

NORTHERN TERRITORY OF AUSTRALIA

**RADIOACTIVE ORES AND CONCENTRATES (PACKAGING AND
TRANSPORT) ACT**

As in force at 1 February 2011

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 February 2011

RADIOACTIVE ORES AND CONCENTRATES (PACKAGING AND TRANSPORT) ACT

An Act to make provision for the packaging, storage and transport of radioactive ores and concentrates

Part I Preliminary

1 Short title

This Act may be cited as the *Radioactive Ores and Concentrates (Packaging and Transport) Act*.

2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Interpretation

In this Act, unless the contrary intention appears:

agent means an agent appointed for the purposes of section 9 and includes a deputy agent appointed under section 10.

Chief Inspector means the Chief Inspector appointed under section 5 and includes a person acting as Chief Inspector.

Chief Health Officer means the Chief Health Officer appointed under the *Public Health Act*.

employee has the same meaning as it has in the *Public Sector Employment and Management Act*.

inspector means an inspector appointed under section 7 and includes the Chief Inspector.

licence means a licence granted under section 13.

licensed premises means premises specified in a licence.

licensee means a person to whom a licence has been granted.

premises includes an enclosure, wharf, area of land and a place.

radioactive material means uranium ores and concentrates, uranium oxide (U_3O_8) and any other prescribed radioactive ore or concentrate with a specific activity greater than 0.002 microcuries per gram.

vehicle includes a motor vehicle within the meaning of the *Motor Vehicles Act*, an aircraft, a train and a vessel.

4 Application

- (1) This Act does not apply to the packaging, storage or transport of radioactive material in a place where any operation for the purpose of mining radioactive material has been or is being carried on, or a place where radioactive material will be, has been or is being, treated, milled, refined or processed.
- (2) This Act does not apply to the packaging, storage or transport of radioactive material with a total measured dose rate at a distance of one metre of less than 0.75 millirem per hour and a parent radionuclide activity of less than 2.4×10^{-4} curie.
- (3) This Act binds the Crown.

Part II Administration

Division 1 Chief Inspector and inspectors

5 Chief Inspector

- (1) The Minister may appoint an employee to be the Chief Inspector.
- (2) Where the Chief Inspector is absent from duty or from the Territory the Minister may appoint an employee to act as Chief Inspector during the absence.
- (3) The Chief Inspector, in the performance of his functions and the exercise of his powers, is subject to the directions of the Minister.

6 Delegation

- (1) The Chief Inspector may, from time to time, by instrument in writing, delegate to a person such of his powers and functions, other than this power of delegation, as are specified in the instrument.
- (2) A delegation referred to in subsection (1) may be made generally or for any particular case or class of cases or for a district or part of the Territory.

- (3) A power or function delegated under this section may be exercised or performed, in accordance with the terms of the delegation, by the person to whom the delegation is made.
- (4) A delegation under this section is revocable at will and does not prevent the exercise of the power or the performance of the function by the Chief Inspector.

7 Inspector and inspector's power

- (1) The Chief Inspector may appoint such employees as inspectors as he thinks necessary for the purposes of this Act.
- (2) Subject to any direction of the Chief Inspector, an inspector may:
 - (a) enter and inspect licensed premises, examine any records required to be kept under this Act and take notes or extracts therefrom;
 - (b) enter and inspect any premises which he believes on reasonable grounds are being or have been used for the storage of radioactive material;
 - (c) require a person in control of a vehicle, which he believes on reasonable grounds is being used for the transport of radioactive material, to stop the vehicle;
 - (d) detain a vehicle, which he believes on reasonable grounds is being used for the transport of radioactive material, and inspect the vehicle and its load;
 - (e) require the driver of any vehicle, which he believes on reasonable grounds is carrying radioactive material, to take the vehicle to the nearest available weighing facility and require the driver to, or himself carry out, or cause to be carried out, the weighing of the vehicle and its load;
 - (f) install and use any equipment or measuring device for sampling, measuring or analysing any substance or material which he believes on reasonable grounds may be, or may contain, radioactive material; and
 - (g) where he believes on reasonable grounds that an offence may have been committed against this Act:
 - (i) seize any vehicle, radioactive material, package, container, document, paper, record or other thing relating to or used in connection with the packaging, storage or transport of radioactive material which he believes on reasonable grounds is related to the offence;

and

- (ii) require a person who the inspector believes on reasonable grounds may have committed the offence to provide his name and such information relating to the packaging, storage and transport of radioactive material as the inspector thinks fit.

