officers of bodies corporate

75 Vicarious liability

76 Continuing offences

77 General defence

78 Notice of defence

79 Imputation of conduct or state of mind of officer, employee etc

80 Statutory declarations

81 False or misleading statement

82 Evidentiary provisions

83 Service

84 Recovery of fees

85 Recovery of technical costs associated with contraventions

86 Review of Act

87 Regulations

#### Schedule 1—Application of this Act to the Roxby Downs Joint Venturers

---

## Schedule 2—Repeal and transitional provisions

### Part 1—Repeal of *Radiation Protection and Control Act 1982*

1 Repeal of Act

### Part 2—Transitional provisions

- 2 Authorised officers  
3 Radiation Protection Committee  
4 Licences to test for development purposes  
5 Licences to carry out mining or mineral processing  
6 Licences to use or handle radioactive materials  
7 Facilities licences  
8 Licences to operate radiation apparatus  
9 Licences to possess a radiation source  
10 Registration of premises in which unsealed radioactive materials are handled or kept  
11 Registration of sealed radioactive sources  
12 Registration of radiation apparatus  
13 Accreditations  
14 Exemptions  
15 Directions relating to dangerous situations
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## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

This Act may be cited as the *Radiation Protection and Control Act 2014*.

#### 5 2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

#### 3—Objects and principles

(1) The objects of this Act are—

- 10 (a) to protect people and the environment from the harmful effects of radiation by applying the radiation protection principle; and  
(b) to ensure that security enhanced radioactive sources are secured against misuse that may result in harm to people or the environment; and  
(c) to promote the principles of ecologically sustainable development.

15 (2) The *radiation protection principle* is the principle that people and the environment should be protected from unnecessary harmful exposure to radiation through the processes of justification, limitation and optimisation where—

- (a) justification involves—  
(i) assessing whether the benefits of a practice involving ionising radiation or its use outweigh the detriment; and

(ii) only adopting the practice if it produces sufficient benefit to outweigh the detriment;

(b) limitation involves—

(i) setting radiation dose limits or specifying radiation emission or absorption standards and ensuring compliance with those limits or standards; or

(ii) imposing other measures and ensuring compliance with those measures,

so that the risks to people and the environment from exposure to radiation are below levels considered unacceptable;

(c) optimisation, in relation to the conduct of a radiation practice, or the use of a radiation source, that may expose people or the environment to ionising radiation—

(i) means keeping the magnitude of individual doses of, or the number of people that may be exposed to, ionising radiation as low as is reasonably achievable, taking into account economic, social and environmental factors; or

(ii) if the magnitude of individual doses, or the number of people that may be exposed, is uncertain—means keeping the likelihood of incurring exposures of ionising radiation as low as is reasonably achievable, taking into account economic, social and environmental factors.

#### 4—Interpretation

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

**accreditation** means an accreditation issued under this Act;

**associate**—see subsection (2);

**authority** means a licence or registration issued under this Act;

**authorised officer** means a person appointed as an authorised officer under Part 2;

**Committee**—see section 7;

**contravene** includes fail to comply with;

**conversion** in relation to uranium means the conversion of uranium oxides to uranium hexafluoride;

**deal with** means use, manufacture, store, sell, receive, possess, install, operate, maintain, repair, dispose of or transport;

**Department** means the administrative unit of the Public Service that is, under the Minister, responsible for the administration of this Act;

**developmental testing operations** means operations for the extraction or processing of ores or minerals for the purposes of evaluating future mining or mineral processing operations;

**domestic partner** means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

**enrichment** in relation to uranium means alteration of the isotopic composition of uranium;

**environment** means land, air, water, organisms and ecosystems, and includes—

(a) human-made or modified structures or areas; and

(b) the amenity values of an area;

**ERD Court** means the Environment, Resources and Development Court established under the *Environment, Resources and Development Court Act 1993*;

**exploration** means operations of any kind carried out in the course of—

(a) exploring for minerals; or

(b) determining the extent of a mineral deposit,

and includes surface drilling and geophysical prospecting;

**general duty of care**—see section 58;

**handle** includes manipulate by indirect or remote means;

**health practitioner** means a person who practises 1 or more of the following:

(a) a health profession (within the meaning of the *Health Practitioner Regulation National Law (South Australia)*);

(b) any other profession or practice declared by the regulations to be included in the ambit of this definition;

**health services**—

(a) in the case of a person who practises a health profession—means the provision of services by the health practitioner in his or her particular health profession; or

(b) in any other case—has the meaning assigned by the regulations;

**identity check** has the meaning assigned to it by the regulations;

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

**information discovery order** means an information discovery order issued under section 20;

**in situ recovery** means a process by which chemical solutions are injected into underground ore deposits to dissolve or leach radioactive elements or compounds;

**ionising radiation** means electromagnetic or particulate radiation capable of producing ions directly or indirectly in passage through matter but does not include electromagnetic radiation of a wavelength greater than 100 nanometres;

**ionising radiation apparatus** means apparatus capable of producing ionising radiation by accelerating atomic particles;

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

**licence** means a licence under this Act;

**mineral processing** means operations for the concentration or processing of ores or minerals, or operations for processing fluids from *in situ* or other recovery operations conducted on ores or minerals, and includes incidental operations for the management of radioactive process materials, residues or wastes;

5 **Mines Minister** means the Minister to whom the administration of the *Mining Act 1971* is committed;

**mining** means operations for the recovery, handling or storage of ores or minerals and includes—

- (a) construction activities to establish any mine facilities; and
- 10 (b) incidental operations for the recovery, handling or storage of ores or minerals; and
- (c) incidental operations for the management or disposal of waste or residues; and
- (d) rehabilitation activities to restore land disturbed by mining operations; and
- 15 (e) *in situ* recovery and other operations by means of which minerals are recovered from an ore or a natural body of water; and
- (f) other operations brought within the ambit of this definition by the regulations,

but does not include—

- (g) surface excavating that does not intersect with any such ores or minerals; or
- 20 (h) surface drilling for the purposes of exploration; or
- (i) geophysical prospecting; or
- (j) other operations excluded from the ambit of this definition by the regulations;

**mining licence** means a licence authorising the carrying out of operations for the mining or processing of ores or extracted minerals;

25 **National Directory** means the *National Directory for Radiation Protection* published by the Australian Radiation Protection and Nuclear Safety Agency of the Commonwealth, as published or in force from time to time, and includes any code, standard, guideline, rule, specification or other document adopted by or incorporated in the National Directory for Radiation Protection, whether as published or in force on

30 a particular date, or as published or in force from time to time;

**non-ionising radiation** means electromagnetic radiation of a wavelength greater than 100 nanometres;

**non-ionising radiation apparatus** means apparatus capable of producing non-ionising radiation but not ionising radiation;

35 **officer**, in relation to a body corporate, means—

- (a) a director of the body corporate; or
- (b) the chief executive officer of the body corporate; or
- (c) a receiver or manager of any property of the body corporate or a liquidator of the body corporate,

and includes, in relation to a contravention or alleged contravention of this Act by the body corporate, an employee of the body corporate with management responsibilities in respect of the matters to which the contravention or alleged contravention related;

**owner** in relation to an apparatus or thing that has been let out on hire, means the person who takes it on hire;

**premises** means any land, building or structure whether fixed or moveable, or part of any land, building or structure;

**principles of ecologically sustainable development** means the principles set out in section 10(1)(a) of the *Environment Protection Act 1993*;

**protection order** means a protection order issued under section 59;

**radiation** means ionising radiation or non-ionising radiation;

**radiation apparatus** means ionising radiation apparatus or non-ionising radiation apparatus that provides a dose or exposure level in excess of the prescribed amount;

**radiation facility** means a facility of a prescribed class at which a radiation source is used, handled, stored, disposed of or otherwise managed;

**radiation protection principle**—see section 3(2);

**radiation source** means a sealed radioactive source, unsealed radioactive material or radiation apparatus, or any equipment, object, article or thing that emits or may emit ionising or non-ionising radiation when energised;

**radioactive material** means a material or substance occurring naturally or artificially produced (whether solid, liquid or gaseous) that contains more than the prescribed concentration of a radioactive element or compound (whether natural or artificial), and includes a device or thing that contains such a material or substance;

**registration** means registration under this Act;

**reparation authorisation** means a reparation authorisation issued under section 63;

**reparation order** means a reparation order issued under section 61;

**repealed Act** means the *Radiation Protection and Control Act 1982*;

**sealed radioactive source** means a radioactive material bonded within metals or sealed in a capsule or other container in such a way as to—

(a) minimise the possibility of escape or dispersion of the radioactive material; and

(b) allow the emission of ionising radiation for use as required;

**security background check** has the meaning assigned to it by the regulations;

**security enhanced radioactive source** has the meaning assigned to it by the regulations;

**seizure order** means a seizure order made by an authorised officer under section 17(1)(i);

**unsealed radioactive material** means a radioactive material that is not a sealed radioactive source;

**spouse**—a person is the spouse of another if they are legally married;

**Tribunal** means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*;

**uranium** includes a chemical compound of uranium;

**vehicle** includes an aircraft or vessel.

- 5 (2) For the purposes of this Act, a person is an **associate** of another if—
- (a) they are partners; or
  - (b) 1 is a spouse, domestic partner, parent or child of another; or
  - (c) they are both trustees or beneficiaries of the same trust, or 1 is a trustee and the other is a beneficiary of the same trust; or
  - 10 (d) 1 is a body corporate or other entity (whether inside or outside Australia) and the other is a director or member of the governing body of the body corporate or other entity; or
  - (e) 1 is a body corporate or other entity (whether inside or outside Australia) and the other is a person who has a legal or equitable interest in 5 per cent or more of the share capital of the body corporate or other entity; or
  - 15 (f) they are related bodies corporate within the meaning of the *Corporations Act 2001* of the Commonwealth; or
  - (g) a chain of relationships can be traced between them under any 1 or more of the above paragraphs.
- 20 (3) For the purposes of subsection (2), a **beneficiary** of a trust includes an object of a discretionary trust.
- (4) For the purposes of this Act—
- (a) the **owner** of a radiation facility or radiation source, or premises on which a radiation source is stored or used, is the person in whose name the facility, source or premises is, or is required to be, licensed or registered under this Act;
  - 25 (b) a person has **possession** of a radiation source if the source is under the person's control (whether or not the source is also in the person's custody), including control of the source for storage or use, or for sale, but not if—
    - 30 (i) the person is using or handling the radiation source and the overall control of the source is the responsibility of another person; or
    - (ii) the radiation source is a radioactive material that the person is transporting; or
    - (iii) the radiation source is a radioactive material that—
      - 35 (A) the person or an animal kept by the person has been injected with; or
      - (B) has been administered to, or implanted in, the person or an animal kept by the person,
- as part of a diagnostic or therapeutic procedure.

**5—Interaction with other Acts and laws**

The provisions of this Act—

- (a) are in addition to those of any other Act or law; and
- (b) do not limit or derogate from the provisions of any other Act or law, or from any civil remedy at law or in equity.

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**Part 2—Administration and enforcement****Division 1—Minister****6—Delegation**

- (1) The Minister may delegate a function or power under this Act to—
  - (a) a specified body or person; or
  - (b) a person for the time being holding or acting in a specified office or position.
- (2) A delegation under this section—
  - (a) must be by instrument in writing; and
  - (b) may be absolute or conditional; and
  - (c) does not derogate from the ability of the delegator to act in any matter; and
  - (d) is revocable at will.
- (3) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.

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**Division 2—Radiation Protection Committee****7—The Committee**

- (1) The *Radiation Protection Committee* continues in existence.

**Note—**

The Committee was established by the repealed Act.

- (2) The Committee consists of not more than 9 members appointed by the Governor, being persons who, in the opinion of the Governor, together have—
  - (a) expertise in—
    - (i) radiology or human diagnostic radiography; and
    - (ii) nuclear medicine or radiation oncology; and
    - (iii) health, health physics or medical physics; and
    - (iv) industrial or scientific uses of radiation; and
    - (v) mining or environmental science; and
  - (b) knowledge or experience in public health.

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## 8—Terms and conditions of office

- (1) A member of the Committee will be appointed on conditions determined by the Governor for a term, not exceeding 3 years, specified in the instrument of appointment and, at the expiration of a term of appointment, is eligible for reappointment.
- 5 (2) The Governor may appoint a suitable person to be a deputy of a member of the Committee and that person, while acting in the absence of that member, will be taken to be a member of the Committee with all the powers, rights and duties of the member of whom the person is deputy.
- (3) The Governor may remove a member of the Committee from office for—
- 10 (a) breach of, or non-compliance with, any conditions of appointment; or  
(b) mental or physical incapacity to carry out the duties of office satisfactorily; or  
(c) neglect of duty; or  
(d) dishonourable conduct.
- (4) The office of a member of the Committee becomes vacant if the member—
- 15 (a) dies; or  
(b) completes a term of office and is not reappointed; or  
(c) resigns by written notice addressed to the Minister; or  
(d) is removed from office under subsection (3).
- (5) On the office of a member of the Committee becoming vacant, a person will be
- 20 appointed in accordance with this Act to the vacant office, but if the office of a member becomes vacant before the expiration of a term of appointment, the successor will be appointed only for the balance of the term.

