

RADIOACTIVE SUBSTANCES ACT.

Act No. 5, 1957.

Elizabeth II,
No. 5, 1957. An Act to control and regulate the possession, sale and use of radioactive substances and the possession and use of certain apparatus capable of producing radiation; to constitute a Radiological Advisory Council and define its powers, authorities, duties and functions; and for purposes connected therewith. [Assented to, 25th March, 1957.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title
and
commence-
ment.

1. (1) This Act may be cited as the "Radioactive Substances Act, 1957."

(2)

Radioactive Substances Act.

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(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. No. 5, 1957.

2. This Act binds the Crown.

Crown
bound.

3. In this Act, unless the context or subject matter otherwise indicates or requires— Interpreta-
tion.

“Council” means the Radiological Advisory Council constituted under the provisions of this Act.

“Dentist” means a person who for the time being is registered, or is deemed to be registered, as a dentist under the Dentists Act, 1934, as amended by subsequent Acts.

“Irradiating apparatus” means apparatus capable of producing ionising radiation of any prescribed type or types, or capable of accelerating atomic particles under any prescribed conditions.

“Medical practitioner” means a legally qualified medical practitioner.

“Prescribed” means prescribed by this Act or regulations.

“Radioactive substance” means any substance which consists of or contains more than the prescribed concentration of any radioactive chemical element, whether natural or artificial.

“Regulations” means regulations made under this Act.

“Sell” includes sell, whether by wholesale or retail, barter and exchange and dealing in, disposing of or transferring, whether by way of sale, loan or gift; and also includes agreeing to sell, or offering or exposing for sale, or keeping or having in possession for sale, or sending, forwarding, delivering or receiving for sale or on sale, or authorising, directing, causing, suffering, permitting or attempting any of such acts or things; and “sale” has a corresponding interpretation.

“Substance”

No. 5, 1957.

“Substance” means any natural or artificial substance, whether in solid or liquid form, or in the form of a gas or vapour, and any manufactured article or any article which has been subject to any artificial treatment or process.

**Radio-
logical
Advisory
Council.**

4. (1) For the purposes of this Act there shall be constituted a Council, to be called the Radiological Advisory Council, which shall consist of six persons.

(2) The members of the Council shall be—

- (a) the person for the time being holding office as or duly acting in the office of Director-General of Public Health, or a person from time to time nominated by him;
- (b) five persons (in this section referred to as “appointed members”) appointed by the Minister after consultation with such persons, authorities, organisations and associations as the Minister thinks fit.

(3) (a) The member referred to in paragraph (a) of subsection two of this section shall be chairman of the Council.

(b) The chairman shall preside at all meetings of the Council at which he is present.

In the absence of the chairman from any meeting the members present shall appoint one of their number to preside at that meeting.

(4) (a) The procedure for the calling of meetings of the Council and for the conduct of business at such meetings shall, subject to any regulations in relation thereto and to this Act, be as determined by the Council.

(b) At any meeting of the Council three members shall form a quorum, and the decision of the majority of the members present at any meeting at which there is a quorum shall be the decision of the Council.

(c) The chairman or member presiding at any meeting of the Council shall have a deliberative vote and, in the event of an equality of votes, a second or casting vote.

(5)

(5) The appointed members shall hold office ^{No. 5, 1957.} for a period of three years and shall be eligible for reappointment.

(6) If a casual vacancy occurs in the office of an appointed member, a member shall be appointed by the Minister to fill the vacant office and shall hold office for the balance of his predecessor's term of office.

(7) (a) The Minister may from time to time appoint a deputy to act in the place of any appointed member during the illness or absence of such appointed member.

(b) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a deputy to act in the place of a member; and all acts and things done or omitted to be done by a deputy when so acting as aforesaid shall have the same consequences as if the same had been done or omitted by the member in whose place the deputy is acting.

(8) The Minister may, for any cause which to him seems sufficient, remove any member or deputy member from office.

(9) A member or deputy member shall be deemed to have vacated his office if he—

- (a) dies;
- (b) resigns his office in writing under his hand addressed to the Minister;
- (c) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act, 1898-1955;
- (d) absents himself from four consecutive meetings of the Council of which reasonable notice has been given to him either personally or in the ordinary course of post, except on leave granted by the Council:

Provided that this paragraph shall not apply to a deputy member except in case of the absence from four or more consecutive meetings of the member in whose place he has been appointed to act, of which absence he has been given reasonable notice as aforesaid; or

- (e) is removed from office by the Minister.

(10)

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(10) Every appointed member, and every deputy member whilst acting in the place of an appointed member, shall, if he is not a member of the Public Service, be paid such fees and travelling expenses for attending meetings and transacting business of the Council, and making inspections under this Act, as may be prescribed.

