

RADIOACTIVE SUBSTANCES.

3° Elizabeth II., No. LXV.

No. 65 of 1954.¹

[As amended by Act

No. 13 of 1960² assented to 6th October, 1960 and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT to make provision with respect to Dangers arising from Radioactive Substances and certain Apparatus producing Radiation, for the Control of the Substances and Apparatus and for other purposes.

[Assented to 30th December, 1954.]

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

1. This Act may be cited as the *Radioactive Substances Act, 1954-1960*.

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

Short title.
Amended by
No. 13 of
1960, S.I.
Commence-
ment.

¹ Came into operation on 2nd February, 1959; see *Gazette* 5/12/58, p. 3156.

² Came into operation on 1st March, 1961; see *Gazette* 27/1/61, p. 153.

Act to bind
the Crown.

3. This Act binds the Crown.

Interpre-
tation.

4. In this Act, unless the context or subject matter otherwise requires—

“Council” means the Radiological Advisory Council established under this Act;

“dentist” means a person who for the time being is registered as a dentist under the provisions of the Dentists Act, 1939-1947;¹

“irradiating apparatus” means any apparatus capable of producing ionising radiations of any prescribed type, or capable of accelerating atomic particles under any prescribed conditions;

“medical practitioner” means a person for the time being registered as a legally qualified medical practitioner under the Medical Act, 1894-1952;²

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

“sell” includes supplying or otherwise dealing in or disposing of, whether by way of sale, loan, or gift; and includes barter; and also includes offering or attempting to sell, or receiving for sale, or exposing for sale, or having in possession for sale, or sending or delivering for sale, or causing or allowing to be sold, offered or exposed for sale; and “sale”, “vendor”, and “purchaser” have *mutatis mutandis* corresponding meanings;

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

¹ Now Dentists Act, 1939-1954.

² Now Medical Act, 1894-1956.

5. (1) For the purpose of advising and assisting the Minister in connection with the exercise and performance of his powers and duties under the provisions of this Act a council to be called the "Radiological Advisory Council" is constituted.

Radiological
Advisory
Council
established.

(2) The Council consists of the following six members:—

Council
consists of
six members.

(a) The person for the time being occupying the office of Commissioner of Public Health.

(b) Five persons, who shall be appointed by the Governor on the nomination of the Minister, to hold office for a term of three years, of whom one shall be—

(i) a radiologist;

(ii) an engineer of the Metropolitan Water Supply, Sewerage and Drainage Department of the State;

(iii) a physicist;

(iv) a physiologist or bio-chemist; and

(v) an x-ray engineer,

and they are eligible for re-appointment on the expiration of the term.

(3) The Commissioner of Public Health is Chairman of the Council but the person for the time being holding the office of Deputy Commissioner of Public Health may at the Commissioner's direction act as a member of the Council and as chairman in his stead.

(4) Any member may be at any time removed from office by the Governor for disability, insolvency, neglect of duty or misconduct or may at any time resign his office by writing addressed to the Minister.

(5) The Council shall meet at such times and conduct its business in such manner as it may decide or as may be prescribed.

Meetings of
Council.

(6) The Council has and may exercise the powers and authorities conferred by this Act, and such further powers as may be prescribed.

Powers and
duties of
Council.

(7) Three members of the Council constitute a quorum for the conduct of business.

Quorum.

Proceedings.

(8) All matters shall be determined by a majority of the votes of the members present and where there is an equality of votes the question shall be resolved in the negative.

Allowances and remuneration.

(9) Any member who is not subject to the provisions of the Public Service Act, 1904-1953,¹ is entitled to such allowances, travelling expenses and remuneration for his services as may be prescribed.

Minutes.

(10) The Council shall cause to be kept minutes of all its proceedings in such manner and form as the Minister may direct or approve.

Vacancy not to affect Council's functions.

(11) The Council may act and exercise all its powers, notwithstanding any vacancy in membership, and no act or proceeding of the Council is invalid or illegal in consequence only of any vacancy in membership existing at the time of any act or proceeding.

Deputies.

(12) (a) The Minister may in respect of each member of the Council, except the chairman, appoint a person having the necessary qualifications to be deputy to that member and the person so appointed has in the event of the absence of the member, all the powers of that member during his absence.

(b) No appointment of and no act done in that capacity by a deputy shall be questioned on the ground that the occasion for his appointment had not arisen, or had ceased.

Powers of Council.

6. (1) The Council may from time to time, subject to the approval of the Minister, appoint such advisory or technical committees as it thinks fit to advise the Council on such matters within the scope of its functions as are referred to them by the Council.

(2) A person may be appointed to be a member of an advisory or technical committee notwithstanding that he is not a member of the Council.

(3) The Council may delegate to an advisory or technical committee such of its powers and duties except this power of delegation, for such time and

¹ Now Public Service Act, 1904-1956.

subject to such conditions as the Council determines and the Committee shall exercise and perform the powers and duties so delegated to it.