## 9—Presiding member and deputy presiding member

25 The Governor must appoint a member (the *presiding member*) to preside at meetings of the Committee and another member (the *deputy presiding member*) to preside at meetings of the Committee in the absence of the presiding member.

## 10—Functions of Committee

The Committee has the following functions:

- 30 (a) to advise the Minister in relation to the formulation of—  
(i) regulations under this Act; and  
(ii) radiation protection codes and standards;
- (b) to advise the Minister in relation to the granting of licences under this Act (including the conditions to which they should be subject);
- 35 (c) to provide technical advice to the Minister on radiation protection and safety relating to human health and the environment;
- (d) to investigate and report on any other matters relevant to the administration of this Act at the request of the Minister or of its own motion.

## 11—Committee's procedures

- (1) Subject to this Act, a quorum of the Committee consists of one half the total number of its members (ignoring any fraction resulting from the division) plus 1.
- (2) A meeting of the Committee will be chaired by the presiding member or, in his or her absence, by the deputy presiding member and, in the absence of both the presiding member and the deputy presiding member, the members present at a meeting of the Committee must choose 1 of their number to preside at the meeting.
- (3) A decision carried by a majority of the votes cast by members of the Committee at a meeting is a decision of the Committee.
- (4) Each member present at a meeting of the Committee has 1 vote on any question arising for decision.
- (5) A conference by telephone or other electronic means between the members of the Committee will, for the purposes of this section, be taken to be a meeting of the Committee at which the participating members are present if—
  - (a) notice of the conference is given to all members in the manner determined by the Committee for the purpose; and
  - (b) each participating member is capable of communicating with every other participating member during the conference.
- (6) A proposed resolution of the Committee becomes a valid decision of the Committee despite the fact that it is not voted on at a meeting of the Committee if—
  - (a) notice of the proposed resolution is given to all members of the Committee in accordance with procedures determined by the Committee; and
  - (b) a majority of the members express concurrence in the proposed resolution by letter, telegram, telex, fax, email or other written communication setting out the terms of the resolution.
- (7) The Committee must have accurate minutes kept of its meetings.
- (8) Subject to this Act, the Committee may determine its own procedures.

## 12—Sub-committees

- (1) The Minister may establish sub-committees of the Committee to report to the Committee on matters specified by the Minister.
- (2) A sub-committee will consist of such members of the Committee or other persons as may be appointed to the sub-committee by the Minister.
- (3) A sub-committee must not act of its own motion but only in relation to matters referred to it by the Committee.
- (4) Subject to this Act, the procedure for meetings of sub-committees will be determined by the presiding member of the Committee.

## 13—Application of Public Sector (Honesty and Accountability) Act

The *Public Sector (Honesty and Accountability) Act 1995* applies to a member of a sub-committee of the Committee as if the sub-committee were an advisory body and the Minister responsible for the administration of this Act were the relevant Minister.

**14—Provision of services**

- (1) The Minister may appoint an officer of the public service of the State to be the secretary to the Committee.
- (2) The Department may provide the Committee with administrative assistance and facilities for the performance of its functions under this Act.

**Division 3—Authorised officers****15—Appointment of authorised officers**

- (1) The Minister may appoint a suitably qualified person to be an authorised officer for the purposes of this Act.
- (2) An appointment under subsection (1) may be made subject to conditions or limitations specified in the instrument of appointment.
- (3) The Minister may vary or revoke an appointment at any time.

**16—Identity cards**

- (1) An authorised officer must be issued with an identity card in a form approved by the Minister—
- (a) containing the person's name and a photograph of the person; and
  - (b) stating that the person is an authorised officer for the purposes of this Act.
- (2) If the powers of an authorised officer have been limited by conditions under section 15, the identity card issued to the authorised officer must contain a statement of the limitation on the officer's powers.
- (3) The identity card must be issued as soon as is reasonably practicable after the appointment is made (but an authorised officer is not prevented from exercising powers under this Act just because an identity card is yet to be issued).
- (4) An authorised officer must, at the request of a person in relation to whom the authorised officer intends to exercise any powers under this Act, produce for the inspection of the person his or her identity card (unless the identity card is yet to be issued).
- (5) An authorised officer appointed under this Act must, on ceasing to be an authorised officer for any reason, immediately return his or her identity card to the Minister.
- Maximum penalty: \$500.

**17—Powers of authorised officers**

- (1) An authorised officer may, for any reasonable purpose connected with the administration or enforcement of this Act—
- (a) enter and inspect any premises or vehicle or anything on or in the premises or vehicle; and
  - (b) with the authority of a warrant issued under this section or in circumstances in which the authorised officer reasonably believes that immediate action is required, break into or open any part of, or anything in or on, the premises or vehicle; and

**Radiation Protection and Control Bill 2014**

Part 2—Administration and enforcement

Division 3—Authorised officers

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- (c) give directions with respect to the stopping or moving of a vehicle; and
- (d) take and remove samples of any substance or thing from any premises or vehicle for analysis; and
- 5 (e) require a person to produce any documents, including a written record that reproduces in an understandable form information stored by computer, microfilm or other process; and
- (f) examine, copy or take extracts from a document or information so produced or require a person to provide a copy of such a document or information; and
- (g) take photographs, films, audio, video or other recordings; and
- 10 (h) examine or test any apparatus, plant, equipment or other thing, or cause or require it to be so examined or tested, or seize it or require its production for such examination or testing; and
- (i) seize and retain, or issue a seizure order in respect of, anything that the authorised officer reasonably suspects has been used in, or may constitute
- 15 evidence of, a contravention of this Act; and
- (j) take onto or into any premises or vehicle and use, any equipment or apparatus (such as drilling, boring, earth-moving, testing, measuring, photographic, film, audio, video or other recording equipment or apparatus); and
- (k) require a person who the authorised officer reasonably suspects has
- 20 committed, is committing or is about to commit, a contravention of this Act to state the person's full name and usual place of residence and to produce evidence of the person's identity; and
- (l) require a person who the authorised officer reasonably suspects has
- 25 knowledge of matters in respect of which information is reasonably required for the administration or enforcement of this Act to answer questions in relation to those matters; and
- (m) require a person holding an accreditation or authority or required to hold an accreditation or authority to produce it for inspection; and
- (n) give any directions reasonably required in connection with the exercise of a
- 30 power conferred by a preceding paragraph or otherwise in connection with the administration or enforcement of this Act.
- (2) An authorised officer may, if he or she reasonably believes that action is required to prevent a contravention of the Act—
- 35 (a) seize and retain radiation apparatus or other equipment containing a radiation source, or part of such an apparatus or equipment that is essential to its operation; or
- (b) cause radiation apparatus or other equipment containing a radiation source to be rendered inoperable by a suitably qualified person.
- (3) An authorised officer may not exercise the power of entry under this section in respect
- 40 of premises unless—
- (a) the premises are business premises being used at the time in the course of business; or
- (b) the authorised officer reasonably suspects that—

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- (i) a contravention of this Act has been, is being, or is about to be, committed in the premises; or
- (ii) something may be found in the premises that has been used in, or constitutes evidence of, a contravention of this Act.
- 5 (4) An authorised officer may not exercise the power to enter, inspect or seize a vehicle unless—
- (a) the vehicle is of a prescribed class; or
- (b) the authorised officer reasonably suspects that—
- 10 (i) a contravention of this Act has been, is being, or is about to be, committed in relation to the vehicle; or
- (ii) something may be found in or on the vehicle that has been used in, or constitutes evidence of, a contravention of this Act.
- (5) If a person who is not reasonably fluent in English and whose native language is not English is suspected of having committed an offence against this Act—
- 15 (a) the person is entitled to be assisted by an interpreter during any questioning conducted by an authorised officer in the course of an investigation of the suspected offence; and
- (b) if it appears that the person may be entitled to be assisted by an interpreter, an authorised officer must not proceed with any questioning, or further
- 20 questioning, until the person has been informed of the right to an interpreter; and
- (c) if the person requests the assistance of an interpreter, an authorised officer must not proceed with any questioning, or further questioning, until an interpreter is present.
- 25 (6) An authorised officer, in exercising powers under this Act, may be accompanied by such assistants as are reasonably required in the circumstances.
- (7) An authorised officer may require an occupier of premises or a person apparently in charge of plant, equipment, or a vehicle or other thing to give the authorised officer or a person assisting the authorised officer such assistance as is reasonably required by
- 30 the authorised officer for the effective exercise of powers conferred by this Act.
- (8) A person who gives assistance to an authorised officer as required under subsection (7), the person must, if he or she so requires, be reimbursed by the authorised officer or the Minister for any reasonable costs and expenses incurred in giving the assistance.
- 35 (9) If, on the application of an authorised officer, a magistrate is satisfied that there are reasonable grounds to believe—
- (a) that a contravention of this Act has been, is being, or is about to be, committed in or on any premises or a vehicle; or
- (b) that something may be found in or on a place that has been used in, or
- 40 constitutes evidence of, a contravention of this Act; or
- (c) that the circumstances require immediate action,

**Radiation Protection and Control Bill 2014**

Part 2—Administration and enforcement

Division 3—Authorised officers

the magistrate may issue a warrant in respect of the premises or vehicle authorising an authorised officer, with such assistants as he or she consider necessary, to use reasonable force to break into or open any part of, or anything in or on, the premises or vehicle as specified in the warrant.

- 5 (10) An application for the issue of a warrant under this section—
- (a) may be made either personally or by telephone; and
  - (b) must be made in accordance with any procedures prescribed by the regulations.
- 10 (11) If the exercise of a power under this section (other than a power exercised with the authority of a warrant) results in any damage, the Minister must make good the damage as soon as is reasonably practicable or pay reasonable compensation for the damage.
- (12) A natural person is not required to answer a question under this section if the answer would tend to incriminate the person.

**18—Provisions relating to seizure**

- 15 (1) A seizure order—
- (a) must be in the form of a written notice served on the owner or person in control of the thing to which the order relates; and
  - (b) may be varied or revoked by further such written notice.
- 20 (2) If a seizure order is issued, a person who removes or interferes with the thing to which the order relates without the approval of the Minister before an order is made under subsection (3)(b) in respect of the thing or the seizure order is discharged under subsection (3)(c) is guilty of an offence.
- Maximum penalty: \$50 000.
- 25 (3) If a thing has been seized or made subject to a seizure order, the following provisions apply:
- (a) the thing must, if it has been seized, be held pending proceedings for an offence against this Act related to the thing seized, unless the Minister, on application, authorises its release to the person from whom it was seized, or to any person who had legal title to it at the time of its seizure, subject to such conditions as the Minister thinks fit (including conditions as to the giving of security for satisfaction of an order under paragraph (b)(ii));
  - (b) if proceedings for an offence against this Act relating to the thing are instituted within the prescribed period after its seizure or the issuing of the seizure order and the defendant is convicted or found guilty of the offence,
- 35 the court may—
- (i) order that it be forfeited to the Minister; or
  - (ii) where it has been released pursuant to paragraph (a) or is the subject of a seizure order—order that it be forfeited to the Minister or that
- 40 the person to whom it was released or the defendant pay to the Minister an amount equal to its market value at the time of its seizure or the issuing of the seizure order, as the court thinks fit;

- (c) if —
- (i) proceedings are not instituted for an offence against this Act relating to the thing within the prescribed period after its seizure or the issuing of the seizure order; or
  - (ii) proceedings have been so instituted and—
    - (A) the defendant is found not guilty of the offence; or
    - (B) the defendant is convicted or found guilty of the offence but no order for forfeiture is made under paragraph (b),
- then—
- (iii) in the case of a thing seized—the person from whom the thing was seized, or any person with legal title to it, is entitled to recover from the Minister (if necessary, by action in a court of competent jurisdiction) the thing itself, or if it has been damaged or destroyed, compensation of an amount equal to its market value at the time of its seizure; or
  - (iv) in the case of a thing subject to a seizure order—the order is discharged.

- (4) In subsection (3)—

*the prescribed period* means 12 months or such longer period as the ERD Court may, on application by the Minister, allow.

### 19—Hindering etc persons engaged in administration of Act

A person who—

- (a) without reasonable excuse hinders or obstructs an authorised officer or other person engaged in the administration of this Act; or
  - (b) fails to answer a question put by an authorised officer to the best of his or her knowledge, information or belief; or
  - (c) produces a document or record that he or she knows, or ought to know, is false or misleading in a material particular; or
  - (d) being the person in charge of premises subject to an inspection and having been required to provide reasonable assistance to facilitate the inspection, refuses or fails to provide such assistance; or
  - (e) fails without reasonable excuse to comply with a requirement or direction of an authorised officer under this Act; or
  - (f) uses abusive, threatening or insulting language to an authorised officer, or a person assisting an authorised officer; or
  - (g) falsely represents, by words or conduct, that he or she is an authorised officer,
- is guilty of an offence.

Maximum penalty: \$20 000.