(11) (a) No act or proceeding of the Council shall be invalidated or prejudiced by reason only of the fact that at the time such act or proceeding was done, taken or commenced, there was a vacancy in the office of any member.

(b) All acts and proceedings of the Council shall, notwithstanding the subsequent discovery of any defect in the appointment of any member or deputy member thereof, or that any member or deputy member was disqualified to act, be as valid as if such member or deputy member had been duly appointed and was qualified to act and had acted as a member or deputy member of the Council, as the case may be, and as if the Council had been properly and fully constituted.

Committees.

5. (1) The Council may establish committees for the purpose of advising the Council upon such matters within the scope of the Council's functions as may be referred to the committees by the Council.

(2) A person may be appointed to any such committee whether or not he is a member or a deputy member of the Council.

(3) (a) Any such committee may exercise and discharge such of the Council's powers, authorities, duties and functions as may be delegated to it by the Council.

(b) Notwithstanding any such delegation, the Council may continue to exercise and discharge any of the powers, authorities, duties and functions so delegated.

(c) The Council may at any time revoke any such delegation, either wholly or in part.

6.

6. (1) The Council may initiate and refer to the Minister— No. 5, 1957.

- Functions
of
Council.
- (a) recommendations for making, altering or repealing any regulation;
 - (b) recommendations relating to the administration of this Act;
 - (c) recommendations for preventing or minimising the dangers arising from radioactive substances and irradiating apparatus.

(2) It shall be the duty of the Council to consider and advise the Minister upon such matters and questions as the Minister may from time to time refer to it relating to—

- (a) any proposal for making, altering or repealing any regulation;
- (b) the administration of this Act;
- (c) the prevention or minimising of dangers arising from radioactive substances and irradiating apparatus.

7. The Governor may appoint inspectors and such other officers and employees as may be necessary for the administration of this Act. Appoint-
ment of
inspectors
and other
officers
and
employees.

8. (1) Any inspector appointed under this Act or any member of the Council may at any time enter and inspect any building or place in or on which he has reasonable ground for believing there is any radioactive substance or irradiating apparatus and may therein or thereon— Powers of
inspectors
and members
of Council.

- (a) examine or test any radioactive substance or substance which he believes to be a radioactive substance and examine or calibrate any irradiating apparatus or apparatus which he believes to be irradiating apparatus;
- (b) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act, and the regulations or the conditions attached to any license issued under this Act, are being or have been complied with;

(c)

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(c) take, without payment, samples of any radioactive substance or substance which he believes to be a radioactive substance.

(2) If any person wilfully delays or obstructs any inspector or member of the Council in the exercise of his powers under this Act, or being the occupier of a building or place, refuses to permit or does not assist an inspector or any such member to enter and inspect any such building or place and to examine any substance or apparatus in such building or place, he shall be guilty of an offence against this Act.

Prohibition
on
possession,
use or sale
of radio-
active
substances.

9: (1) Subject to such exemptions as may be prescribed and to the provisions of this section, no person shall—

- (a) have in his possession;
- (b) use; or
- (c) sell,

any radioactive substance otherwise than in accordance with the terms of a license issued to him under this Act.

(2) No person shall, for the purpose of treating a human being, have in his possession or use or administer any radioactive substance unless such person is a medical practitioner or dentist, does so in his practice as a medical practitioner or dentist and holds a license issued to him under this Act authorising him to do so, or is acting under the supervision or instructions of a medical practitioner or dentist so licensed, such supervision or instructions being exercised or given in his practice as aforesaid.

(3) No person shall sign a prescription prescribing any radioactive substance for the purpose of the treatment of any human being, unless such person is a medical practitioner or dentist, signs such prescription in his practice as a medical practitioner or dentist and holds a license as referred to in subsection one of this section.

10. (1) Subject to such exemptions as may be prescribed and to the provisions of this section, no person shall—

(a) have in his possession; or

(b) use,

any irradiating apparatus otherwise than in accordance with the terms of a license issued to him under this Act.

(2) No person shall, for the purpose of treating a human being, have in his possession or use any irradiating apparatus, unless he is a medical practitioner or dentist, does so in his practice as a medical practitioner or dentist and holds a license issued to him under this Act authorising him to do so, or is acting under the supervision or instructions of a medical practitioner or dentist so licensed, such supervision or instructions being exercised or given in his practice as aforesaid.

(3) Nothing in this section shall require a medical practitioner, dentist or registered veterinary surgeon, or a person acting under the supervision or instructions of a medical practitioner, dentist or registered veterinary surgeon, who has possession of or uses irradiating apparatus for the sole purpose of diagnostic radiography in the course of his lawful profession or occupation, to hold a license under this Act.

11. (1) (a) An application for a license under this Act or for any renewal thereof shall be made to the Minister in or to the effect of the prescribed form and shall be accompanied by the prescribed fee.