8 Forfeiture of things seized

- (1) Where an inspector has seized a thing under section 7(2)(g)(i) he shall, as soon as practicable, deliver the thing to the Chief Inspector or a person nominated by the Chief Inspector.
- (2) The Chief Inspector or person nominated by him may retain a thing seized for 60 days after the date of its delivery to him or, if a prosecution in relation to the thing is instituted within that time, until the prosecution is disposed of.
- (3) Where a prosecution in relation to a thing seized is instituted within the 60 days referred to in subsection (2) and the person prosecuted is found guilty, the court before which the person is found guilty may order that the thing be forfeited to the Territory.
- (4) Where a prosecution is not instituted within the 60 days referred to in subsection (2) or, where the court does not order under subsection (3) that a thing seized be forfeited to the Territory, the Chief Inspector or other person having possession of the thing shall return it to the person from whom it was seized or to the premises from which it was seized.

Division 2 Agent of owner

9 Owner must appoint agent

- (1) A person shall not transport radioactive material of which he is the owner, or cause or allow that material to be transported, unless he has as an agent for the purpose of this Act a natural person resident in the Territory and employed by the owner.
- (2) An owner shall, on the appointment of an agent, give notice in writing of the appointment to the Chief Inspector specifying:
 - (a) the name and address of the agent; and
 - (b) the date of the appointment.
- (3) A notice of appointment of an agent shall be accompanied by an acceptance in writing to act as agent signed by the agent.

- (4) Notice of a change of agent shall be given in the same manner as the notice of appointment of an agent and the provisions of subsections (2) and (3) shall apply to and in relation to such a notice.

10 Deputy agent

- (1) Where an agent is likely to be absent from his employment or from the Territory for more than 3 days the owner shall appoint a deputy agent.
- (2) An owner shall, on the appointment of a deputy agent, give notice in writing of the appointment to the Chief Inspector specifying:
 - (a) the name and address of the person appointed;
 - (b) the date of the appointment; and
 - (c) the period for which the agent is likely to be absent from his employment or the Territory.
- (3) A notice of appointment referred to in subsection (2) shall be accompanied by an acceptance in writing to act as deputy agent signed by the person so appointed.
- (4) Notice of a change of deputy agent shall be given in the same manner as the notice of appointment of a deputy agent and the provisions of subsections (2) and (3) shall apply to and in relation to such a notice.

11 Requirement or order given to agent

Any requirement or order that may be made of or given to an owner of radioactive material pursuant to this Act shall be deemed to be made of or given to the owner if it is made of or given to the agent of the owner.

Part III Licensing

12 Owner to apply for licence

- (1) An owner of radioactive material, who intends to transport radioactive material, or an agent of such an owner, may apply, in the prescribed form, for a grant of a licence under section 13(a).
- (2) A person who intends to use premises occupied by him for the storage of radioactive material may apply, in the prescribed form, for a grant of a licence under section 13(b).

13 Grant of licence

The Chief Inspector may grant a licence:

- (a) to the owner of radioactive material authorizing the transport of radioactive material owned by him; and
- (b) to the occupier of premises authorizing the premises occupied by him to be used for the storage of radioactive material.

14 Form and conditions of a licence

(1) A licence shall:

- (a) be in the prescribed form;
- (b) be subject to such conditions specified in the licence as the Chief Inspector considers necessary for the safe packaging, storage or transport of radioactive material;
- (c) expire on the date specified in the licence or on the date 12 months after its date of issue, whichever is the earlier; and
- (d) if it is a licence authorizing the occupier of premises to use those premises for storage of radioactive material – specify the premises in which that material is to be stored.

(2) Without limiting the generality of subsection (1)(b), the power to impose conditions includes the power to impose conditions specifying:

- (a) the vehicle by which the radioactive material is to be transported;
- (b) the person by whom the radioactive material is to be transported;
- (c) the points of commencement and conclusion of the journey and the route between those points by which the radioactive material is to be transported;
- (d) the number and weight of loads of radioactive material to be transported; and
- (e) the times within which each load of radioactive material is to be transported.