## Division 4—Power to require or obtain information

### 20—Information discovery orders

- 5 (1) The Minister may issue an information discovery order under this Division for the purpose of obtaining information reasonably required by the Minister for the administration or enforcement of this Act.
- (2) An information discovery order may be issued to any person who the Minister reasonably suspects has knowledge of matters, or has possession or control of a document dealing with matters, in respect of which information is required by the Minister.
- 10 (3) An information discovery order—
- (a) must be in the form of a written notice served on the person to whom it is issued;
  - (b) must specify the person to whom it is issued (whether by name or a description sufficient to identify the person);

15 (c) may require information, as specified in the order, to be furnished to the Minister in such manner and within such period as is specified in the order;

  - (d) must state the purpose for which the information is required;
  - (e) must state that the person may, within 14 days, appeal to the ERD Court against the order.
- 20 (4) The Minister may, by written notice served on a person to whom an information discovery order has been issued, vary or revoke the order.
- (5) A person to whom an information discovery order is issued must comply with the order.  
Maximum penalty: \$50 000.
- 25 (6) It is not an excuse for a person to refuse or fail to furnish information in compliance with an information discovery order on the ground that to do so might tend to incriminate the person or make the person liable to a penalty.
- (7) However, if compliance with a requirement to furnish information might tend to incriminate a person or make a person liable to a penalty, then—
- 30 (a) in the case of a person who is required to produce, or provide a copy of, a document or information—the fact of production, or provision of, the document or the information (as distinct from the contents of the documents or the information); or
- (b) in any other case—an answer given in compliance with the requirement,
- 35 is not admissible in evidence against the person for an offence or for the imposition of a penalty (other than proceedings in respect of the provision of information that is false or misleading).
- (8) Subsections (6) and (7) do not apply in relation to a body corporate.

**21—Obtaining of information on non-compliance with order or condition of accreditation or authority**

- (1) If a person—
- (a) fails to furnish information as required by—
    - (i) an information discovery order; or
    - (ii) a condition of an accreditation or authority; or
  - (b) being required by such an order or condition to furnish information, furnishes information that is inaccurate or incomplete,
- the Minister may take such action as is reasonably required to obtain the information.
- (2) Any action to be taken by the Minister under subsection (1) may be taken by an authorised officer acting on behalf of the Minister or by other persons authorised by the Minister for the purpose.
- (3) If a person other than an authorised officer is authorised to take action under subsection (1), the following provisions apply:
- (a) the Minister must issue the person with an instrument of authority;
  - (b) the person may exercise such powers of an authorised officer as are reasonably required for the purpose of taking action under that subsection;
  - (c) the provisions of this Act apply in relation to the exercise of such powers by the person in the same way as in relation to an authorised officer;
  - (d) the person must produce the instrument of authority for the inspection of any person in relation to whom the person intends to exercise powers of an authorised officer.
- (4) The reasonable costs and expenses incurred by the Minister in taking action under this section may be recovered by the Minister as a debt from the person whose failure gave rise to the action.

**Division 5—Miscellaneous**

**22—Annual report**

The Department must, in its annual report to the Minister under section 12 of the *Public Sector Act 2009*, incorporate a report on the administration of this Act during the financial year to which the report relates and include in it prescribed information.

## Part 3—Radiation protection and control

### Division 1—radioactive materials

#### 23—Licence to test for developmental purposes

- 5 (1) A person must not carry out developmental testing operations involving or in relation to mining or mineral processing where a prescribed radioactive material is present unless the operations are authorised by a licence granted by the Minister under this section.

Maximum penalty:

- 10 (a) in the case of a body corporate—\$500 000; or  
(b) in the case of a natural person—\$100 000 or imprisonment for 10 years.
- (2) For the purposes of subsection (1) (and without limiting that subsection), operations in relation to mining or mineral processing include—
- 15 (a) establishing, operating or decommissioning any developmental testing facilities; and  
(b) operations for the rehabilitation of land on account of the impact of any operations associated with developmental testing; and  
(c) other operations brought within the ambit of this section by the regulations.
- (3) Subsection (1) does not apply to operations of a prescribed class.
- 20 (4) The Minister must not grant a licence under this section unless satisfied that the proposed operations would comply with the regulations.
- (5) A licence under this section must specify the operations to which it applies and the places at which those operations may be carried out.
- (6) In this section—

25 *prescribed radioactive material* means a radioactive material containing more than the prescribed concentration of any naturally occurring radioactive element or compound.

#### 24—Licence to carry out mining or mineral processing

- 30 (1) A person must not carry out operations for or in relation to mining or mineral processing where a prescribed radioactive material is present or will be produced unless the operations are authorised by a licence granted by the Minister under this section.

Maximum penalty:

- 35 (a) in the case of a body corporate—\$500 000; or  
(b) in the case of a natural person—\$100 000 or imprisonment for 10 years.
- (2) For the purposes of subsection (1) (and without limiting that subsection), operations in relation to mining or mineral processing include—
- (a) establishing, operating or decommissioning any facilities associated with mining or mineral processing; and

- (b) operations for the rehabilitation of land on account of the impact of any operations associated with mining or mineral processing; and
  - (c) other operations brought within the ambit of this section by the regulations.
- (3) Subsection (1) does not apply to operations of a prescribed class.

- 5 (4) The Minister must not grant a licence under this section unless satisfied that the proposed operations would comply with the regulations.
- (5) A licence under this section must specify the operations to which it applies and the places at which those operations may be carried out.
- (6) In this section—

10 *prescribed radioactive material* means a radioactive material containing more than the prescribed concentration of any naturally occurring radioactive element or compound.

### 25—Limits of exposure to ionising radiation for mining or mineral processing operations not to be more stringent than limits fixed under certain codes etc

15 Despite the other provisions of this Act, no limit of exposure to ionising radiation may be fixed by a regulation or condition made or imposed under this Act in relation to an operation for mining or mineral processing that is more stringent than the most stringent of all the limits, or less stringent than the least stringent of all the limits, for  
20 the time being fixed in relation to such operations in the codes, standards and recommendations applied, approved or published under the *Australian Radiation Protection and Nuclear Safety Act 1998* of the Commonwealth or any other Act or law of the Commonwealth or by the National Health and Medical Research Council, the International Commission on Radiological Protection or the International Atomic Energy Agency.

### 26—Operations for enrichment or conversion of uranium not to be carried on until proper controls imposed

- 25 (1) A person must not carry on an operation for the conversion or enrichment of uranium.  
Maximum penalty:
- (a) in the case of a body corporate—\$1 000 000; or
  - 30 (b) in the case of a natural person—\$200 000 or imprisonment for 20 years.
- (2) This section will expire on a date to be fixed by proclamation.
- (3) A proclamation must not be made for the purposes of subsection (2) unless the Governor is satisfied that proper provision has been made for the control of operations for the conversion or enrichment of uranium.

### 35 27—Licence to use or handle radioactive materials

- (1) A natural person must not use or handle a radioactive material unless that use or handling is authorised by a licence granted by the Minister under this section.  
Maximum penalty: \$50 000.
- (2) Subsection (1) does not apply to a person or substance of a prescribed class.

**Radiation Protection and Control Bill 2014**

Part 3—Radiation protection and control

Division 1—radioactive materials

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- (3) The Minister must not grant a licence under this section unless satisfied that the applicant has appropriate knowledge of the principles and practices of radiation protection to carry on the activities proposed to be carried on by the applicant in pursuance of the licence.

**28—Offence for owner to cause, suffer or permit unlicensed person to use or handle radioactive materials**

If the owner of a radioactive material causes, suffers or permits the radioactive material to be used or handled by a person who is required to hold, but does not hold, a licence under section 27 to use or handle the radioactive material, the owner is guilty of an offence.

Maximum penalty:

- (a) in the case of a body corporate—\$250 000; or  
(b) in the case of a natural person—\$50 000.

**29—Registration of premises in which unsealed radioactive materials are handled or kept**

- (1) Premises in which an unsealed radioactive material is kept or handled must be registered by the Minister under this section in the name of the occupier of the premises.
- (2) If premises are not registered as required by subsection (1), the occupier of the premises is guilty of an offence.

Maximum penalty:

- (a) in the case of a body corporate—\$250 000; or  
(b) in the case of a natural person—\$50 000.

- (3) Subsection (1) does not apply to premises or a substance of a prescribed class.
- (4) The Minister must not register premises under this section unless satisfied that the premises comply with the regulations.

**30—Facilities licence**

- (1) A person must not prepare a site for, or construct, establish, control, operate, manage, decommission, dispose of or abandon, a radiation facility unless authorised to do so by a licence granted by the Minister under this section.

Maximum penalty:

- (a) in the case of a body corporate—\$500 000; or  
(b) in the case of a natural person—\$100 000 or imprisonment for 10 years.

- (2) Subsection (1) does not apply to a person of a prescribed class.

- (3) The Minister must not grant a licence under this section unless satisfied—
- (a) that the applicant has appropriate knowledge of the principles and practices of radiation protection to undertake the role or to carry out the activities related to the licence; and
- (b) that the facility and any relevant operations comply, or will comply, with the regulations.

- (4) A licence under this section must specify the facility and operations to which it applies.

### 31—Registration of sealed radioactive source

- 5 (1) A sealed radioactive source must be registered by the Minister under this section in the name of the owner of the source.
- (2) If a sealed radioactive source is not registered as required by subsection (1), the owner of the source is guilty of an offence.

Maximum penalty:

- 10 (a) in the case of a body corporate—\$250 000; or  
(b) in the case of a natural person—\$50 000.

- (3) Subsection (1) does not apply to a sealed radioactive source of a prescribed class.
- (4) The Minister must not register a sealed radioactive source under this section unless satisfied that the source has been constructed, contained, shielded and installed in accordance with the regulations.
- 15 (5) If the Minister refuses to register a sealed radioactive source under this section, the Minister may, by notice in writing, forfeit the source to the Crown, in which case, the source may be seized by an authorised officer and disposed of in such manner as the Minister directs.

### 32—Protection of security enhanced radioactive source

- 20 (1) If the Minister has reason to believe that a person may pose a threat to the security of a security enhanced radioactive source by reason of the person having failed to pass a security background check—

- (a) the Minister must, as soon as practicable, give the person a direction that the person must not—

- 25 (i) obtain or access, or attempt to obtain or access, a security enhanced radioactive source; or  
(ii) deal in any way with a security enhanced radioactive source; and

- (b) the Minister may give the person a direction placing such other restrictions on the person's activities involving security enhanced radioactive sources as the  
30 Minister considers necessary to maintain the security of such sources.

- (2) Directions under subsection (1) must be given by notice in writing served on the person to whom they are directed.

- (3) A person must not contravene a direction given to the person under this section.

Maximum penalty: \$50 000 or imprisonment for 10 years.

### 33—Offence to abandon radiation source

A person must not, without reasonable excuse, abandon a radiation source.

Maximum penalty:

- 35 (a) in the case of a body corporate—\$500 000; or  
(b) in the case of a natural person—\$100 000.

**Division 2—Radiation apparatus****34—Licences to operate radiation apparatus**

(1) A natural person must not operate—

(a) ionising radiation apparatus; or

(b) non-ionising radiation apparatus of a prescribed class,

unless the person holds a licence granted by the Minister under this section.

Maximum penalty: \$50 000.

(2) Subsection (1)(a) does not apply to a person or apparatus of a prescribed class.

(3) The Minister must not grant a licence under this section unless satisfied that the applicant has appropriate knowledge of the principles and practices of radiation protection to carry on the operations proposed to be carried on by the applicant in pursuance of the licence.

**35—Registration of radiation apparatus**

(1) The following radiation apparatus must be registered by the Minister under this section in the name of the owner of the apparatus:

(a) ionising radiation apparatus;

(b) non-ionising radiation apparatus of a prescribed class.

(2) If radiation apparatus is not registered as required by subsection (1), the owner of the apparatus is guilty of an offence.

Maximum penalty:

(a) in the case of a body corporate—\$250 000; or

(b) in the case of a natural person—\$50 000.

(3) Subsection (1)(a) does not apply to apparatus of a prescribed class.

(4) The Minister must not register radiation apparatus unless satisfied that the apparatus has been constructed, shielded and installed in accordance with the regulations.

(5) If the Minister refuses to register radiation apparatus under this section, the Minister may, by notice in writing, forfeit the apparatus to the Crown, in which case, the apparatus may be seized by an authorised officer and disposed of in such manner as the Minister directs.

**36—Offence for owner to cause, suffer or permit unlicensed person to operate radiation apparatus**

If the owner of a radiation apparatus causes, suffers or permits the radiation apparatus to be operated by a person who is required to hold, but does not hold, a licence under section 34 to operate the radiation apparatus, the owner is guilty of an offence.

Maximum penalty:

(a) in the case of a body corporate—\$250 000; or

(b) in the case of a natural person—\$50 000.

## **Division 3—Licence to possess a radiation source**

### **37—Licence to possess a radiation source**

- (1) A person must not be in possession of—
- (a) an ionising radiation source; or
  - (b) non-ionising radiation source of a prescribed class,
- unless authorised by a licence granted by the Minister under this section.

Maximum penalty:

- (a) in the case of a body corporate—\$500 000;
  - (b) in the case of a natural person—\$100 000.
- (2) Subsection (1) does not apply—
- (a) in prescribed circumstances; or
  - (b) to or in relation to a person or thing of a prescribed class.
- (3) The Minister must not grant a licence under this section unless satisfied—
- (a) that the applicant has appropriate knowledge of the principles and practices of radiation protection to have possession of the radiation source in the circumstances to which the licence is to relate; and
  - (b) that any requirement prescribed by the regulations is complied with or satisfied.