(b) The Minister shall refer any such application to the Council.

(c) An applicant for a license shall furnish such information as the Minister may in any case require.

(2) The Minister shall, on the recommendation of the Council to do so,—

(a) grant any application for a license, or for a renewal thereof, either subject to conditions or unconditionally;

(b)

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on
possession
or use of
irradiating
apparatus.

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- (b) during the currency of a license, revoke or vary any condition attached to the license, or attach new conditions to the license;
- (c) refuse any application for a license;
- (d) suspend for the period specified in the recommendation, or cancel, a license.

(3) A license shall, subject to the provisions of paragraph (d) of subsection two of this section, remain in force for a period of one year, or such lesser period specified in the license, from the date of its issue and may from time to time be renewed within the prescribed time for a period not exceeding one year.

Appeal.

12. (1) Any applicant for a license or for the renewal of a license, or any licensee, as the case may be, aggrieved by any recommendation of the Council made, with respect to his application or license, for the purposes of subsection two of section eleven of this Act may, in accordance with the rules of the District Court made in that behalf, appeal to the District Court exercising jurisdiction in the district in which the applicant or licensee, as the case may be, resides or carries on his trade, business or profession, and the decision of that Court shall be final and shall be given effect to by the Minister.

(2) Every such appeal shall be in the nature of a rehearing.

Registers of licenses.

13. The Minister shall cause to be kept such registers of licenses issued under this Act as may be prescribed.

Certificates to be evidence of certain matters.

14. A certificate purporting to be signed by the Minister or any prescribed officer certifying that on any date or during any period mentioned in the certificate any person was or was not the holder of any class or type of license issued under this Act, or that certain particulars did or did not appear in any register kept under section thirteen of this Act, shall, without proof of the signature or of the official character of the person purporting to have signed the certificate, be prima facie evidence of the matters certified in and by the certificate.

15.

15. Any person who is guilty of an offence against this Act or who, being a licensee, does not comply with any condition attached to the license issued to him under this Act, shall be liable to a penalty not exceeding two hundred pounds and in the case of a continuing offence, a daily penalty not exceeding ten pounds per day. No. 5, 1957.
Penalty.

16. All proceedings for offences against this Act or the regulations shall be disposed of summarily before a stipendiary magistrate or two justices in petty sessions. Proceedings
for
offences.

17. Where a person convicted of an offence against this Act or the regulations is a body corporate, every person who at the time of the commission of the offence was a director or officer of the body corporate shall be deemed to have committed the like offence and be liable to the penalty provided by this Act or the regulations for such offence accordingly, unless he proves that the offence was committed without his knowledge or that he used all due diligence to prevent the commission of the offence. Provisions
relating to
offences by
corporate
bodies.

18. (1) The Governor may make regulations not inconsistent with this Act for or with respect to— Regulations.

- (a) the definition of "irradiating apparatus" contained in section three of this Act, for the purpose of prescribing the type or types of ionising radiation and the conditions therein referred to;
- (b) the definition of "radioactive substance" contained in section three of this Act, for the purpose of prescribing the concentration of any radioactive chemical element;
- (c) the form and manner of applying for and granting, and the fees for licenses and renewals thereof, and the matters to be taken into consideration in respect of any application for or for the renewal of a license or in respect of any proposal to suspend or cancel a license;

(d)

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- (d) the issue of different classes or types of licenses under this Act;
- (e) the form of the registers to be kept under this Act;
- (f) regulating the sale or purchase of any radioactive substance;
- (g) regulating the transport, storage, use and disposal of any radioactive substance;
- (h) preventing injury by ionising radiations to any person;
- (i) securing the safe disposal of any radioactive waste products resulting from the manufacture, production, treatment, storage or use of radioactive substances;
- (j) imposing requirements with respect to the construction or structural alteration of buildings used or intended to be used for the manufacture, production, treatment, storage or use of any radioactive substance, or in which irradiating apparatus is used or intended to be used;
- (k) requiring persons who are exposed or are likely to be exposed to the risk of disease due to radiation from any radioactive substance or irradiating apparatus to submit to medical examinations, including blood examinations;
- (l) prohibiting the use of any prescribed radioactive substance or any prescribed class or description of irradiating apparatus either generally, or for prescribed purposes or otherwise than for prescribed purposes;
- (m) all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations may impose a penalty not exceeding fifty pounds for any breach thereof, and in the case of a continuing breach, a daily penalty not exceeding five pounds per day.

(3)

- (3) The regulations shall—
- (a) be published in the Gazette;
 - (b) take effect from the date of such publication or from a later date to be specified in the regulations;
 - (c) be laid before both Houses of Parliament within fourteen sitting days if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

