



ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

No. 50 of 1987

An Act to amend the Pitjantjatjara Land Rights Act, 1981.

[Assented to 30 April 1987]

The Parliament of South Australia enacts as follows:

- Short title.** 1. (1) This Act may be cited as the "Pitjantjatjara Land Rights Act Amendment Act, 1987".
(2) The Pitjantjatjara Land Rights Act, 1981, is in this Act referred to as "the principal Act".
- Commencement.** 2. (1) This Act will come into operation on a day to be fixed by proclamation.
(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.
- Amendment of principal Act.** 3. The principal Act is amended by striking out the word "Pitjantjatjara" wherever it appears (whether in capitals or lower case letters) in the long title, headings, and sections, and substituting, in each case, the word "Pitjantjatjara" (in capitals or lower case letters according to the context in which the word appears).
- Amendment of s. 4— Interpretation.** 4. Section 4 of the principal Act is amended by inserting after the definition of "Mintabie resident" the following definition:
"petrol" includes any volatile liquid containing hydrocarbons:.
- Amendment of s. 6— Powers and functions of Anangu Pitjantjatjara.** 5. Section 6 of the principal Act is amended by inserting after paragraph (i) of subsection (2) the following word and paragraph:
and
(j) the power to take such other steps as may be necessary or expedient for, or incidental to, the performance of its functions.
- Amendment of s. 19— Unauthorized entry on the lands.** 6. Section 19 of the principal Act is amended—
(a) by striking out subsection (3) and substituting the following subsection:

(3) An application for permission to enter the lands—

(a) may be made by an applicant on the applicant's own behalf, or on behalf of a group of persons;

and

(b) must, unless the Executive Board otherwise allows—

(i) be in writing and lodged with the Executive Board;

and

(ii) set out—

(A) the purpose for which entry to the lands is sought;

(B) the period for which entry to the land is sought;

and

(C) the time and place at which the applicant, or the group on whose behalf the application is made, seeks to enter the lands.;

(b) by inserting after subsection (5) the following subsections:

(5a) Where a group of persons is permitted to enter the lands, each member of the group is bound by the conditions (if any) subject to which the permission was granted.

(5b) A person who contravenes or fails to comply with a condition on which the person, or a group of which the person is a member, was granted permission to enter the lands is guilty of an offence and liable to a penalty not exceeding the maximum prescribed by subsection (5c).

(5c) The maximum penalty for an offence against subsection (5b) is a fine of \$2 000 plus \$500 for each day (if any) during which the convicted person was on the lands, or a particular part of the lands, in contravention of the condition.;

and

(c) by inserting after subsection (9) the following subsection:

(9a) A person who, being entitled to enter upon part only of the lands in pursuance of Division III, Division IV or Division VI of this Part, enters upon some other part of the lands without the permission of Anangu Pitjantjatjara acts in contravention of subsection (1).

7. Section 20 of the principal Act is amended—

(a) by inserting after subsection (2) the following subsection:

(2a) A person who, having permission to carry out mining operations upon part only of the lands, carries out mining

Amendment of
s. 20—
Mining operations
on the lands.

operations on some other part of the lands without the permission of Anangu Pitjantjatjara acts in contravention of subsection (1) (a).;

(b) by striking out from subsection (5) "subsection (3)" and substituting "subsection (4)";

(c) by inserting after subsection (7) the following subsections:

(7a) The reasonable costs and expenses incurred by Anangu Pitjantjatjara in dealing with an application under this section may be recovered from the applicant as a debt.

(7b) Any payment made in satisfaction of a liability arising under subsection (7a) shall, if the application is subsequently determined in favour of the applicant but on condition that compensation be paid to Anangu Pitjantjatjara, be regarded as a payment made on account of that compensation.;

and

(d) by inserting after subsection (14) the following subsections:

(14a) The arbitrator may, if the arbitrator thinks fit, award against the applicant and in favour of Anangu Pitjantjatjara an amount that represents, in the arbitrator's opinion, the reasonable costs and expenses incurred by Anangu Pitjantjatjara in relation to the arbitration.

(14b) An amount awarded under subsection (14a) may be recovered by Anangu Pitjantjatjara as a debt.

Amendment of
s. 21—
Interaction of the
Act and Mining
and Petroleum
Acts.

8. Section 21 of the principal Act is amended by striking out subsections (4), (5) and (6) and substituting the following subsection:

(4) If a person—

(a) makes a payment or gives other consideration in contravention of section 23;

or

(b) in relation to—

(i) obtaining the permission of Anangu Pitjantjatjara for the carrying out of mining operations on the lands;

or

(ii) the carrying out or proposed carrying out of mining operations on the lands,

makes a payment, or gives some other consideration, to Anangu Pitjantjatjara (not being a payment or consideration otherwise permitted or provided for in this Act) otherwise than in conformity with—

(iii) conditions imposed by Anangu Pitjantjatjara under this Division in granting its permission for the carrying out of the mining operations;

(iv) conditions determined or approved by an arbitrator under this Division;

or

(v) an agreement of which the Minister of Mines and Energy has been notified under this Division,
then—

(c) the amount of the payment, or the value of the consideration, is recoverable as a debt due to the Crown;

and

(d) (i) no mining tenement in respect of the lands will be granted to the person and the person is precluded from applying for another mining tenement in respect of the lands for the period of three years;

and

(ii) if a mining tenement in respect of the lands is held by the person, that tenement is cancelled.