## **Division 4—Accreditation of third party service providers**

### **38—Accreditation process**

- (1) The Minister must not grant an accreditation unless satisfied—
- (a) that the applicant has appropriate skills, qualifications, knowledge or experience to properly carry out the activities authorised by the accreditation; and
  - (b) that the applicant satisfies any other requirements for accreditation prescribed by the regulations.
- (2) The Minister may establish various classes of accreditation for the purposes of this Act.
- (3) In addition, an accreditation may, according to its terms, be limited as to the matters to be covered by the accreditation.

### **39—Authority conferred by accreditation**

Accreditation authorises the person named in the accreditation—

- (a) to conduct tests on radiation sources;
- (b) to undertake activities to assess compliance with this Act or any requirements prescribed by the regulations;

**Radiation Protection and Control Bill 2014**

Part 3—Radiation protection and control

Division 4—Accreditation of third party service providers

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- (c) to issue certificates of compliance or certificates of competency in relation to matters regulated under this Act;
- (d) to conduct courses of training leading to qualifications to hold a licence or registration under this Act;
- 5 (e) to carry out other activities determined or approved by the Minister, subject to, and in accordance with, the terms and conditions of the accreditation.

**40—Reliance on professional advice**

The Minister may, in the exercise of a function under this Act, rely on a certificate issued by a person who holds an accreditation under this Division.

**41—Offences**

- 10 (1) A person who is not an accredited person under this Division must not hold himself or herself out as, or pretend to be, the holder of an accreditation under this Division.

Maximum penalty: \$20 000.

- 15 (2) A person must not alter or permit to be altered any information or statement in a certificate issued by an accredited person for the purposes of this Act unless—

(a) the alteration is authorised in writing by the accredited person who issued the certificate; or

(b) the alteration is made in prescribed circumstances.

Maximum penalty: \$20 000.

- 20 (3) A person must not, in issuing a certificate of compliance or a certificate of competency for the purposes of this Act, make or cause to be made a statement that is false or misleading in a material particular.

Maximum penalty: \$20 000.

**Division 5—Financial assurances****42—Minister may require financial assurance to secure compliance with conditions of authority**

- 25 (1) Subject to this section, the Minister may impose a condition on an authority requiring the holder of the authority to lodge with the Minister a financial assurance in the form of a bond (supported by a bank guarantee or other security approved by the Minister),  
30 the discharge of which is conditional on specified conditions of the authority being complied with.

- (2) The Minister must not impose a condition on an authority requiring the lodgment of a financial assurance unless satisfied that the condition is justified in view of the nature of the authority and the degree of harm to the environment or to the health or safety of  
35 people that could result if the conditions of the authority for which the financial assurance are to be required are not complied with.

- (3) The amount of a bond that the Minister may require as a financial assurance must not exceed an amount that, in the opinion of the Minister, represents the total of the likely  
40 costs and expenses that might be incurred by a person in complying with the conditions of the authority for which the financial assurance is required.

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- (4) Despite any other provision of this Act, if an applicant for the issue of an authority is not willing to accept an authority subject to a condition requiring the lodgment of a financial assurance, the Minister may refuse to issue an authority to the applicant.
- (5) If the conditions of an authority for which a financial assurance has been required  
5 under this section are not complied with—
- (a) the Minister may determine that the whole or part of the amount of the bond is forfeited to the Crown; and
- (b) the Minister may apply an amount so forfeited in payment for or towards any  
10 costs, expenses, loss or damage that may be incurred or suffered by the Crown as a result of the conditions of the authority not being complied with.

## **Division 6—General provisions with respect to accreditations and authorities**

### **43—Application for an accreditation or authority**

- (1) An application for an accreditation or authority must—
- 15 (a) be made in a manner and form approved by the Minister; and
- (b) be signed by the applicant and completed in accordance with the instructions contained in the form; and
- (c) be accompanied by the prescribed fee; and
- (d) be lodged with the Minister.
- 20 (2) The Minister may, before determining an application for an accreditation or authority, require the applicant—
- (a) to undergo an identity check or a security background check (or both);
- (b) to furnish such further information as the Minister may require to determine the application.
- 25 (3) The Minister must not grant an accreditation or authority unless satisfied that—
- (a) in the case of an applicant who is a natural person—the applicant is a fit and proper person to hold an accreditation or authority of the kind for which application has been made; or
- 30 (b) in the case of an applicant that is a body corporate—every member of the governing body of the body corporate is a fit and proper person to be a member of the governing body of a body corporate that holds an accreditation or authority of a kind for which application has been made.
- (4) The Minister may refuse to grant an accreditation or authority—
- 35 (a) if the applicant has contravened this Act or a prescribed Act, or has held an accreditation, licence, registration or other authority that has been cancelled or suspended under this Act or a prescribed Act; or
- (b) if the applicant is or has been the director of a body corporate that has  
40 contravened this Act or a prescribed Act, or has held an accreditation, licence, registration or other authority that has been cancelled or suspended under this Act or a prescribed Act; or

**Radiation Protection and Control Bill 2014**

Part 3—Radiation protection and control

Division 6—General provisions with respect to accreditations and authorities

(c) if the applicant has failed to pass an identity check or a security background check; or

(d) if prescribed grounds exist for the refusal.

(5) For the purposes of subsection (4), any Act, including a repealed Act or an Act of a place other than this State, may be declared by regulation to be a prescribed Act.

**44—Minister required to refer certain matters to Committee**

The Minister must, before determining an application for a licence under section 23, 24 or 30, refer the application to the Committee for its advice and give due consideration to the advice of the Committee.

**45—Annual fee payable for accreditations and authorities**

(1) A fee of an amount determined in accordance with the regulations is payable in respect of each year of the term of an accreditation or authority.

(2) The fee for the first year of the term of an accreditation or authority must be paid before the grant of the accreditation or authority and the fee for each succeeding year must be paid on or before the anniversary of the date of the grant of the accreditation or authority or, if it has been renewed, the anniversary of the date of its last renewal.

(3) If the holder of an accreditation or authority fails to pay the annual fee for the accreditation or authority in accordance with this section, the Minister may, by written notice, require the holder to make good the default and, in addition, to pay to the Minister the amount prescribed as a penalty for default.

**46—Conditions of accreditations and authorities**

(1) Subject to this section, an accreditation or authority is subject to—

(a) such conditions as are imposed on the licence or the certificate of accreditation or registration at the time of grant; and

(b) such conditions as are imposed on the accreditation or authority under this section.

(2) The Minister may, by notice in writing to the holder of an accreditation or authority—

(a) impose a condition on the accreditation or authority; or

(b) vary or revoke a condition of the accreditation or authority.

(3) A decision of the Minister to impose a condition on, or to vary a condition of, an accreditation or authority takes effect at the expiration of 1 month from the date on which notice is given under subsection (2), but if an application for review of the decision is made the Tribunal may act under section 36(2) and (3) of the *South Australian Civil and Administrative Tribunal Act 2013*.

(4) The holder of an accreditation or authority must not contravene a condition of the accreditation or authority.

Maximum penalty:

(a) in the case of a body corporate—\$500 000;

(b) in the case of a natural person—\$100 000 or imprisonment for 10 years or both.

**47—Term of accreditations and authorities and their renewal**

(1) An accreditation or authority will, subject to this Act, remain in force for such term as the Minister may specify—

(a) in the case of an accreditation or registration—in the certificate of accreditation or registration; or

(b) in the case of a licence—in the licence.

(2) The Minister must, subject to this Act, on application made in a manner and form approved by the Minister and payment of the prescribed fee, renew an accreditation or authority.

(3) An accreditation or authority renewed under this section will, subject to this Act, remain in force for such term (being not less than 12 months) as the Minister may specify—

(a) in the case of an accreditation or registration—in the certificate of accreditation or registration; or

(b) in the case of a licence—in the licence.

(4) In this section—

*prescribed fee* means—

(a) in relation to an accreditation or authority for which an annual fee has been prescribed—the annual fee payable in respect of the year of the term of the licence commencing on the date of its renewal; or

(b) in any other case—the fee prescribed for renewal of the accreditation or authority.

**48—Register of accreditations and authorities**

(1) The Minister must keep a register of accreditations and authorities granted under this Act in a form, and containing the information, required by the regulations.

(2) Subject to subsection (4), the register must be kept available for inspection by any person during ordinary office hours and the register may be made available to the public by electronic means.

(3) Subject to subsection (4), a person may, on payment of the prescribed fee, obtain a copy of any part of the register.

(4) The Minister may restrict access to information included in the register if the Minister considers that it is necessary to do so to avoid a security risk.

**49—Transfer or surrender of accreditations and authorities**

(1) The holder of a registration may, with the approval of the Minister, transfer the registration to another person.

(2) Subject to this section, the holder of an accreditation or authority may surrender the accreditation or authority to the Minister.

(3) A licence under section 23, 24 or 30 may only be surrendered with the approval of the Minister.

**Radiation Protection and Control Bill 2014**

Part 3—Radiation protection and control

Division 6—General provisions with respect to accreditations and authorities

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(4) The Minister may, on application for approval of the surrender of a licence referred to in subsection (3)—

- (a) approve the surrender of the licence; or
- (b) if satisfied that it is necessary in order to protect the health or safety of people or to protect or restore the environment—
  - (i) impose further conditions on the licence; and
  - (ii) approve the surrender of the licence on the holder of the licence satisfying the Minister that the conditions have been fulfilled or that satisfactory arrangements have been made for their fulfilment.

(5) On the surrender of an accreditation or authority, the accreditation or authority ceases to have any force or effect.

(6) An application to the Minister for an approval under this section must be accompanied by the prescribed fee.

**50—Suspension and cancellation of accreditations and authorities**

(1) Proper cause exists for the suspension or cancellation of an accreditation or authority if the Minister is satisfied that—

- (a) the accreditation or authority was improperly obtained; or
- (b) the holder of the accreditation or authority—
  - (i) has contravened, or failed to comply with, a condition of the accreditation or authority; or
  - (ii) has been convicted or found guilty of an offence against this Act or a prescribed Act or law; or
  - (iii) has repeatedly contravened this Act; or
- (c) the holder of the accreditation or authority is for any other reason no longer a fit and proper person to hold the accreditation or authority; or
- (d) in the case of an accreditation, the holder of the accreditation—
  - (i) has ceased to hold a qualification on the basis of which the Minister granted the accreditation; or
  - (ii) has not acted competently or appropriately in undertaking activities under the accreditation; or
- (e) in the case of an authority, the holder of the authority has ceased to hold a qualification on the basis of which the Minister granted the authority; or
- (f) the holder of the accreditation or authority has, on at least 2 occasions, made decisions that have compromised the security of a radiation source; or
- (g) in the case of an accreditation or authority relating to a security enhanced radioactive source, the holder of the accreditation or authority has failed to pass a security background check; or
- (h) events have occurred or circumstances have changed such that the holder of the accreditation or authority would not be entitled to be granted that accreditation or authority if an application were now to be made; or

- (i) the security of a radiation source, the environment, or the health or safety of the public, may be put at risk unless the accreditation or authority is suspended or cancelled.
- 5 (2) Proper cause exists for the suspension or cancellation of a licence to operate radiation apparatus—
- 10 (a) in the case of a licence held by a health practitioner—if the health practitioner's accreditation, licence, registration or other authority under the *Health Practitioner Regulation National Law* or other Act regulating the health practitioner's right to provide health services is suspended or cancelled, or conditions are placed on the health practitioner's accreditation, licence, registration or other authority limiting the health practitioner's right to provide health services; or
- 15 (b) in the case of a person (other than a health practitioner) who operates radiation apparatus in the course of the person's professional practice—if the person's accreditation, licence, registration or other authority under an Act regulating the person's right to practice is suspended or cancelled, or conditions are placed on the person's accreditation, licence, registration or other authority limiting the person's right to practice.
- 20 (3) If proper cause exists for the suspension or cancellation of an accreditation or authority, the Minister may, by written notice given to the holder of the accreditation or authority—
- (a) suspend the accreditation or authority for a specified period or until the Minister terminates the suspension; or
- (b) cancel the accreditation or authority.
- 25 (4) A notice of suspension or cancellation under subsection (3) must specify the time at which the suspension or cancellation will take effect.
- (5) An accreditation or authority that is cancelled under this section ceases to have any force or effect when the cancellation takes effect.
- (6) An accreditation or authority that is suspended under this section has no force or effect
- 30 during the period of the suspension.
- (7) If an accreditation or authority is suspended, it may be renewed but remains subject to suspension until the expiration of the period of suspension.
- (8) If a licence or registration is suspended, the Minister may give such directions in relation to—
- 35 (a) the use or occupation of any premises and the use, handling or storage of the unsealed radioactive material; or
- (b) the operation, use or storage of the sealed radioactive source or radiation apparatus,
- during the period of the suspension as the Minister considers appropriate.
- 40 (9) If a licence or registration is cancelled, the Minister may—
- (a) in relation to any relevant premises, give such directions as the Minister considers appropriate in relation to the use or occupation of the premises and the disposal of the unsealed radioactive material; or

**Radiation Protection and Control Bill 2014**

Part 3—Radiation protection and control

Division 6—General provisions with respect to accreditations and authorities

- (b) in the case of a sealed radioactive source or radiation apparatus—
- (i) give such directions as the Minister considers appropriate in relation to the disposal of the source or apparatus; or
  - (ii) by notice in writing forfeit the source or apparatus to the Crown.