15 Cancellation of licence

The Chief Inspector may, by notice in writing served on the licensee, cancel a licence:

- (a) where it has been granted subject to conditions and the licensee is in breach of any of those conditions;
- (b) where the licensee has committed an offence against this Act;
or
- (c) where the Chief Inspector is of the opinion that, in the interests of the safety of any person or for the purpose of preventing damage to the environment, the licence should be cancelled.

Part IV Offences**16 Person not to possess radioactive material**

Subject to this Act, a person shall not have in his possession or under his control any radioactive material otherwise than under and in accordance with the conditions of a licence.

Maximum penalty: 40 penalty units and, in addition, 4 penalty units for each day during which the offence continues.

17 Person not to store radioactive material

Subject to this Act, a person shall not use, or allow or permit to be used, any premises of which he is the occupier for the storage of radioactive material otherwise than under and in accordance with the conditions of a licence.

Maximum penalty: 40 penalty units and, in addition, 4 penalty units for each day during which the offence continues.

18 Person not to package, &c., unless in compliance with code

A person shall not package, store or transport radioactive material unless it is packaged, stored or transported in compliance with a code, rule, specification or regulation adopted under section 25(1).

Maximum penalty: 40 penalty units and, in addition, 4 penalty units for each day during which the offence continues.

19 Liability of owner

- (1) Where an employee or agent of, or a person under a contract to, an owner of radioactive material has been found guilty of an offence under this Act, and the offence was committed in the course of employment or agency or whilst carrying out the contract, the owner shall be guilty of an offence.

Maximum penalty: 40 penalty units.

- (2) It is a defence to a prosecution for an offence under subsection (1) that the owner took all reasonable steps to ensure that the employee, agent or person under contract, as the case may be, complied with this Act.

Part V Emergencies**20 Delay or accident to vehicle**

- (1) Where radioactive material is being transported by a vehicle and:
- (a) the vehicle is involved in an accident or is subject to unusual delay; or
 - (b) contamination of the environment or danger to any person has occurred or, in the opinion of the person in control of the vehicle may result from, a leakage or spillage of that material from a container or package,

the person in control of the vehicle shall:

- (c) forthwith notify an inspector of that fact;
- (d) obey such instructions as an inspector may give; and
- (e) take all reasonable steps to prevent access to the vehicle or the vicinity of the material by any person unless authorized by an inspector to have such access.

Maximum penalty: 40 penalty units and, in addition, 4 penalty units for each day during which the offence continues.

21 Damage to packages, &c.

Where, a licensee becomes aware that damage has occurred to a package or container containing radioactive material on his licensed premises, he shall:

- (a) forthwith notify an inspector of that fact;
- (b) obey such instructions as an inspector may give; and
- (c) take all reasonable steps to prevent access to the package, container and material or the vicinity of the package, container and material by any person unless that person is authorized by an inspector to have such access.

Maximum penalty: 40 penalty units and, in addition, 4 penalty units for each day during which the offence continues.

22 Danger to persons or environment

- (1) Where radioactive material is being packaged, stored or transported and, in the opinion of an inspector:

- (a) a person may be in danger; or
- (b) damage to the environment may result,

from contamination caused by a leakage or spillage of radioactive material from a container or package, the inspector shall immediately inform the Chief Inspector and the Chief Health Officer.

- (2) An inspector may, if he is of the opinion that danger or damage referred to in subsection (1) may occur:

- (a) use such force as is reasonably necessary to prevent any person entering or remaining in the vicinity of the danger;
- (b) require the owner of the radioactive material to remove any thing or do any other work to reduce or prevent danger or damage; and
- (c) if the owner fails to carry out a requirement made under paragraph (b) or the inspector does not make such a requirement – remove or authorize any person to remove any thing or do any other work to reduce or prevent danger or damage.

- (3) The costs of any work ordered under subsection (2)(c) shall be a debt due by the owner to the Territory.

- (4) Where radioactive material is being packaged, stored or transported and an inspector or the Chief Health Officer believes on reasonable grounds that a person is in danger from radioactive contamination he may require the person to undergo such medical examination as the Chief Health Officer directs.

Maximum penalty: 8 penalty units.