(4) Every delegation under this section is revocable wholly or in part at any time at the will of the Council and no delegation prevents the exercise of any power or function by the Council.

7. (1) The Council shall consider and advise the Minister with respect to the application for and the issue and renewals of licenses under this Act and upon such questions as the Minister may from time to time refer to it relating to the exercise and performance of his powers and duties under this Act.

Duties of Council.

(2) The Minister may refer to the Council for its advice and report any proposals for making, amending or revoking any regulation made or to be made under this Act, and the Council shall give the required advice and report.

8. The Governor may from time to time appoint and remove such officers as he may consider necessary for the efficient administration of this Act.

Appointment of officers.

9. (1) The Council may appoint from time to time as an inspector a person holding such qualifications as it may consider necessary for the particular inspection it directs to be carried out.

(2) Any member of the Council may accompany an inspector on any inspection.

10. (1) Every inspector may—

Powers of inspectors.

- (a) enter, inspect and examine any factory, shop, warehouse, building or place of whatever description at all reasonable hours by day for the purpose of examining or calibrating any irradiating apparatus or examining or testing any radioactive substances therein or any apparatus which he believes to be an irradiating apparatus or any substance which he believes to be a radioactive substance;

- (b) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act are complied with;
- (c) take without payment such samples of any substance which he believes to be a radioactive substance as are necessary for examination and testing thereof;
- (d) examine and calibrate any irradiating apparatus or any apparatus which he believes to be an irradiating apparatus; and
- (e) exercise such other powers and authorities as may be necessary for carrying this Act into effect.

Justice may
issue
warrant.

(2) If a justice of the peace is satisfied on oath by an inspector that—

- (a) entry in exercise of the right conferred by subsection (1) of this section has been refused; or
- (b) there are reasonable grounds for suspecting that an offence under any of the provisions of this Act has been or is being committed in or in connection with a factory, shop, warehouse, building or place of whatever description,

the justice may by warrant under his hand authorise any person named in the warrant together with any constable to enter and search any factory, shop, warehouse, building or place of whatever description, if necessary by force.

Occupier to
allow entry
and
inspection.

11. (1) The occupier of any factory, shop, warehouse, building or any other place of whatever description, his agents and servants shall at all reasonable times furnish the means required by an inspector for any entry, inspection, examination and inquiry or the exercise of his powers under this Act.

Offence if
hindering
inspector
in his
duties.

(2) A person who prevents, delays, obstructs or hinders an inspector from or in the execution of his powers and duties under this Act is guilty of an offence.

Penalty: A fine not exceeding fifty pounds.

12. (1) Subject to such exemptions as may be prescribed and the provisions of this section, no person shall have in his possession, sell, or use any radioactive substance, unless that person is the holder of a license for the time being in force under this Act authorising him to do so.

Control of
radioactive
substances.

(2) No person shall administer any radioactive substance by way of treatment of a human being, unless he is a medical practitioner or dentist holding a license for the time being in force under this Act authorising him to do so, or is acting under the supervision or instructions of a medical practitioner or dentist who is so licensed and a medical practitioner who is so licensed may sign a prescription requiring the sale of any radioactive substance to a person for the purpose of it being used for the treatment of a human being.

13. (1) Subject to the provisions of this section and such exemptions as may be prescribed, no person shall be in possession of or use any irradiating apparatus, unless that person is the holder of a license for the time being in force under this Act authorising him to do so or he is exempt from obtaining a license pursuant to the regulations made under this Act.

Control of
irradiating
apparatus.
Amended by
No. 13 of
1960, S.3.

(2) (a) No person shall use for the purposes of the medical, surgical or dental treatment of human beings any irradiating apparatus of a prescribed class or description, unless he is a medical practitioner or dentist and is licensed under this Act so to do or is a person acting in accordance with the directions of a medical practitioner or dentist who is so licensed.

(b) A medical practitioner or a dentist or a person acting in accordance with his directions who is in possession of or who uses an irradiating apparatus for the sole purpose of taking x-ray photographs does not require a license under this Act but the irradiating apparatus shall be registered in accordance with the provisions of section fifteen A of this Act.

Application
for licenses:

14. (1) An application for a license under this Act shall be made to the Minister in the prescribed form accompanied by the prescribed fee and the applicant shall furnish such further information as the Minister may in any case require.

Granting or
refusal of
license.

(2) The Minister may, on the advice of the Council, grant any application for a license which is made under this section, or he may grant it subject to such conditions as he thinks fit, but if he is advised by the Council that the granting of the license may imperil the health of any person he shall refuse the application.

Duration of
license.

(3) A license granted under the provisions of this section, unless sooner suspended or cancelled, remains in force for a period of one year from the date of issue specified in the license but the license may be from time to time renewed by the Minister on the advice of the Council, for such period or periods of one year as the Minister thinks fit.

Conditions
may be
varied.

(4) The Minister may at any time and from time to time during the currency of any license revoke or vary any condition of the license or attach any new condition to it or may suspend or cancel it for such period as he thinks fit.