- 5 (10) If pursuant to subsection (9)(b)(ii) the Minister forfeits a sealed radioactive source or radiation apparatus, the source or apparatus may be seized by an authorised officer and disposed of as the Minister directs.
- (11) The person in whose name any premises, sealed radioactive source or radiation apparatus was licensed or registered must not contravene a direction given by the Minister pursuant to subsection (8) or (9).
- 10 Maximum penalty: \$50 000.
- (12) If the Minister suspends or cancels an accreditation or authority under this section, the Minister must advise the Committee of that fact.

**51—Review of decisions**

- 15 (1) A person aggrieved by a reviewable decision may apply to the Tribunal for a review of the decision.
- (2) The following are *reviewable decisions*:
- (a) a decision of the Minister to refuse to grant an accreditation or authority;
  - (b) a decision of the Minister to impose a condition on an accreditation or authority;
  - 20 (c) a decision of the Minister to vary a condition of an accreditation or authority;
  - (d) a decision of the Minister to suspend or cancel an accreditation or authority;
  - (e) a decision of the Minister to give a direction in relation to the suspension or cancellation of an accreditation or authority;
  - 25 (f) a decision of a prescribed class.
- (3) Subject to section 66 of the *South Australian Civil and Administrative Tribunal Act 2013*, the application for review must be made within 1 month after the making of the decision to be reviewed.
- (4) A person who makes a reviewable decision must, if requested in writing by a person affected by the decision, give the person a written statement of the reasons for the decision within 14 days after the request is made.
- 30 (5) If—
- (a) a written statement of the reasons for the decision is not given at the time the decision is made; and
  - 35 (b) a person affected by the decision makes a request for a written statement of the reasons under subsection (4),
- the time for making the application for review runs from the time that the person is given a written statement of the reasons.

**52—Obligation of holders of accreditations and authorities to notify Minister of certain matters**

- (1) The holder of an accreditation or authority must give the Minister notice in accordance with this section if—

- 5           (a) he or she fails a security background check; or  
          (b) prescribed circumstances arise.

Maximum penalty: \$10 000.

- (2) The holder of a licence to operate radiation apparatus or a licence to use or handle a radioactive material must give the Minister notice in accordance with this section if—

- 10           (a) he or she is a health practitioner and his or her accreditation, licence, registration or other authority under the *Health Practitioner Regulation National Law* or other Act or law regulating the health practitioner's right to provide health services is suspended or cancelled, or conditions are placed on the health practitioner's accreditation, licence, registration or other authority  
15           limiting the health practitioner's right to provide health services; or

- (b) he or she is a person (other than a health practitioner) who operates radiation apparatus, or uses or handles a radioactive material, in the course of his or her professional practice and his or her accreditation, licence, registration or other authority under an Act or law regulating the person's right to practice is  
20           suspended or cancelled, or conditions are placed on the person's accreditation, licence, registration or other authority limiting the person's right to practice.

Maximum penalty: \$10 000.

- (3) Notice under this section—

- (a) must be given in a manner and form approved by the Minister; and  
25           (b) must include the information prescribed by the regulations; and  
          (c) must be given within the prescribed period.

**53—Death, bankruptcy etc of holder of authority**

- (1) If a person who holds an authority dies, the personal representative of the deceased, or some other person approved by the Minister on application, will be taken to hold that authority (on the same conditions as were applicable to the deceased) as from the date of the death until the expiration of the prescribed period.

- (2) If a person who holds an authority becomes bankrupt or insolvent, the official receiver will be taken to hold that authority (on the same conditions as were applicable to the person who previously held the authority) as from the date on which the person became bankrupt or insolvent until the expiration of the prescribed period.

- (3) If a body corporate that holds an authority is being wound up or is under administration, receivership or official management, a person vested by law with power to administer the affairs of the body corporate will be taken to hold the authority (on the same conditions as were applicable to the body corporate) as from the date on which the person was appointed to administer the affairs of the body corporate until the expiration of the prescribed period.

**Radiation Protection and Control Bill 2014**

Part 3—Radiation protection and control

Division 6—General provisions with respect to accreditations and authorities

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(4) In this section—

*prescribed period* means—

- (a) a period of 6 months; or
- (b) such longer period as may be fixed by the Minister.

**Division 7—Dangerous situations****54—Powers to deal with dangerous situations**

(1) If the Minister considers that a dangerous or potentially dangerous situation exists involving actual or threatened exposure of a person to excessive radiation or contamination of a person or place by radioactive materials the following provisions apply:

- (a) the person responsible for the danger or potential danger or a person affected by it may be directed to take, or refrain from taking, specified action; or
- (b) the radiation apparatus or radioactive materials giving rise to the danger or potential danger or anything contaminated or affected thereby may be seized, removed, disposed of, treated or otherwise dealt with; or

(c) any other direction may be given, or action taken,  
to avoid, remove or alleviate the danger or potential danger.

(2) If the Minister considers that a dangerous or potentially dangerous situation exists involving actual or threatened exposure of a person to excessive radiation or contamination of a person or place by radioactive materials, a person may be directed to leave the place and not re-enter it until the danger has ceased.

(3) Directions may be given or action taken under subsection (1) or (2) by the Minister or, with the prior approval of the Minister, by an authorised officer, police officer, or other person appointed for the purpose by the Minister.

(4) An authorised officer may exercise the powers conferred by subsection (1) or (2) without the prior approval of the Minister if the officer considers that the danger is imminent.

(5) Directions under this section may be given—

- (a) by notice in the Gazette; or
- (b) by notice in writing served on the person to whom they are directed; or
- (c) in the circumstances of imminent danger, orally.

(6) If a person—

- (a) hinders or obstructs a person exercising a power, or complying with a direction, under this section; or
- (b) contravenes, or fails to comply with, a direction given under this section,

that person is guilty of an offence.

Maximum penalty: \$50 000 or imprisonment for 5 years or both.

(7) If a person fails to comply with a direction given under this section, the Minister may take action, or cause action to be taken, to avoid, remove or alleviate the danger or potential danger.

(8) If—

- 5           (a) costs or expenses are incurred by the Minister in taking action, or causing action to be taken, under this section; and
- (b) the danger or potential danger in respect of which the action was taken resulted from an act done, or omission made, by a person in contravention of this Act,

10           the Minister may recover those costs or expenses from that person by order of the court made in proceedings for the recovery of a penalty in respect of the act or omission, or by separate action in a court of competent jurisdiction.

## Part 4—General offences

### 55—Causing serious radiation risk

15           (1) A person who causes a serious radiation risk intentionally or recklessly and with the knowledge that harm to the health or safety of a person or harm to the environment will or might result is guilty of an offence.

Maximum penalty:

- (a) in the case of a body corporate—\$5 000 000.
- 20           (b) in the case of a natural person—\$1 000 000 or 15 years imprisonment or both.

(2) A person who causes a serious radiation risk is guilty of an offence.

Maximum penalty:

- (a) in the case of a body corporate—\$2 500 000.
- (b) in the case of a natural person—\$500 000 or 10 years imprisonment or both.

25           (3) If in proceedings for an offence against subsection (1) the court is not satisfied that the defendant is guilty of the offence charged but is satisfied that the defendant is guilty of an offence against subsection (2), the court may find the defendant guilty of the latter offence.

30           (4) For the purposes of this section, a person *causes a serious radiation risk* if the person commits an act involving a radiation source that harms, or has the potential to harm, presently or in the future, the health or safety of a person or the environment, and the harm or potential harm is of a high impact or on a wide scale.

### 56—Causing radiation risk

35           (1) A person who causes a radiation risk intentionally or recklessly and with the knowledge that harm to the health or safety of a person or harm to the environment will or might result is guilty of an offence.

Maximum penalty:

- (a) in the case of a body corporate—\$1 000 000.
- (b) in the case of a natural person—\$200 000 or 5 years imprisonment or both.

(2) A person who causes a radiation risk is guilty of an offence.

Maximum penalty:

(a) in the case of a body corporate—\$500 000.

(b) in the case of a natural person—\$100 000 or 2 years imprisonment or both.

5 (3) If in proceedings for an offence against subsection (1) the court is not satisfied that the defendant is guilty of the offence charged but is satisfied that the defendant is guilty of an offence against subsection (2), the court may find the defendant guilty of the latter offence.

10 (4) For the purposes of this section, a person *causes a radiation risk* if the person commits an act involving a radiation source that harms, or has the potential to harm, presently or in the future, the health or safety of a person or the environment, and the harm or potential harm is not trivial but is not of a high impact or on a wide scale.

### 57—Alternate finding

15 If in proceedings for an offence against section 55, the court is not satisfied that the defendant is guilty of the offence charged but is satisfied that the defendant is guilty of an offence against section 56, the court may find the defendant guilty of the latter offence.

## Part 5—General duty of care

### 58—General duty of care

20 (1) A person must, in dealing with a radiation source, take all reasonable and practicable measures to ensure that—

(a) the exposure of people and the environment to ionising radiation from a radiation source is kept as low as is reasonably achievable; and

25 (b) the exposure of people and the environment to dangerous or potentially dangerous radiation from a radiation source is minimised; and

(c) any security enhanced radioactive source is protected from misuse that may result in harm to people or the environment.

30 (2) A person must, in complying with the duty created by subsection (1), have regard to the radiation protection principle and the principles of ecologically sustainable development.

(3) A person who breaches the duty created by subsection (1) is not, on account of the breach alone, guilty of an offence but—

(a) compliance with the duty may be enforced by the issuing of a protection order under Part 6; and

35 (b) a reparation order or reparation authorisation may be issued under that Part in respect of the breach of the duty.

## **Part 6—Civil remedies**

### **Division 1—Orders issued by Minister**

#### **59—Protection orders**

- 5 (1) The Minister may issue a protection order for the purpose of securing compliance with—
- (a) the general duty of care; or
  - (b) a condition of an accreditation or authority; or
  - (c) any other requirement imposed by or under this Act.
- (2) A protection order—
- 10 (a) must be in the form of a written notice served on the person to whom the notice is issued; and
- (b) must specify the person to whom it is issued (whether by name or description sufficient to identify the person); and
- (c) must specify the purpose for which the order is issued; and
- 15 (d) may impose any requirement reasonably required for the purpose for which the order is issued, including either or both of the following:
- (i) a requirement that a person discontinue, or not commence, a specified activity indefinitely or for a specified time or until further notice by the Minister;
  - 20 (ii) a requirement that a person take specified action within a specified period; and
- (e) must state that the person may, within 14 days, appeal to the ERD Court against the order.
- (3) Without limiting the generality of subsection (2), a protection order may impose any
- 25 requirement reasonably required for the purpose for which the order is issued including 1 or more of the following:
- (a) that a person discontinue, or not commence, a specified activity indefinitely or for a specified period or until further notice from the Minister;
  - (b) that a person not carry on a specified activity except at specified times or
  - 30 subject to specified conditions;
  - (c) that a person take specified action within a specified period or at specified times or in specified circumstances;
  - (d) that a person undertake specified tests or monitoring; or
  - (e) that a person furnish to the Minister specified test, monitoring or compliance
  - 35 reports;
  - (f) that a person appoint or engage a person with specified qualifications to prepare a plan or report or undertake tests or monitoring required by the order.

**Radiation Protection and Control Bill 2014**

## Part 6—Civil remedies

Division 1—Orders issued by Minister

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- (4) An authorised officer may, if of the opinion that urgent action is required under this section, issue an emergency protection order imposing requirements of a kind referred to in subsection (2)(d) as reasonably required for the purpose for which the order is issued.
- 5 (5) An emergency protection order may be issued orally, but, in that event, the person to whom the order is issued must be informed immediately of the person's right to appeal to the ERD Court against the order.
- (6) If an emergency protection order is issued, the order will cease to have effect on the expiration of 72 hours from the time of its issuing unless confirmed by a written protection order issued by the Minister and served on the person.
- 10 (7) The Minister may, by written notice served on a person to whom a protection order has been issued, vary or revoke the order.
- (8) A person to whom a protection order is issued must comply with the order.  
Maximum penalty: \$100 000.
- 15 (9) A person must not hinder or obstruct a person complying with a protection order.  
Maximum penalty: \$100 000.

**60—Action on non-compliance with protection order**

- (1) If the requirements of a protection order are not complied with, the Minister may take any action required by the order.
- 20 (2) Action may be taken on the Minister's behalf by an authorised officer or another person authorised by the Minister for the purpose.
- (3) A person taking action under this section may enter any relevant premises or vehicle at any reasonable time.
- (4) The reasonable costs and expenses incurred by the Minister in taking action under this section may be recovered by the Minister as a debt from the person who failed to comply with the requirements of the protection order.
- 25 (5) If an amount is recoverable from a person by the Minister under this section—
- (a) the Minister may, by written notice to the person, fix a period, being not less than 28 days from the date of the notice, within which the amount must be paid by the person and, if the amount is not paid by the person within that period, the person is liable to pay interest charged at the prescribed rate per annum on the amount unpaid; and
- 30 (b) the amount together with any interest charge so payable is, until paid, a charge in favour of the Minister on any land owned by the person in relation to which the protection order is registered under this Part.
- 35

**61—Reparation orders**

- (1) If the Minister is satisfied that a person has caused harm to people or the environment by—
- (a) a breach of the general duty of care; or
- 40 (b) a contravention of a condition of an accreditation or authority; or
- (c) a contravention of this Act,

the Minister may issue a reparation order requiring the person—

- (d) to take specified action within a specified period to make good any resulting damage to people or the environment; or
- (e) to make a payment or payments into an approved account to enable action to be taken to address any harm to people or the environment,

or both.