Part VI Miscellaneous

23 Prescribed records

- (1) A licensee shall keep such records as are prescribed.
- (2) A licensee who fails to keep prescribed records is guilty of an offence.

Maximum penalty: 8 penalty units.

24 Offences

- (1) A person who contravenes or fails to comply with a provision of this Act or the Regulations or a term or condition of any licence granted under this Act or fails to comply with a lawful requirement, direction, instruction or order made under this Act is guilty of an offence under this Act.
- (2) A person guilty of an offence under this Act, where no other penalty is provided, is liable to a maximum penalty of 8 penalty units.

25 Adoption of code, &c.

- (1) The Minister may by notice in the *Gazette*, adopt (wholly or in part) a code, rule, specification or regulation that deals with packaging, storing or transporting of radioactive material.
- (2) The Minister may, by notice in the *Gazette*, make any appointment necessary for and referred to in, a code, rule, specification or regulation adopted under subsection (1).
- (3) Where the Minister has adopted a code, rule, specification or regulation, or part thereof, under subsection (1), the Chief Inspector shall sell to a person a copy of such code, rule, specification, or part thereof, upon payment of the prescribed amount by the person.

26 Service of notice

A notice required or permitted by this Act to be served on or given to a person may be so served or given:

- (a) to the agent of that person;
- (b) by handing or tendering it to that person;
- (c) if the person is a company – by leaving it at the registered office of the company; or
- (d) if the address of the first-mentioned person or his agent is not known – by notice in the *Gazette*.

27 Averment

In any proceedings for an offence against this Act, an averment by the prosecutor in a complaint or information that a specified person:

- (a) was or was not, at a specified time, the holder of a licence; or
- (b) was, at a specified time, the owner of radioactive material,

is evidence of the fact so averred.

28 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

ENDNOTES
1 KEY

Key to abbreviations

amd = amended
 app = appendix
 bl = by-law
 ch = Chapter
 cl = clause
 div = Division
 exp = expires/expired
 f = forms
 Gaz = Gazette
 hdg = heading
 ins = inserted
 lt = long title
 nc = not commenced

od = order
 om = omitted
 pt = Part
 r = regulation/rule
 rem = remainder
 renum = renumbered
 rep = repealed
 s = section
 sch = Schedule
 sdiv = Subdivision
 SL = Subordinate Legislation
 sub = substituted

2 LIST OF LEGISLATION***Radioactive Ores and Concentrates (Packaging and Transport) Act 1980 (Act No. 26, 1980)***

Assent date	14 March 1980
Commenced	29 July 1980 (<i>Gaz</i> S24, 29 July 1980)

Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)

Assent date	30 June 1993
Commenced	1 July 1993 (s 2, s 2 <i>Public Sector Employment and Management Act 1993</i> (Act No. 11, 1993) and <i>Gaz</i> S53, 29 June 1993)

Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)

Assent date	19 April 1996
Commenced	s 7: 19 April 1996; rem: 1 July 1996 (s 2, s 2 <i>Sentencing Act 1995</i> (Act No. 39, 1995) and <i>Gaz</i> S15, 13 June 1996)

Statute Law Revision Act 1997 (Act No. 17, 1997)

Assent date	11 April 1997
Commenced	s 16: 10 December 1997; rem: 1 May 1997 (<i>Gaz</i> G17, 30 April 1997, p 2)

Statute Law Revision Act 2002 (Act No. 18, 2002)

Assent date	7 June 2002
Commenced	7 June 2002

Penalties Amendment (Justice and Treasury Legislation) Act 2010 (Act No. 38, 2010)

Assent date	18 November 2010
Commenced	1 February 2011 (<i>Gaz</i> S6, 1 February 2011)

3

LIST OF AMENDMENTS

s 3	amd No. 28, 1993, s 3; No. 17, 1997, s 17
s 8	amd No. 17, 1996, s 6
ss 16 – 18	amd No. 38, 2010, s 3
s 19	amd No. 17, 1996, s 6; No. 38, 2010, s 3
ss 20 – 21	amd No. 38, 2010, s 3
s 22	amd No. 17, 1997, s 17; No. 38, 2010, s 3
ss 23 – 24	amd No. 38, 2010, s 3
s 25	amd No. 18, 2002, s 4