

ANNO TRICESIMO
ELIZABETHAE II REGINAE

A.D. 1981

No. 20 of 1981

An Act to provide for the vesting of title to certain lands in the people known as Anangu Pitjantjatjaraku; and for other purposes.

[Assented to 19 March 1981]

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

PART I

PART I

PRELIMINARY

1. This Act may be cited as the "Pitjantjatjara Land Rights Act, 1981".

Short title.

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

Commencement

(2) The Governor may, in a proclamation made for the purposes of sub section (1), 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.

3. This Act is arranged as follows:

Arrangement of Act.

PART I—PRELIMINARY

PART II—ANANGU PITJANTJATJARAKU

Division I—Constitution of Anangu Pitjantjatjaraku as Body Corporate

Division II—Powers and Functions of Anangu Pitjantjatjaraku

Division III—General Meetings of Anangu Pitjantjatjaraku

Division IV—The Executive Board of Anangu Pitjantjatjaraku

Division V—The Approved Constitution

PART III—THE LANDS

Division I—Vesting of the Lands in Anangu Pitjantjatjaraku

Division II—Entry to the Lands

Division III—Mining Operations on the Lands

Division IV—The Mintabie Precious Stones Field

Division V—Right of the Crown to continue in Occupation of certain parts of the Lands

Division VI—Construction of Roads by the Commissioner of Highways

PART IV—DISPUTES

PART V—MISCELLANEOUS

Interpretation.

4. In this Act, unless the contrary intention appears—

“Anangu Pitjantjatjaraku” means the body corporate constituted under that name by this Act:

“the constitution” means the constitution of Anangu Pitjantjatjaraku for the time being in force under this Act:

“the Executive Board” means—

(a) the Executive Board of Anangu Pitjantjatjaraku constituted under this Act;

or

(b) during a period prior to the constitution of that Board— the Pitjantjatjara Council:

“the lands” means the lands described in the first schedule to this Act:

“mining operations” means operations authorized by or under the Mining Act, 1971-1978, or the Petroleum Act, 1940-1978:

“mining tenement” means a right, permit, claim, lease or licence under the Mining Act, 1971-1978, or the Petroleum Act, 1940-1978:

“Mintabie resident” means a person who—

(a) is entitled to enter and remain on the Mintabie precious stones field under Division IV of Part III;

and

(b) resides or proposes to reside on the field.

“Pitjantjatjara” means a person who is—

(a) a member of the Pitjantjatjara, Yungkutatjara or Ngaanatjara people;

and

(b) a traditional owner of the lands, or a part of them:

“road works” means the construction, re-construction or repair of a road, or of related works:

“traditional owner” in relation to the lands means an Aboriginal person who has, in accordance with Aboriginal tradition, social, economic and spiritual affiliations with, and responsibilities for, the lands or any part of them.

PART II

ANANGU PITJANTJATJARAKU

Division I—Constitution of Anangu Pitjantjatjaraku as Body Corporate

5. (1) There shall be a body corporate entitled “Anangu Pitjantjatjaraku”.

(2) All Pitjantjatjaras are members of Anangu Pitjantjatjaraku.

(3) Anangu Pitjantjatjaraku shall have a common seal.

(4) In any legal proceedings, an apparently genuine document purporting to bear the common seal of Anangu Pitjantjatjaraku and the signatures of five members of the Executive Board attesting the affixation of the seal, shall be presumed, in the absence of proof to the contrary, to have been duly executed by Anangu Pitjantjatjaraku.

PART II

DIVISION I

Constitution of
Anangu
Pitjantjatjaraku
as body
corporate.

Division II—Powers and Functions of Anangu Pitjantjatjaraku

6. (1) The functions of Anangu Pitjantjatjaraku are as follows:

(a) to ascertain the wishes and opinions of traditional owners in relation to the management, use and control of the lands and to seek, where practicable, to give effect to those wishes and opinions;

(b) to protect the interests of traditional owners in relation to the management, use and control of the lands;

(c) to negotiate with persons desiring to use, occupy or gain access to any part of the lands;

and

(d) to administer land vested in Anangu Pitjantjatjaraku.

(2) Anangu Pitjantjatjaraku has the following powers:

(a) the power to sue and be sued;

(b) the power—

(i) to grant a lease or licence, for any period it thinks fit, in respect of any part of the lands (being a part of the lands vested in Anangu Pitjantjatjaraku) to a Pitjantjatjara or an organization comprised of Pitjantjatjaras;

(ii) to grant a lease or licence, for a period not exceeding fifty years, in respect of any part of the lands (being a part of the lands vested in Anangu Pitjantjatjaraku) to an agency or instrumentality of the Crown;

(iii) to grant a lease or licence, for a period not exceeding five years, in respect of any part of the lands (being a part of the lands vested in Anangu Pitjantjatjaraku) to any other person or body of persons;

(c) the power to acquire by agreement, hold, deal in, or dispose of, land outside the lands;

(d) the power to enter into contracts;

(e) the power to appoint and dismiss staff;

(f) the power to receive and disburse moneys;

Division II

Powers and
functions of
Anangu
Pitjantjatjaraku

- (g) the power to obtain advice from persons who are expert in matters with which Anangu Pitjantjatjaraku is concerned;
- (h) the power to establish offices;
- (i) the power to make a constitution relating to—
 - (i) the conduct of meetings of Anangu Pitjantjatjaraku;
 - (ii) the procedures to be followed in resolving disputes;and
 - (iii) any other matter that may be necessary or expedient in relation to the conduct or administration of the affairs of Anangu Pitjantjatjaraku.