(2) A reparation order—

- (a) must be in the form of a written notice served on the person to whom it is issued; and
- (b) must specify the person to whom it is issued (whether by name or a description sufficient to identify the person); and
- (c) must state the grounds on which it is made with reasonable particularity; and
- (d) may include requirements for action to be taken to prevent or mitigate further harm to people or the environment, or for a plan of action to be prepared to the satisfaction of the Minister; and
- (e) may include requirements for specified tests or monitoring; and
- (f) may include requirements for providing to the Minister specified results or reports; and
- (g) may include requirements that the person to whom it is issued appoint or engage a person with specified qualifications to prepare a plan or report or to undertake tests or monitoring required by the order; and
- (h) in the case of an order requiring payment into an approved account, may provide that payments must occur in accordance with a scheme specified by the Minister (either at the time of the making of the order or at a later time when the extent or impact of any action has been assessed or finally determined); and
- (i) must state that the person may, within 14 days, appeal to the ERD Court against the order.

(3) An authorised officer may, if of the opinion that urgent action is required to prevent or mitigate further harm, issue an emergency reparation order containing requirements of a kind referred to in subsection (2), other than a requirement for payment into an approved account.

(4) An emergency reparation order may be issued orally but, in that event, the person to whom it is issued must be advised immediately of the person's right to appeal to the ERD Court against the order.

(5) If an emergency reparation order is issued orally, the authorised officer who issued it must confirm it in writing at the earliest opportunity (and in any event within 2 business days) by written notice given to the person to whom it applies.

(6) If an emergency reparation order is issued, the order will cease to have effect on the expiration of 72 hours from the time of its issuing unless confirmed by a written reparation order issued by the Minister and served on the relevant person.

**Radiation Protection and Control Bill 2014**

Part 6—Civil remedies

Division 1—Orders issued by Minister

- 5 (7) The Minister or an authorised officer may, if of the opinion that it is reasonably necessary to do so in the circumstances, include in an emergency or other reparation order a requirement for an act or omission that might otherwise constitute a contravention of this Act and, in that event, a person incurs no criminal liability under this Act for compliance with the requirement.
- (8) The Minister may, by written notice served on a person to whom a reparation order has been issued, vary or revoke the order.
- (9) A person to whom a reparation order is issued must comply with the order.  
Maximum penalty: \$100 000.

**62—Action on non-compliance with reparation order**

- 15 (1) If the requirements of a reparation order are not complied with, the Minister may take any action required by the order.
- (2) Action taken by the Minister under subsection (1) may be taken on the Minister's behalf by an authorised officer or another person authorised by the Minister for the purpose.
- (3) A person taking action under this section may enter any relevant premises or vehicle at any reasonable time.
- 20 (4) The reasonable costs and expenses incurred by the Minister in taking action under this section may be recovered by the Minister as a debt from the person who failed to comply with the requirements of the reparation order.
- (5) If an amount is recoverable from a person by the Minister under this section—
- 25 (a) the Minister may, by written notice to the person, fix a period, being not less than 28 days from the date of the notice, within which the amount must be paid by the person and, if the amount is not paid by the person within that period, the person is liable to pay interest charged at the prescribed rate per annum on the amount unpaid; and
- (b) the amount together with any interest charge so payable is until paid a charge in favour of the Minister on any land owned by the person in relation to which the reparation order is registered under this Division.

**63—Reparation authorisations**

- 30 (1) If the Minister is satisfied that a person has caused harm to people or the environment by—
- 35 (a) a breach of the general duty of care; or
- (b) a contravention of a condition of an accreditation or authority; or
- (c) a contravention of this Act,
- the Minister may (whether or not a reparation order has been issued to the person) issue a reparation authorisation under which authorised officers or other persons authorised by the Minister for the purpose may take specified action on the Minister's behalf to make good any harm to people or the environment.
- 40 (2) A reparation authorisation—
- (a) must be in the form of a written notice; and

- 
- (b) must specify the person alleged to have caused the harm (whether by name or a description sufficient to identify the person); and
- (c) must state the grounds on which it is made with reasonable particularity; and
- 5 (d) may include authorisation for action to be taken to prevent or mitigate further harm to people or the environment.
- (3) The Minister must, as soon as practicable after issuing a reparation authorisation, serve a copy of the authorisation on the person alleged to have caused the harm.
- (4) The Minister may, by written notice, vary or revoke a reparation authorisation and must, as soon as practicable after doing so, serve a copy of the notice on the person  
10 alleged to have caused the harm.
- (5) If a person other than an authorised officer is authorised to take action under subsection (1), the following provisions apply:
- (a) the Minister must issue the person with an instrument of authority;
- 15 (b) the person may exercise such powers of an authorised officer as are reasonably required for the purpose of taking action under that subsection;
- (c) the provisions of this Act apply in relation to the exercise of such powers by the person in the same way as in relation to an authorised officer;
- (d) the person must produce the instrument of authority for the inspection of any  
20 person in relation to whom the person intends to exercise powers of an authorised officer.
- (6) A person taking action under a reparation authorisation may enter any relevant premises or vehicle at any reasonable time.
- (7) The reasonable costs and expenses incurred by the Minister in taking action under a reparation authorisation may be recovered by the Minister as a debt from the person  
25 who caused the relevant harm.
- (8) If an amount is recoverable from a person by the Minister under this section—
- (a) the Minister may, by written notice to the person, fix a period, being not less than 28 days from the date of the notice, within which the amount must be  
30 paid by the person and, if the amount is not paid by the person within that period, the person is liable to pay interest charged at the prescribed rate per annum on the amount unpaid; and
- (b) the amount together with any interest charge so payable is until paid a charge in favour of the Minister on any land owned by the person in relation to which the reparation authorisation is registered under this Part.

#### 35 **64—Related matter**

A person cannot claim compensation from—

- (a) the Minister or the Crown; or
- (b) an authorised officer; or
- (c) a person acting under the authority of the Minister or an authorised officer,

in respect of a requirement imposed under this Part or on account of any act or omission undertaken or made in the exercise (or purported exercise) of a power under this Part.

### **65—Registration of orders or authorisations by Registrar-General**

- 5 (1) If—
- (a) the Minister issues an order or authorisation under this Part; and
  - (b) the order or authorisation is issued in relation to an activity carried out on land, or requires a person to take action on or in relation to land,
- 10 the Minister may apply to the Registrar-General for the registration of the order or authorisation in relation to that land.
- (2) An application under this section must—
- (a) define the land to which it relates; and
  - (b) comply with any requirement imposed by the Registrar-General for the purposes of this section.
- 15 (3) The Registrar-General must—
- (a) on due application under subsection (2); and
  - (b) on lodgement of a copy of the relevant order or authorisation,
- 20 register the order or authorisation in relation to the land by making such entries in any register book, memorial or other book or record in the Lands Titles Registration Office or in the General Registry Office as the Registrar-General thinks fit.
- (4) An order or authorisation registered under this section is binding on each owner and occupier from time to time of the land.
- (5) The Registrar-General must, on application by the Minister, cancel the registration of an order or authorisation in relation to land and make such endorsements to that effect in the appropriate register book, memorial or other book or record in respect of the land as the Registrar-General thinks fit.
- 25 (6) The Minister may, if the Minister thinks fit, apply to the Registrar-General for cancellation of the registration of an order or authorisation under this section in relation to land, and must do so—
- (a) on revocation of the order or authorisation; or
  - (b) in respect of—
    - (i) an order—
      - (A) on full compliance with the requirements of the order;
      - (B) if the Minister has taken action under this Part to carry out the requirements of the order—on payment to the Minister of any amount recoverable by the Minister in relation to the action so taken; or
    - (ii) an authorisation—on payment to the Minister of any amount recoverable by the Minister under this Part in relation to the action taken in pursuance of the authorisation.
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**66—Effect of charge**

A charge imposed on land under this Part has priority over—

- (a) any prior charge on the land (whether or not registered) that operates in favour of a person who is an associate of the owner of the land; and
- (b) any other charge on the land other than a charge registered prior to registration under this Division of the relevant order or authorisation in relation to the land.

**Division 2—Orders made by ERD Court****67—Orders made by ERD Court**

(1) Applications may be made to the ERD Court for 1 or more of the following orders:

- (a) if a person has engaged, is engaging or is proposing to engage in conduct in contravention of this Act—an order restraining the person, or an associate of the person, from engaging in the conduct and, if the Court considers it appropriate to do so, requiring the person, or an associate of the person, to take such action as may appear appropriate to the Court in the circumstances (including an order to rectify the consequences of any contravention, or to ensure that a further contravention does not occur);
- (b) if a person has refused or failed, is refusing or failing or is proposing to refuse or fail to take any action required by this Act—an order requiring the person to take that action;
- (c) if a person has suffered injury, illness, loss (including economic loss or loss of property) or damage to property as a result of a contravention of this Act, or incurred costs and expenses in taking action to prevent or mitigate such injury, illness, loss or damage—an order against the person who committed the contravention for payment of compensation for the injury, illness, loss or damage, or for payment of the reasonable costs and expenses incurred in taking that action;
- (d) if the Court considers it appropriate to do so—an order against a person who has contravened this Act for payment (for the credit of the Consolidated Account) of an amount in the nature of exemplary damages determined by the Court.

(2) The power of the ERD Court to make an order restraining a person from engaging in conduct of a particular kind may be exercised—

- (a) if the Court is satisfied that the person has engaged in conduct of that kind—whether or not it appears to the Court that the person intends to engage again, or to continue to engage, in conduct of that kind; or
- (b) if it appears to the Court that, in the event that an order is not made, it is likely that the person will engage in conduct of that kind—whether or not the person has previously engaged in conduct of that kind and whether or not there is an imminent danger of damage if the person engages in conduct of that kind.

(3) The power conferred by subsection (1) may only be exercised by a Judge of the ERD Court.

**Radiation Protection and Control Bill 2014**

Part 6—Civil remedies

Division 2—Orders made by ERD Court

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- (4) In assessing an amount to be ordered in the nature of exemplary damages, the ERD Court must have regard to—
- (a) any harm to people or the environment or detriment to the public interest resulting from the contravention; and
  - 5 (b) any financial saving or other benefit that the respondent, or an associate of the respondent, stood to gain by committing the contravention; and
  - (c) any other matter it considers relevant.
- (5) An application under this section may be made by—
- (a) the Minister; or
  - 10 (b) any person whose interests are affected by the subject matter of the application; or
  - (c) by any other person with the permission of the ERD Court.
- (6) If an application is made by a person other than the Minister—
- 15 (a) the applicant must serve a copy of the application on the Minister within 3 days after filing the application with the ERD Court; and
  - (b) the ERD Court must, on application by the Minister, join the Minister as a party to the proceedings.
- (7) An application under this section may be made in a representative capacity (but, if so, the consent of all persons on whose behalf the application is made must be obtained).
- 20 (8) An application may be made in the absence of the respondent, (or an associate of the respondent), and, if the ERD Court is satisfied on the application that the respondent has a case to answer, it may grant permission to the applicant to serve a summons requiring the respondent to appear before the Court to show cause why an order should not be made under this section.
- 25 (9) An application under this section must, in the first instance, be referred to a conference under section 16 of the *Environment, Resources and Development Court Act 1993*.
- 30 (10) If, on an application under this section or before the determination of the proceedings commenced by the application, the ERD Court is satisfied that, in order to preserve the rights or interests of parties to the proceedings or for any other reason, it is desirable to make an interim order under this section, the Court may make such an order.
- (11) An interim order—
- 35 (a) may be made in the absence of the respondent or any other party; and
  - (b) may be made whether or not the proceedings have been referred to a conference; and
  - (c) will be made subject to such conditions as the Court thinks fit; and
  - (d) will not operate after the proceedings in which it is made are finally determined.

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- (12) The ERD Court may order an applicant in proceedings under this section—
- (a) to provide security for the payment of costs that may be awarded against the applicant if the application is subsequently dismissed;
  - (b) to give an undertaking as to the payment of any amount that may be awarded against the applicant under subsection (13).
- (13) If, on an application under this section alleging a contravention of this Act, the ERD Court is satisfied—
- (a) that the respondent has not contravened this Act; and
  - (b) that the respondent has suffered loss or damage as a result of the actions of the applicant; and
  - (c) that in the circumstances it is appropriate to make an order under this provision,
- the Court may, on the application of the respondent (and in addition to any order as to costs), require the applicant to pay to the respondent an amount, determined by the Court, to compensate the respondent for the loss or damage suffered by the respondent.
- (14) The ERD Court may, if it considers it appropriate to do so, either on its own initiative or on the application of a party, vary or revoke an order previously made under this section.
- (15) Proceedings under this section based on a contravention of this Act may be commenced at any time within 3 years after the date of the alleged contravention or, with the authorisation of the Attorney-General, at any later time within 10 years after the date of the alleged contravention.
- (16) An apparently genuine document purporting to be under the hand of the Attorney-General and to authorise the commencement of proceedings under this section must be accepted in any legal proceedings, in the absence of proof to the contrary, as proof of the authorisation.
- (17) The ERD Court may, in any proceedings under this section, make such orders in relation to the costs of the proceedings as it thinks just and reasonable.
- (18) Without limiting the generality of subsection (17), in determining whether to make any order in relation to costs the ERD Court may have regard to the following matters (so far as they are relevant):
- (a) whether the applicant is pursuing a personal interest only in bringing the proceedings or is furthering a wider group interest or the public interest;
  - (b) whether or not the proceedings raise significant issues relating to the administration of this Act.

