



ANNO VICESIMO SEPTIMO

# ELIZABETHAE II REGINAE

A.D. 1978

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## No. 113 of 1978

### An Act to amend the Australian Mineral Development Laboratories Act, 1959-1973.

[Assented to 7th December, 1978]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Australian Mineral Development Laboratories Act Amendment Act, 1978". Short title.
- (2) The Australian Mineral Development Laboratories Act, 1959-1973, is hereinafter referred to as "the principal Act".
- (3) The principal Act, as amended by this Act, may be cited as the "Australian Mineral Development Laboratories Act, 1959-1978".
  
2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.
  
3. Section 2 of the principal Act is amended by striking out subsection (2). Amendment of principal Act, s. 2—  
Commencement.
  
4. Section 3 of the principal Act is amended— Amendment of principal Act, s. 3—  
Interpretation.
  - (a) by inserting before the definition of "the Council" the following definitions:—
    - "the Board" means the Board of Management of the Organization:
    - "the chief executive officer" of the Organization includes a person for the time being acting in the office of chief executive officer of the Organization;
  - (b) by striking out the definitions of "chairman", "the laboratories" and "laboratories staff";
  - (c) by striking out the definition of "member" and inserting in lieu thereof the following definition:—

“member” of the Council, or the Board, includes the Chairman of the Council or the Board (as the case may require);;

(d) by striking out the definitions of “mine”, “mining”, “to mine” and “the Minister”;

and

(e) by inserting after the definition of “the Organization” the following definition:—

“the relevant industries” means—

(a) the industries involved in the recovery, exploitation, processing, delivery, distribution or sale of minerals;

and

(b) any other industries, undertakings or projects to which the expertise of the Organization has relevance.;

Amendment of  
principal Act,  
s. 4—  
Arrangement  
of Act.

5. Section 4 of the principal Act is amended—

(a) by inserting after the item:

PART III—The Council of the Organization  
the item:

PART IIIA—The Board of Management;

(b) by striking out the item:

PART IV—Director and Staff of the Organization  
and inserting in lieu thereof the item:

PART IV—Staff of the Organization;

and

(c) by striking out the item:

PART VA—Provisions Respecting Cessation of Arrangements.

Amendment of  
principal Act,  
s. 5—  
Constitution of  
Organization.

6. Section 5 of the principal Act is amended—

(a) by inserting after subsection (1) the following subsection:—

(1a) The title “AMDEL” may also be used to refer to the Organization.;

(b) by striking out subsection (2);

and

(c) by striking out subsection (4) and inserting in lieu thereof the following subsections:—

(4) The common seal of the Organization may be affixed to any document in pursuance of an authorization of the Board.

(5) An authorization of the Board under subsection (4) of this section—

(a) may relate specifically to a particular document;  
or

(b) may relate generally to documents of a particular class.

(6) An apparently genuine document—

(a) purporting to bear the common seal of the Organization;

and

(b) purporting to bear the signatures of any two members of the Board attesting the affixation of the seal,

shall be deemed in any legal proceedings, in the absence of proof to the contrary, to have been duly executed by the Organization.

(7) The Organization shall hold its assets on behalf of the Crown.

7. Section 6 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of  
s. 6 of  
principal Act  
and enactment  
of section in  
its place.

6. (1) The functions of the Organization are as follows:—

Powers and  
functions  
of the  
Organization.

(a) to provide analytic, scientific or technical services in relation to the relevant industries;

(b) to carry out programmes of research and development in relation to the relevant industries;

(c) to provide or disseminate information in relation to the relevant industries;

(d) to develop, manufacture and sell industrial products for use in the relevant industries;

(e) to import and export industrial products for use in the relevant industries;

(f) to carry out programmes of research and development aimed at increasing the expertise of the Organization or expanding the market for its services;

and

(g) to carry out any other similar functions assigned to the Organization by the Council or the Minister.

(2) For the purpose of carrying out its functions the Organization may—

(a) acquire, hold, deal with and dispose of, real and personal property;

(b) acquire, hold, deal with and dispose of shares or any other interest in a body corporate;

(c) establish offices and branches within Australia and overseas;

(d) fix and recover charges for services provided by the Organization;

(e) apply for, or otherwise acquire, patents, copyrights, trademarks, licences, privileges or concessions of any kind;

(f) grant licences, privileges or concessions;

(g) enter into contracts, agreements or arrangements;

(h) collaborate, or enter into partnership, with any other person or body;

and

(i) exercise any other power—

(i) incidental or conducive to the carrying out of the functions of the Organization;

or

(ii) conferred on the Organization under any other provision of this Act.

Repeal of  
s. 7 of  
principal Act.