9. Section 23 of the principal Act is amended by inserting in subsection (1) “(not being a payment or consideration otherwise permitted or provided for in this Act)” after “payment or other consideration to another person”.

Amendment of s. 23—
Offence in relation to obtaining permission to carry out mining operations.

10. Section 24 of the principal Act is amended by striking out from subsection (3) “with” and substituting “within”.

Amendment of s. 24—
Certain payments or other consideration to Anangu Pitjantjatjara must represent fair compensation.

11. The following sections are inserted after section 42 of the principal Act:

Insertion of new ss. 42a to 42d.

42a. (1) For the purpose of determining whether a particular part of the lands is a public place within the meaning of some other Act or law, any restrictions upon access to the lands or that place arising under this Act shall be disregarded.

Interaction between this Act and certain other Acts and laws.

(2) A reference in the Road Traffic Act, 1961, or the Motor Vehicles Act, 1959, to a road extends to any road on the lands.

42b. Any regulations relating to overstocking that apply to holders of pastoral leases under the Pastoral Act, 1936, apply in respect of the depasturing of stock upon the lands (other than at the Granite Downs Station) as if Anangu Pitjantjatjara were the holder of a pastoral lease in respect of the lands.

Depasturing of stock.

42c. (1) There will be a Committee to be known as the “Pitjantjatjara Lands Parliamentary Committee”.

Parliamentary Committee.

(2) The duties of the Committee are—

(a) to take an interest in—

(i) the operation of this Act;

(ii) matters that affect the interests of the traditional owners of the lands;

and

(iii) the manner in which the lands are being managed, used and controlled;

(b) to consider any other matter referred to the Committee by the Minister;

and

(c) to provide, on or before the thirty-first day of December in each year, an annual report to Parliament on the work of the Committee during the preceding financial year.

(3) The Committee will consist of the Minister and four Members of the House of Assembly appointed by the Minister (of whom two must be appointed from the group led by the Leader of the Opposition).

(4) The seat of a Member of the Committee becomes vacant if—

(a) the Member dies;

(b) the Member delivers a written notice of resignation to the Minister;

(c) the House of Assembly is dissolved, or a term of that House expires;

(d) the Member is removed from office by resolution of the House of Assembly.

(5) The Minister will preside at a meeting of the Committee but, if the Minister is not able to attend a meeting, a Member of the Committee nominated by the Minister may preside.

(6) Subject to subsection (7), three members constitute a quorum of the Committee.

(7) When the Committee meets for the consideration of a proposed report to Parliament, the quorum must consist of at least four members.

(8) All questions to be decided by the Committee will be decided by a majority of votes of the members present.

(9) The Minister has, in addition to a deliberative vote, a casting vote in the event of an equality of votes.

(10) The Minister may, after consultation with the Speaker of the House of Assembly, appoint an officer of the Parliament as secretary to the Committee and such other officers of the Committee as are required for the performance of its functions.

(11) This section expires on the fifth anniversary of the formation of the Committee unless each House of Parliament resolves, within six months before that fifth anniversary, that the section is to continue in operation.

Petrol.

42d. (1) A person shall not be in possession of petrol on the lands for the purpose of inhalation.

Penalty: \$100.

(2) A person shall not sell or supply petrol to another person on the lands if there are reasonable grounds for suspecting that the other person—

(a) intends to use the petrol for the purpose of inhalation;

or

(b) intends to sell or supply the petrol for the purpose of inhalation.

Penalty: \$2 000 or imprisonment for two years.

(3) A member of the police force or a person acting under the authority of a member of the police force may confiscate and dispose of any petrol that he or she reasonably suspects is to be used or has been used for the purpose of inhalation and any container that contains or has contained such petrol.

(4) A person shall not hinder or obstruct the lawful exercise of a power under subsection (3).

Penalty: \$2 000.

(5) The Governor may, by proclamation, fix a date for the expiry of this section.

(6) A proclamation should not be made under subsection (6) unless the Governor is satisfied—

(a) that adequate provision prohibiting the inhalation of petrol on the lands has been made under some other law;

or

(b) that there is no further need for a statutory prohibition against the inhalation of petrol on the lands.