## **Part 7—Miscellaneous**

### **68—Adoption of documents forming part of National Directory**

- (1) The Minister may, by notice in the Gazette—
- (a) adopt a document (such as a standard, guidance note or code of practice) forming part of the National Directory; or

(b) vary or revoke an adoption under paragraph (a).

- (2) The Minister must cause a document adopted under this section to be kept available for inspection by any person without fee during ordinary office hours at an office specified in the notice adopting the document.

## 69—Confidentiality

- (1) A person engaged or formerly engaged in the administration of this Act or the repealed Act must not divulge or communicate personal information, financial information or information relating to trade processes, being information obtained (whether by that person or otherwise) in the course of official duties except—

- (a) as required or authorised by or under this Act or any other Act or law; or
- (b) with the consent of the person to whom the information relates or from whom the information was obtained; or
- (c) in connection with the administration or enforcement of this Act; or
- (d) for the purposes of legal proceedings arising out of the administration or enforcement of this Act; or
- (e) to an authority responsible under the law of a place outside this State, where the information is required for the proper administration or enforcement of that law; or
- (f) to an agency or instrumentality of this State, the Commonwealth or another State or a Territory of the Commonwealth for the purposes of the proper performance of its functions.

Maximum penalty: \$20 000.

- (2) Subsection (1) does not prevent disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates.
- (3) Information that has been disclosed under subsection (1) for a particular purpose must not be used for any other purpose by—
- (a) the person to whom the information was disclosed; or
- (b) any other person who gains access to the information (whether properly or improperly and whether directly or indirectly) as a result of that disclosure.

Maximum penalty: \$20 000.

## 70—Exemptions

- (1) Subject to this section, the Minister may, by notice in the Gazette, exempt—
- (a) a specified person or persons of a specified class; or
- (b) a specified radiation source or a radiation source of a specified class; or
- (c) specified premises or premises of a specified class,
- from compliance with specified provisions of this Act.
- (2) An exemption granted under this section has effect for a period, and is subject to conditions, specified by the Minister in the notice.

- (3) The Minister must not grant an exemption from compliance with a provision of this Act unless satisfied that, if the exemption were granted subject to appropriate conditions, the activity subject to the exemption would not endanger the health or safety of any person or endanger the environment.
- 5 (4) The Minister may, by notice in the Gazette, vary or revoke a condition of an exemption or impose a further condition.
- (5) The Minister may, after due inquiry and for good cause, by notice in the Gazette, revoke an exemption under this section.
- 10 (6) A person who has the benefit of an exemption under this section and who contravenes a condition of the exemption is guilty of an offence.

Maximum penalty:

- (a) if contravention of the provision in relation to which an exemption was granted is a minor indictable offence—
- 15 (i) in the case of a body corporate—\$250 000;
- (ii) in the case of a natural person—\$50 000 or imprisonment for 5 years or both;
- (b) in any other case—
- (i) in the case of a body corporate—\$100 000;
- (ii) in the case of a natural person—\$20 000.

## 20 **71—Offences and ERD Court**

Offences constituted by this Act (other than major indictable offences) lie within the criminal jurisdiction of the ERD Court.

## **72—Constitution of Environment, Resources and Development Court**

25 The following provisions apply in respect of the constitution of the ERD Court when exercising jurisdiction under this Act:

- (a) the Court may be constituted in a manner provided by the *Environment, Resources and Development Court Act 1993* or may, if the Presiding Member of the Court so determines, be constituted of a Judge and 1 commissioner;
- 30 (b) the provisions of the *Environment, Resources and Development Court Act 1993* apply in relation to the Court constituted of a Judge and 1 commissioner in the same way as in relation to a full bench of the Court;
- (c) the Court may not be constituted of or include a commissioner unless—
- (i) in a case where only 1 commissioner is to sit (whether alone or with another member or members of the Court)—the commissioner; or
- 35 (ii) in any other case—at least 1 commissioner,

is a commissioner who has been specifically designated by the Governor as a person who has expertise in fields that are relevant to the jurisdiction conferred on the Court by this Act.

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**73—Commencement of prosecutions**

- (1) Proceedings for an offence against this Act must be commenced—
- (a) in the case of an expiable offence—within the time limits prescribed for expiable offences by the *Summary Procedure Act 1921*;
  - (b) in any other case—any time within 3 years after the date of the alleged commission of the offence or, with the authorisation of the Attorney-General, at any later time within 10 years after the date of the alleged commission of the offence.
- (2) An apparently genuine document purporting to be signed by the Attorney-General authorising the commencement of proceedings under this Act must be accepted in legal proceedings, in the absence of proof to the contrary, as proof of the authorisation.

**74—Offences by officers of bodies corporate**

- (1) If a body corporate contravenes a provision of this Act, a person who is an officer of the body corporate is—
- (a) subject to the general defence in section 77, guilty of a contravention of this Act; and
  - (b) liable to the same penalty as may be imposed for the principal contravention when committed by a natural person.
- (2) An officer of a body corporate may be prosecuted and convicted of an offence against subsection (1) whether or not the body corporate has been prosecuted or convicted of the principal offence committed by the body corporate.

**75—Vicarious liability**

For the purposes of this Act, an act or omission of an employee or agent will be taken to be the act or omission of the employer or principal unless it is proved that the act or omission did not occur in the course of the employment or agency.

**76—Continuing offences**

- (1) If an offence against a provision of this Act is committed by a person by reason of a continuing act or omission—
- (a) the person is liable, in addition to the penalty otherwise applicable to the offence, to a penalty for each day during which the act or omission continues of not more than an amount equal to one-fifth of the maximum penalty prescribed for that offence; and
  - (b) if the act or omission continues after the person is convicted of the offence, the person is guilty of a further offence against that provision and liable, in addition to the penalty otherwise applicable to the further offence, to a penalty for each day during which the act or omission continues after that conviction of not more than an amount equal to one-fifth of the maximum penalty prescribed for that offence.
- (2) For the purposes of this section, an obligation to do something is to be regarded as continuing until the act is done regardless of whether any period within which, or time before which, the act is required to be done has expired or passed.

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**77—General defence**

- (1) It will be a defence in criminal proceedings in respect of an alleged contravention of this Act, including—
- 5 (a) proceedings against a body corporate or a natural person where conduct or a state of mind is imputed to the body or person under this Part; and
- (b) proceedings against an officer of a body corporate under this Part,
- if it is proved that the alleged contravention did not result from any failure on the defendant's part to take all reasonable and practicable measures to prevent the contravention or contraventions of the same or a similar nature.
- 10 (2) Without limiting the effect of subsection (1), the defence provided by that subsection includes the defence that the act or omission alleged to constitute the contravention was justified by the need to protect life, the environment or property in a situation of emergency and that the defendant was not guilty of any failure to take all reasonable and practicable measures to prevent or deal with such an emergency.
- 15 (3) If a body corporate or other employer seeks to establish the defence provided by this section by proving the establishment of proper workplace systems and procedures designed to prevent a contravention of this Act, that proof must be accompanied by proof—
- 20 (a) that proper systems and procedures were also in place by which any such contravention or risk of such contravention of this Act that came to the knowledge of a person at any level in the workforce was required to be reported promptly to the governing body of the body corporate or to the employer, or to a person or group with the right to report to the governing body or to the employer; and
- 25 (b) that the governing body of the body corporate or the employer actively and effectively promoted and enforced compliance with this Act and with all such systems and procedures within all relevant areas of the workforce.
- (4) A person who would, but for the defence provided by this section, have contravened a provision of this Act is, despite that defence, to be taken to have contravened that
- 30 provision for the purposes of any proceedings under section 67 in respect of the contravention.

**78—Notice of defence**

- (1) A person who, in criminal proceedings, intends to rely on the general defence under this Part or any other defence under this Act may only do so if the person gives notice
- 35 in writing of that intention to the Minister.
- (2) A notice under subsection (1) must be given—
- (a) if the proceedings are for a summary offence—within 28 days after the summons to answer the charge is served on the person; or
- (b) if the proceedings are for a minor indictable offence where the charge is to be
- 40 dealt with in the same way as a charge of a summary offence—not less than 28 days before the date for hearing of the charge; or
- (c) in any other case—within 7 days after the person is committed for trial.

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**79—Imputation of conduct or state of mind of officer, employee etc**

- (1) For the purposes of proceedings for an offence against this Act—
- (a) the conduct and state of mind of an officer, employee or agent of a body corporate acting within the scope of his or her actual, usual or ostensible authority will be imputed to the body corporate;
  - (b) the conduct and state of mind of an employee or agent of a natural person acting within the scope of his or her actual, usual or ostensible authority will be imputed to that person.
- (2) If—
- (a) a natural person is convicted of an offence against this Act; and
  - (b) the person would not have been convicted of the offence but for the operation of subsection (1),
- the person is not liable to be punished by imprisonment for the offence.
- (3) For the purposes of this section, a reference to *conduct* or *acting* includes a reference to failure to act.

**80—Statutory declarations**

If a person is required under this Act to provide information to the Minister or a prescribed authority, the Minister or the prescribed authority (as the case may be) may require that the information be verified by statutory declaration and, in that event, the person will not be taken to have provided the information as required unless it has been verified in accordance with the requirements of the Minister or prescribed authority.

**81—False or misleading statement**

A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided, or record kept, under this Act.

Maximum penalty: \$20 000.

**82—Evidentiary provisions**

- (1) In proceedings for an offence against this Act, an allegation in a complaint—
- (a) that a person named holds or held at a specified time a specified office or position; or
  - (b) that a person named was at a specified time an authorised officer; or
  - (c) that a person named was or was not at a specified time the holder of a specified accreditation or authority; or
  - (d) that a specified substance was or was not at a specified time a radioactive material of a specified class; or
  - (e) that specified apparatus was or was not at a specified time radiation apparatus of a specified class,

is, in the absence of proof to the contrary, taken to be proved.

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- (2) In any proceedings, a certificate executed by the Minister certifying as to a matter relating to—
- (a) an accreditation or authority; or
  - (b) the appointment or non-appointment of a person as an authorised officer; or
  - 5 (c) a delegation or authority under this Act; or
  - (d) a notice, order or authorisation of the Minister under this Act; or
  - (e) any other decision of the Minister; or
  - (f) the receipt or non-receipt by the Minister of a notification or information required to be given or furnished to the Minister under this Act,
- 10 constitutes proof of the matters so certified in the absence of proof to the contrary.
- (3) In any proceedings, an apparently genuine document purporting to be an authorisation, notice, order, certificate or other document, or a copy of an authorisation, notice, order, certificate or other document, issued or executed by the Minister or an authorised officer will be accepted as such in the absence of proof to the contrary.
- 15 (4) In proceedings for an offence against this Act, a condition of an accreditation or authority or the terms of a direction or other notice under this Act may be proved by production of an apparently genuine document purporting to be a copy of the condition, direction, or other notice certified by the Minister or an officer authorised under this Act to impose the condition or give the direction or notice.
- 20 (5) In any proceedings for the recovery of reasonable costs incurred by the Minister under this Act, a certificate executed by the Minister detailing the costs and the purpose for which they were incurred constitutes proof of the matters so certified in the absence of proof to the contrary.
- 25 (6) If in any proceedings under Part 6 or in proceedings for an offence against this Act it appears that an alleged fact has been determined by the use of an electronic, sonic, optical, mechanical or other device by an authorised officer or a person assisting an authorised officer, the alleged fact must be accepted as proved in the absence of proof to the contrary.
- 30 (7) In any proceedings, a certificate of compliance executed by the holder of an accreditation that authorises the issue of such a certificate certifying as to a matter relating to the compliance of a radiation source with this Act will be accepted as proof of the matter so certified in the absence of proof to the contrary.

### 83—Service

- 35 (1) A notice or document required or authorised to be given or sent to, or served on, a person for the purposes of this Act may—
- (a) be given to the person personally; or
  - (b) be posted in an envelope addressed to the person at the person's last known residential, business or (in the case of a corporation) registered address; or
  - 40 (c) be left for the person at the person's last known residential, business or (in the case of a corporation) registered address with someone apparently over the age of 16 years; or

(d) be transmitted by fax transmission or email to a fax number or email address provided by the person (in which case the notice or document will be taken to have been given or served at the time of transmission).

5 (2) Without limiting the effect of subsection (1), a notice or other document required or authorised to be given or sent to, or served on, a person for the purposes of this Act may, if the person is a company or registered body within the meaning of the *Corporations Act 2001* of the Commonwealth, be served on the person in accordance with that Act.

#### 84—Recovery of fees

10 A fee or other amount payable under this Act is recoverable by action in a court of competent jurisdiction as a debt due to the Minister.