8. Section 7 of the principal Act is repealed.

Amendment of  
principal Act,  
s. 8—  
Members of  
Council.

9. Section 8 of the principal Act is amended—

(a) by striking out subsection (2);

and

(b) by striking out subsection (3) and inserting in lieu thereof the following subsection:—

(3) The Council shall consist of the following members:—

(a) two members appointed by the Governor on the nomination of the Prime Minister of the Commonwealth;

(b) two members appointed by the Governor on the nomination of the Minister;

and

(c) two members appointed by the Governor on the nomination of the Australian Mineral Industries Research Association Limited.

Repeal of  
s. 10 of  
principal Act  
and enactment  
of section  
in its place.

10. Section 10 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Term of  
office.

10. Subject to this Act, a member of the Council shall hold office until a successor is appointed on the nomination of the person or body by which he was nominated.

Amendment of  
principal Act,  
s. 11—  
Vacancies.

11. Section 11 of the principal Act is amended by striking out from paragraph (c) of subsection (1) the word "six" and inserting in lieu thereof the word "two".

Repeal of  
s. 13 of  
principal Act  
and enactment  
of sections  
in its place.

12. Section 13 of the principal Act is repealed and the following sections are enacted and inserted in its place:—

Proceedings,  
etc., of  
Council.

13. (1) Four members of the Council shall constitute a quorum of the Council and no business shall be conducted at a meeting of the Council unless a quorum is present.

(2) Each member present at a meeting of the Council (including the person presiding at that meeting) shall be entitled to one vote on any matter arising for decision by the Council.

(3) A decision supported by a majority of the votes cast by members present at a meeting of the Council shall be a decision of the Council.

(4) The Council shall meet—

(a) as occasion requires and at least once in every calendar year; and

(b) if any member of the Council by notice in writing given to the other members of the Council requests a meeting of the Council.

(5) Subject to this Act, the proceedings of the Council shall be conducted in such manner as the Council thinks fit.

13a. A member of the Council shall be entitled to receive from the funds of the Organization such allowances and expenses as may be approved by the Minister.

**Allowances and expenses.**

13. Section 15 of the principal Act is repealed and the following section is enacted and inserted in its place:—

**Repeal of s. 15 of principal Act and enactment of section in its place.**

15. (1) The functions of the Council are as follows:—

**Functions of the Council.**

(a) to keep the business and affairs of the Organization under review;

(b) to review and determine policies to be observed by the Board in the management of the Organization;

and

(c) to carry out the other duties and functions assigned to the Council under this Act.

(2) The Council may at any time require the Board to furnish it with information relating to the conduct of the business or affairs of the Organization, and the Board shall comply with any such requirement.

14. The following Part is enacted and inserted in the principal Act after Part III thereof:—

**Enactment of Part IIIA of principal Act.**

### PART IIIA

#### THE BOARD OF MANAGEMENT

15a. (1) There shall be a Board of Management of the Organization. **The Board.**

(2) The Board shall, in the management of the Organization, observe any policies determined upon by the Council.

15b. (1) The Board shall consist of five members of whom—

**Membership of the Board.**

(a) one (the Chairman) shall be appointed by the Council on the nomination of the Australian Mineral Industries Research Association Limited;

(b) one shall be the chief executive officer;

and

(c) the remainder (of whom at least two must be persons who are not in the employment of the Organization) shall be appointed by the Council.

(2) A member of the Board (with the exception of the chief executive officer) shall, subject to this Act, hold office for a term of two years and, at the expiration of any such term, shall be eligible for re-appointment.

(3) The office of a member of the Board shall become vacant if—

(a) in the case of the chief executive officer—he ceases for any reason to hold or act in that office;

or

(b) in the case of any other member—

(i) he dies;

(ii) his term of office expires;

(iii) he resigns by instrument in writing addressed to the Chairman of the Council;

(iv) he is removed from office by the Council.

Proceedings,  
etc., of  
Board.

15c. (1) Three members of the Board shall constitute a quorum of the Board.

(2) The Chairman shall preside at any meeting of the Board at which he is present, and, in the absence of the Chairman from a meeting of the Board, the members present shall elect one of their number to preside at that meeting.

(3) A decision in which not less than three members of the Board concur shall be a decision of the Board.

(4) The Board shall meet—

(a) as occasion requires and at least six times in every calendar year;

and

(b) if any member of the Board, by notice in writing given to the other members of the Board, requests a meeting of the Board.

(5) Subject to this Act the proceedings of the Board shall be conducted in such manner as the Board may determine.

Validity  
of acts  
of Board.

15d. An act or proceeding of the Board shall not be invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the appointment of a member, an act or proceeding shall be as valid and effectual as if the member had been duly appointed.