12. Section 43 of the principal Act is amended—

(a) by striking out paragraphs (c) and (d) of subsection (1);

(b) by striking out paragraph (f) of subsection (1) and the word “and” preceding that paragraph;

(c) by striking out from subsection (2) “, (c) or (d)”;

and

(d) by inserting after subsection (2) the following subsections:

(3) Anangu Pitjantjatjara may make by-laws—

(a) regulating, restricting or prohibiting the consumption, possession, sale or supply of alcoholic liquor on the lands;

(b) prohibiting the inhalation or consumption of any regulated substance on the lands and prohibiting the possession, sale or supply of any regulated substance on the lands for the purpose of inhalation or consumption;

(c) providing for the confiscation, in circumstances in which a contravention of a by-law under paragraph (a) or (b) is reasonably suspected, of alcoholic liquor or any regulated substance to which the suspected contravention relates;

(d) providing for the treatment or rehabilitation (or both) of any person affected by the misuse of alcoholic liquor or any regulated substance;

(e) prohibiting specified forms of gambling on the lands;

Amendment of
s. 43—
Regulations.

- (f) providing for any other matter that is prescribed by the regulations as a matter in relation to which by-laws may be made.
- (4) The operation of a by-law is restricted to the lands.
- (5) Where Anangu Pitjantjatjara proposes to make, alter or repeal a by-law, it must give reasonable notice in writing of the proposal to the Minister.
- (6) A by-law made under this section—
- (a) must be submitted to the Governor for confirmation;
- and
- (b) is subject to disallowance by Parliament.
- (7) A member of the police force may seize and impound any vehicle reasonably suspected of having been used in connection with the supply of alcoholic liquor to any person on the lands in contravention of a by-law.
- (8) If a vehicle is seized pursuant to subsection (7), the matter must be referred at the next available opportunity to a magistrate conducting sittings of court on the lands.
- (9) An order for the forfeiture of the vehicle to the Crown may be made by a magistrate if the magistrate is satisfied—
- (a) that the vehicle has been used in connection with the supply of alcoholic liquor to a person on the lands in contravention of a by-law;
- (b) that any person who so used the vehicle has on at least one previous occasion been found guilty of the offence of supplying alcoholic liquor to a person on the lands in contravention of a regulation or by-law under this Act;
- and
- (c) that in the circumstances of the case it is appropriate that the vehicle be confiscated.
- (10) A court by which a person is found to have been unlawfully in possession of alcoholic liquor or a regulated substance for his or her own use in contravention of the by-laws may, subject to the by-laws, order that person to undergo treatment or participate in a rehabilitation programme prescribed by the by-laws.
- (11) Subject to subsection (12), a person who contravenes or fails to comply with a regulation or by-law is liable to a penalty as follows:
- (a) if the regulation or by-law specifies a penalty (which must not exceed \$2 000)—the penalty so specified;
- or
- (b) if no penalty is specified—a fine of \$2 000.

(12) A person who contravenes—

(a) a by-law regulating, restricting or prohibiting the sale or supply of alcoholic liquor on the lands;

or

(b) a by-law prohibiting the sale or supply of a regulated substance on the lands for the purpose of inhalation or consumption,

is liable to a fine of \$2 000 or imprisonment for two years.

(13) In this section—

(a) a reference to a regulated substance is a reference to—

(i) petrol;

or

(ii) any other substance declared by the regulations to be a regulated substance for the purposes of this Act;

and

(b) a reference to a member of the police force extends to a special constable authorized by a member of the police force to seize a vehicle under this section.

13. (1) Where—

(a) a person suffered bodily injury in a motor accident on a road on the lands after the commencement of the principal Act and before the commencement of this Act;

and

(b) the circumstances are such that if the accident had occurred on a road elsewhere in the State the person would have been able to recover damages against the nominal defendant under Part IV of the Motor Vehicles Act, 1959,

then, notwithstanding any other Act or law—

(c) the accident shall be deemed to have occurred on a road within the meaning of the Motor Vehicles Act, 1959;

and

(d) the person has, for a period of six months from the commencement of this Act (whether the bodily injury was suffered more than or less than three years before the commencement of this Act), the right to bring proceedings for damages against the nominal defendant under Part IV of the Motor Vehicles Act, 1959 (but section 116 (4) and (5) of that Act is not applicable to those proceedings).

(2) A person who claims a right to bring proceedings pursuant to this section must, so far as is reasonably practicable, supply to the nominal defendant—

Special provision relating to motor accidents.

- (a) details of the date and place of the motor accident;
 - (b) the name of the driver of the motor vehicle;
 - (c) the name of any witness to the motor accident;
- and
- (d) the name of any legally qualified medical practitioner consulted by the person in relation to the injury and copies of any written report obtained by the person as a result of that consultation.

(3) In this section—

“bodily injury” includes—

- (a) mental and nervous shock;

and

- (b) death:

“motor accident” means an incident in which bodily injury is caused by or arises out of the use of a motor vehicle.

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

D. B. DUNSTAN, Governor