#### 85—Recovery of technical costs associated with contraventions

15 If, in the course of investigating a contravention of this Act, the Minister or the Department has incurred costs and expenses in taking samples or in conducting tests, examinations or analyses the following provisions apply:

(a) if a person is convicted of an offence in respect of the contravention—the court must, on application by the Minister, order the person to pay to the Minister the reasonable costs and expenses incurred by the Minister or the Department;

20 (b) if an order has been issued under Part 6 Division 1 to a person in respect of the contravention—the Minister may, by notice in writing served on the person, require the person to pay to the Minister an amount specified in the notice as being the reasonable costs and expenses incurred by the Minister or the Department (and such an amount may be recovered by the Minister as a debt).

#### 86—Review of Act

(1) The Minister must cause a review of the operation of this Act to be conducted and a report on the results of the review to be submitted to him or her.

30 (2) The first review must be conducted within the period of 12 months after the tenth anniversary of the commencement of this Act and subsequent reviews must be conducted every 10 years.

(3) The Minister must, within 12 sitting days after receiving a report of a review under this section, cause copies of the report to be laid before both Houses of Parliament.

#### 87—Regulations

35 (1) The Governor may make such regulations as are contemplated by, or as are necessary or expedient for the purposes of, this Act.

(2) Without limiting the generality of subsection (1), the regulations may—

40 (a) control activities or operations related to radioactive materials, radiation sources and radiation apparatus (including, but not limited to, mining or mineral processing operations or any form of dealing with radioactive materials, radiation sources or radiation apparatus);

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- (b) specify standards to be observed, practices and procedures to be followed and measures to be taken in relation to activities or operations referred to in paragraph (a);
- 5 (c) regulate, restrict or prohibit any act or thing that is involved in or related to an activity or operation referred to in paragraph (a);
- (d) prescribe measures for the protection of people and the environment from the harmful effects of radiation;
- 10 (e) make provision for or in relation to the granting, issuing or giving of an accreditation, authority, permit or approval and the terms or conditions to which it is subject;
- (f) make provision for or in relation to the giving of directions for the purposes of the regulations;
- 15 (g) make provision for or in relation to the protection of the health and safety, and the training, examination and certification, of persons who engage or seek to engage in activities or operations referred to in paragraph (a);
- (h) make provision for or in relation to the medical examination of persons exposed to radiation in the course of activities or operations referred to in paragraph (a);
- 20 (i) make provision for or in relation to the keeping of records, furnishing of information, and notification of accidents or other matters or events by persons carrying on activities or operations referred to in paragraph (a);
- (j) make provision for the monitoring of levels of radiation exposure of persons engaged in activities or operations referred to in paragraph (a) and the monitoring of the health of such persons during and after such employment;
- 25 (k) authorise the release of information obtained in the administration of this Act to any prescribed body;
- (l) provide that contravention of a provision of the regulations constitutes a summary offence or a minor indictable offence and fix maximum penalties for such offences not exceeding—
- 30 (i) in the case of a minor indictable offence—
- (A) in the case of a body corporate— \$100 000;
- (B) in the case of a natural person—\$20 000 or imprisonment for 5 years or both;
- (ii) in the case of a summary offence—
- 35 (A) in the case of a body corporate—\$50 000;
- (B) in the case of a natural person—\$10 000;
- (m) prescribe expiation fees not exceeding \$750 for alleged offences against the regulations.
- (3) Regulations under this Act may—
- 40 (a) make provisions of a savings or transitional nature consequent on the enactment of this Act or the commencement of specified provisions of this Act or specified regulations under this Act;

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- (b) include evidentiary provisions to facilitate proof of contraventions of the regulations for the purposes of proceedings for offences;
- (c) prescribe fees for the purposes of this Act (including fees for late payment of fees) and regulate the payment, refund, waiver or reduction of such fees.
- 5 (4) A provision referred to in subsection (3)(a) may, if the regulations so provide, take effect from the date of assent to this Act or a later day.
- (5) To the extent to which a provision referred to in subsection (3)(a) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—
- 10 (a) to affect, in a manner prejudicial to any person (other than the Crown), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the Crown) in respect of anything done or omitted to be done before the date of its publication.
- (6) Fees prescribed by the regulations may be differential, varying according to any factor stated in the regulations.
- 15 (7) The regulations may refer to or adopt, wholly or partially and with or without modification—
- (a) a code or standard relating to matters in respect of which regulations may be made under this Act; or
- 20 (b) an amendment to such a code or standard.
- (8) Any regulations that refer to or adopt a code or standard, or an amendment to a code or standard, may contain such incidental, supplementary and transitional provisions as appear to the Governor to be necessary.
- (9) The regulations or a code or standard referred to or adopted by the regulations may—
- 25 (a) refer to or incorporate, wholly or partially and with or without modification, a standard, specification, guideline or other document prepared or published by a prescribed body, either as in force at the time the regulations are made or as in force from time to time; and
- (b) be of general or limited application; and
- 30 (c) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
- (d) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister or a prescribed authority.
- 35 (10) If—
- (a) a code or standard is referred to or adopted by the regulations; or
- (b) the regulations, or a code or standard referred to or adopted by the regulations, refers to or incorporates a standard, specification, guideline or other document prepared or published by a prescribed body,
- 40 then—

- (c) a copy of the code, standard, specification, guideline or other document must be kept available for inspection by members of the public, without charge and during normal office hours, at an office or offices specified in the regulations; and
- 5 (d) in any legal proceedings, evidence of the contents of the code, standard, specification, guideline or other document may be given by production of a document purporting to be certified by or on behalf of the Minister as a true copy of the code, standard, specification, guideline or other document; and
- 10 (e) the code, standard, specification, guideline or other document has effect as if it were a regulation made under this Act.

### Schedule 1—Application of this Act to the Roxby Downs Joint Venturers

- 1 This Act applies in relation to operations of the Joint Venturers carried out or to be carried out under the Indenture subject to the modifications set out in this Schedule.
- 15 2 An application by the Joint Venturers for a mining licence must be made to the Minister.
- 3 The Minister must, in connection with such an application, consult with the Mines Minister and the Joint Venturers.
- 4 The Minister must also refer the application to the Committee and give due  
20 consideration to the advice of the Committee.
- 5 (1) The following matters may be referred to arbitration by the Minister or the Joint Venturers:
- 25 (a) a question, difference or dispute concerning the conditions proposed to be included at the time of grant in the mining licence to be granted to the Joint Venturers;
- (b) a question, difference or dispute concerning a decision of the Minister to impose a condition on, or vary or revoke a condition of, the mining licence granted to the Joint Venturers.
- 30 (2) A reference to arbitration under subclause (1) is taken to be a reference to arbitration under clause 49 of the Indenture, and that clause applies, with such modifications as are necessary, to such a reference.
- (3) The Minister must comply with the decision of the arbitrator on a reference under subclause (1).
- 35 (4) No other matter arising under this Act in relation to operations of the Joint Venturers carried out or to be carried out under the Indenture may be referred to arbitration under the Indenture, but nothing in this Act affects any right to arbitration under the Indenture or the *Roxby Downs (Indenture Ratification) Act 1982*.
- 6 (1) The Minister must, within 1 month after the Joint Venturers apply for a mining licence, give notice in writing to the Joint Venturers of the terms of the licence  
40 proposed to be granted and of the conditions proposed to be included in the licence at the time of grant.
- (2) The Minister must grant a mining licence to the Joint Venturers—
- (a) within 2 months after the application was made; or

**Radiation Protection and Control Bill 2014**

Schedule 1—Application of this Act to the Roxby Downs Joint Venturers

(b) if a question, difference or dispute concerning the conditions proposed to be included in the licence at the time of grant is referred within that period to arbitration but the arbitrator does not make a decision within that period, as soon as practicable after the arbitrator makes the decision.

5 7 (1) After consultation with the Mines Minister and the Joint Venturers, the Minister may, by notice in writing to the Joint Venturers, impose a condition on, or vary or revoke a condition of, the mining licence granted to the Joint Venturers.

10 (2) At least 1 month before the Minister gives a notice under subclause (1), the Minister must give notice in writing to the Joint Venturers of the terms of any condition proposed to be imposed on the mining licence granted to the Joint Venturers or of any proposed variation or revocation of the conditions of the licence.

8 A decision of the Minister to impose a condition on, or vary or revoke a condition of, the mining licence granted to the Joint Venturers takes effect at the expiration of 1 month from the date on which notice is given under clause 7(1) or at the expiration of such greater period as the Minister may determine, but if a question, difference or dispute concerning the decision is referred within that period to arbitration the operation of the decision is suspended until the arbitrator makes a decision.

9 The conditions of the mining licence granted to the Joint Venturers must not be more stringent than the most stringent requirements and standards contained in any of the codes, standards or recommendations referred to in clause 10 of the Indenture.

10 The mining licence granted to the Joint Venturers must not be suspended or cancelled while the Indenture is in force.

11 In section 46(1)(b) the reference to conditions imposed under that section is to be taken to be a reference to conditions imposed under this Schedule.

25 12 Sections 24(4), 44, section 46(2), section 46(3), 50 and 51 do not apply.

**Schedule 2—Repeal and transitional provisions****Part 1—Repeal of *Radiation Protection and Control Act 1982*****1—Repeal of Act**

The *Radiation Protection and Control Act 1982* is repealed.

**30 Part 2—Transitional provisions****2—Authorised officers**

35 A person appointed and holding office as an authorised officer under the repealed Act immediately before the commencement of this clause will, on that commencement, be taken to be an authorised officer appointed under this Act and any conditions to which the appointment was subject under the repealed Act will be taken to continue to apply to the appointment under this Act as if they had been imposed under this Act.

**3—Radiation Protection Committee**

40 On the commencement of this clause, all members of the Radiation Protection Committee then in office vacate their respective offices so that fresh appointments may be made to the Committee under this Act.

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**4—Licences to test for development purposes**

5 A licence issued under section 23A of the repealed Act in force immediately before the commencement of this clause will, on that commencement, be taken to be a licence under section 23 of this Act and any conditions to which the licence was subject under the repealed Act will continue to apply to the licence under this Act as if they had been imposed under this Act.

**5—Licences to carry out mining or mineral processing**

10 A licence issued under section 24 of the repealed Act in force immediately before the commencement of this clause will, on that commencement, be taken to be a licence under section 24 of this Act and any conditions to which the licence was subject under the repealed Act will continue to apply to the licence under this Act as if they had been imposed under this Act.

**6—Licences to use or handle radioactive materials**

15 A licence issued under section 28 of the repealed Act in force immediately before the commencement of this clause will, on that commencement, be taken to be a licence under section 27 of this Act and any conditions to which the licence was subject under the repealed Act will continue to apply to the licence under this Act as if they had been imposed under this Act.

**7—Facilities licences**

20 A licence issued under section 29A of the repealed Act in force immediately before the commencement of this clause will, on that commencement, be taken to be a licence under section 30 of this Act and any conditions to which the licence was subject under the repealed Act will continue to apply to the licence under this Act as if they had been imposed under this Act.

**8—Licences to operate radiation apparatus**

30 A licence issued under section 31 of the repealed Act in force immediately before the commencement of this clause will, on that commencement, be taken to be a licence under section 34 of this Act and any conditions to which the licence was subject under the repealed Act immediately before that commencement will continue to apply to the licence under this Act as if they had been imposed under this Act.

**9—Licences to possess a radiation source**

35 A licence issued under section 33A of the repealed Act in force immediately before the commencement of this clause will, on that commencement, be taken to be a licence under section 37 of this Act and any conditions to which the licence was subject under the repealed Act immediately before that commencement will continue to apply to the licence under this Act as if they had been imposed under this Act.

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**10—Registration of premises in which unsealed radioactive materials are handled or kept**

5 A registration issued under section 29 of the repealed Act in force immediately before the commencement of this clause will, on that commencement, be taken to be a registration under section 29 of this Act and any conditions to which the registration was subject under the repealed Act immediately before that commencement will continue to apply to the registration under this Act as if they had been imposed under this Act.

**11—Registration of sealed radioactive sources**

10 A registration issued under section 30 of the repealed Act in force immediately before the commencement of this clause will, on that commencement, be taken to be a registration under section 31 of this Act and any conditions to which the registration was subject under the repealed Act immediately before that commencement will continue to apply to the registration under this Act as if they had been imposed under this Act.

**12—Registration of radiation apparatus**

20 A registration issued under section 32 of the repealed Act in force immediately before the commencement of this clause will, on that commencement, be taken to be a registration under section 35 of this Act and any conditions to which the registration was subject under the repealed Act immediately before that commencement will continue to apply to the registration under this Act as if they had been imposed under this Act.

**13—Accreditations**

25 An accreditation issued under Part 3 Division 3B of the repealed Act in force immediately before the commencement of this clause will, on that commencement, be taken to be an accreditation under Part 3 Division 4 of this Act and any conditions to which the accreditation was subject under the repealed Act immediately before that commencement will continue to apply to the accreditation under this Act as if they had been imposed under this Act.

**14—Exemptions**

30 An exemption under section 44 of the repealed Act in force immediately before the commencement of this clause will, on that commencement, be taken to be an exemption under section 70 of this Act and any conditions to which the exemption was subject under the repealed Act immediately before that commencement will be taken to apply to the exemption under this Act as if they had been imposed under this Act.

**15—Directions relating to dangerous situations**

40 A direction given to a person under section 42 of the repealed Act in force immediately before the commencement of this clause will, on that commencement, be taken to be a direction given under section 54 of this Act.