Appeal
against
suspension or
cancellation
of license.

15. A person whose application for a renewal of a license has been refused or whose license has been suspended or cancelled may appeal in manner prescribed against the refusal, suspension or cancellation to a stipendiary, police or resident magistrate of the district wherein he resides and the decision of the magistrate is final.

Certain
irradiating
apparatus
to be
registered.
Added by
No. 13 of
1960, s. 4.

15A. (1) A medical practitioner or a dentist who—

- (a) is an owner, whether joint or several, of an irradiating apparatus; and
- (b) uses or intends to use or permits or intends to permit some other medical practitioner or dentist to use the apparatus for the sole purpose of taking x-ray photographs,

shall apply to the Council to register the apparatus in accordance with this section.

Penalty: Ten pounds.

(2) The application shall be made in the manner and shall contain the particulars prescribed and be verified as prescribed.

(3) (a) Where the apparatus is so owned by a medical practitioner or dentist on the day of the coming into operation of the Radioactive Substances Act Amendment Act, 1960, the application shall be made within fourteen days of that Act coming into operation.

(b) In other cases the application shall be made within fourteen days of the apparatus becoming so owned by the medical practitioner or dentist as the case may be.

(4) (a) Where an apparatus is registered by the Council in accordance with this section, no fee is payable on the registration.

(b) Where the apparatus is owned jointly, it is sufficient compliance with this section if one of the joint owners of the apparatus registers it in accordance with this section.

(5) The Council shall keep or cause to be kept a register of all registrations made pursuant to this section.

(6) Subject to subsection (7) of this section, the contents of the register may be evidenced in any proceedings by a certificate under the hand of the Chairman for the time being of the Council and the certificate is *prima facie* evidence of the matters stated therein.

(7) A statement in any such certificate that on a day specified therein a particular irradiating apparatus was not duly registered under this section is, until the contrary is proved, sufficient evidence of the fact.

Register of
licenses.

16. (1) The Minister shall keep or cause to be kept such registers of licenses issued under this Act as may be prescribed.

(2) The contents of every register may be evidenced in any proceedings by a certificate under the hand of the Minister and every certificate is *prima facie* evidence of the matters stated therein.

(3) A certificate under the hand of the Minister that on a date specified in the certificate the name of any person did or did not appear in any register as the holder of a license or any specified class of license under this Act is, until the contrary is proved, sufficient evidence of the matters therein specified.

Penalty.

17. Except where otherwise provided, a person who contravenes any of the provisions of this Act is guilty of an offence.

Penalty: Two hundred pounds.

Regulations.
Amended by
No. 13 of
1960. S.5.

18. The Governor may make regulations prescribing all forms and matters which by this Act are required or permitted to be prescribed, or are convenient for carrying into or facilitating the operation of the provisions of this Act, and in particular and without prejudice to the generality of this power, may make regulations—

- (a) providing for the issue and renewal of licenses and prescribing the various forms and classes of licenses, applications therefor and renewals and the form of register;
- (aa) prescribing the form of application required to be made under section fifteen A of this Act, the particulars to be contained therein and the method of verifying the particulars and generally for giving effect to that section;
- (b) regulating the sale or purchase of any radioactive substance;

- (c) regulating the safe storage, use and disposal of any radioactive substance;
- (d) with respect of any class or description of premises or places specified in the regulations, being premises or places in which radioactive substances are manufactured, produced, treated, stored or used or irradiating apparatus is used—
 - (i) to prevent injury being caused by ionising radiations to the health of persons employed at those premises or places or other persons;
 - (ii) to secure that any radioactive waste products resulting from the manufacture, production, treatment, storage or use of radioactive substances are disposed of safely; or
 - (iii) to impose requirements as to the erection or the construction, or structural alteration of buildings used for the manufacture, production, treatment, storage or use of any radioactive substance or in which an irradiating apparatus is used;
- (e) prescribing precautions to be taken to prevent injury being caused by the transport of any radioactive substance so as to prevent injury being caused by the transport to the health of persons engaged therein and other persons;
- (f) requiring medical examinations including blood examinations of persons exposed or likely to be exposed to the risk of disease due to radiation;
- (g) prescribing the purposes for which any radioactive substance or irradiating apparatus may be used;
- (h) prohibiting or restricting the use of any specified radioactive substance containing more than a specified concentration of any radioactive chemical element;

- (i) prohibiting or restricting the use of any specified type of irradiating apparatus;
- (j) prescribing the allowances and remuneration that may be paid to a member of the Council other than a member who is subject to the provisions of the Public Service Act, 1904-1953,¹ for his services;
- (k) prescribing fees payable in respect of any application or license or renewal of a license under this Act;
- (l) regulating the conduct of appeals under section fifteen of this Act;
- (m) prescribing penalties, not exceeding fifty pounds, in respect of a breach of any regulation.

Appropriation.

19. The cost of the administration of this Act shall be paid out of the moneys to be from time to time appropriated by Parliament for the purpose.

¹ Now Public Service Act, 1904-1956.