Remuneration  
of members  
of Board.

15e. A member of the Board shall be entitled to receive from the funds of the Organization such remuneration, allowances and expenses as may be determined by the Council.

Amendment  
of heading.

15. The heading immediately preceding section 16 of the principal Act is amended by striking out the passage "DIRECTOR AND".

Repeal of  
s. 16 of  
principal Act  
and enactment  
of section  
in its place.

16. Section 16 of the principal Act is repealed and the following section is enacted and inserted in its place:—

The chief  
executive  
officer.

16. (1) There shall be a chief executive officer of the Organization.

(2) The chief executive officer shall be appointed by the Council.

## (3) Where—

- (a) the office of chief executive officer is vacant;  
or

- (b) the chief executive officer is unable for any reason to carry out the duties of his office,

the Council may appoint a suitable person to act in the office of chief executive officer of the Organization.

(4) The terms and conditions upon which a person is appointed to hold, or act in, the office of a chief executive officer shall be determined by the Council.

## 17. Section 17 of the principal Act is amended—

Amendment of  
principal Act,  
s. 17—  
Staff of the  
Organization.

- (a) by striking out from subsection (1) the passage "The Council may" and inserting in lieu thereof the passage "The Board may, subject to this Act,";

- (b) by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) The officers and employees of the Organization shall not be subject to the Public Service Act, 1967-1978, but shall, subject to this Act, hold office on terms and conditions determined by the Board.;

- (c) by striking out from subsection (3) the passage "so appointed" and inserting in lieu thereof the passage "of the Organization";

- (d) by striking out from subsection (3) the passage "by the Council" and inserting in lieu thereof the passage "by the Organization";

and

- (e) by striking out subsections (4) and (5) and inserting in lieu thereof the following subsection:—

(4) The Organization is a public authority within the meaning of the Superannuation Act, 1974-1978, and any full-time officer or employee of the Organization may, subject to that Act and any arrangements made in pursuance of that Act, become a contributor to the South Australian Superannuation Fund.

## 18. Section 17a of the principal Act is repealed.

Repeal of  
s. 17a of  
principal Act.

## 19. Section 18 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of  
s. 18 of  
principal Act  
and enactment  
of section in  
its place.

18. (1) The Council may maintain such banking accounts as it considers necessary.

(2) All moneys received by the Organization shall be paid into a banking account.

(3) The Organization may, with the consent of the Treasurer, invest moneys not immediately required for the purposes of the Organization on terms and conditions approved by the Treasurer.

(4) The Organization may, with the consent of the Treasurer, borrow moneys upon terms and conditions approved by the Treasurer.

(5) Notwithstanding the provisions of any other Act, the powers and functions of the Treasurer under subsections (3) and (4) of this section shall not be transferred or delegated to any other person.

Bank accounts,  
etc.

(6) Any liability incurred by the Organization under subsection (4) of this section is guaranteed by the Treasurer and this section is, without further appropriation, sufficient authority for the satisfaction of the liability of the Treasurer in respect of the guarantee out of the General Revenue of the State.

Repeal of  
s. 19 of  
principal Act.

20. Section 19 of the principal Act is repealed.

Repeal of  
s. 20 of  
principal Act  
and enactment  
of section  
in its place.

21. Section 20 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Accounts  
and audit.

20. (1) The Board shall cause proper accounts to be kept of the financial affairs of the Organization.

(2) The Auditor-General may at any time, and shall at least once in each year, audit the accounts of the Organization.

(3) For the purposes of the audit, the Auditor-General shall have, and may exercise, in relation to the accounts of the Organization and the officers and employees of the Organization the same powers as are vested by the Audit Act, 1921-1975, in the Auditor-General in relation to public accounts and accounting officers.

Repeal of  
Part VA of  
principal Act.

22. Part VA of the principal Act is repealed.

Repeal of  
s. 22 of  
principal Act  
and enactment  
of section  
in its place.

23. Section 22 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Annual report.

22. (1) The Board shall, not later than the thirtieth day of September in each year, prepare a report on the business and affairs of the Organization conducted during the period of twelve months ending on the preceding thirtieth day of June.

(2) Copies of the report shall be furnished to—

(a) the Council;

(b) the Minister;

(c) the Prime Minister of the Commonwealth;

and

(d) the Australian Mineral Industries Research Association Limited.

(3) The Minister shall, as soon as practicable after his receipt of a report furnished under this section, cause copies of the report to be laid before both Houses of Parliament.

Repeal of  
s. 23 of  
principal Act.

24. Section 23 of the principal Act is repealed.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

K. D. SEAMAN, Governor