Requirement
of
consultation

7. Anangu Pitjantjatjaraku shall, before carrying out or authorizing or permitting the carrying out of any proposal relating to the administration, development or use of any portion of the lands, have regard to the interests of, and consult with, traditional owners having a particular interest in that portion of the lands, or otherwise affected by the proposal, and shall not carry out the proposal, or authorize or permit it to be carried out, unless satisfied that those traditional owners—

- (a) understand the nature and purpose of the proposal;
 - (b) have had the opportunity to express their views to Anangu Pitjantjatjaraku;
- and
- (c) consent to the proposal.

DIVISION III

Division III—General Meetings of Anangu Pitjantjatjaraku

Annual
general meetings
and special
general meetings.

8. (1) There shall be an annual general meeting of Anangu Pitjantjatjaraku once in every calendar year.

(2) The first annual general meeting of Anangu Pitjantjatjaraku shall be held not more than three months after the commencement of this Act.

(3) An annual general meeting of Anangu Pitjantjatjaraku shall be held not more than fifteen months after the last proceeding annual general meeting.

(4) A special general meeting of Anangu Pitjantjatjaraku shall be held if not less than ten members of Anangu Pitjantjatjaraku make a request to the Executive Board for the holding of such a meeting.

DIVISION IV

Division IV—The Executive Board of Anangu Pitjantjatjaraku

Constitution
of the
Executive Board
of Anangu
Pitjantjatjaraku.

9. (1) There shall be an Executive Board of Anangu Pitjantjatjaraku.

(2) The Executive Board shall consist of—

- (a) a chairman;
- and
- (b) ten other members,

elected at an annual general meeting of Anangu Pitjantjatjaraku.

(3) A person is not eligible for election as a member of the Executive Board unless he is a Pitjantjatjara.

(4) A member of the Executive Board shall, subject to the constitution, hold office from the date of his election until the next annual general meeting of Anangu Pitjantjatjaraku but shall then, subject to the constitution, be eligible for re-election.

(5) Where a casual vacancy occurs in the office of a member of the Executive Board, the Executive Board may appoint a suitable Pitjantjatjara to fill the vacancy, and the person so appointed shall, subject to the constitution, hold office until the next annual general meeting of Anangu Pitjantjatjaraku.

(6) Until the first annual general meeting of Anangu Pitjantjatjaraku, the body presently known as the Pitjantjatjara Council shall perform the functions and duties of the Executive Board.

10. (1) The Executive Board shall meet for the transaction of business at least once in every two months.

Procedure
of the
Executive Board

(2) Five members of the Executive Board shall constitute a quorum of the Executive Board.

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

(4) A decision agreed to by a majority of the members present at a meeting of the Executive Board (being a majority of comprising not fewer than four members of the Executive Board) shall be a decision of the Executive Board.

(5) No act or proceeding of the Executive Board is invalid by reason only of a vacancy in the office of a member of the Executive Board.

11. (1) The Executive Board shall carry out the resolutions of Anangu Pitjantjatjaraku.

Functions of
the Executive
Board.

(2) The Executive Board shall act in conformity with the resolutions of Anangu Pitjantjatjaraku and no act of the Executive Board, done otherwise than in accordance with a resolution of Anangu Pitjantjatjaraku, is binding on Anangu Pitjantjatjaraku.

12. An apparently genuine document purporting—

Evidentiary
provision.

(a) to be under the common seal of Anangu Pitjantjatjaraku;

(b) to be signed by five or more members of the Executive Board;

and

(c) to certify that a specified act of the Executive Board has been done in conformity with a resolution of Anangu Pitjantjatjaraku and the provisions of this Act,

shall be conclusive proof that that act is valid and binding upon Anangu Pitjantjatjaraku.

13. (1) The Executive Board shall cause proper accounts to be kept of the financial affairs of Anangu Pitjantjatjaraku.

Accounts
and audit.

(2) The Executive Board

(a) shall cause the accounts of Anangu Pitjantjatjaraku for each financial year to be audited by an auditor registered under the Companies Act, 1962-1980;

and

(b) shall, within twenty-eight days after completion of the audit, lodge copies of the audited accounts with the Corporate Affairs Commission.

Division V—The Approved Constitution

14. (1) Subject to this Act the proceedings of Anangu Pitjantjatjaraku and the administration of its affairs shall be governed by a constitution determined upon by Anangu Pitjantjatjaraku and approved by the Corporate Affairs Commission.

(2) The constitution must be submitted to the Corporate Affairs Commission for its approval within twelve months after the commencement of this Act.

(3) Anangu Pitjantjatjaraku may at any time propose an alteration to its approved constitution and, upon approval of the proposed alteration by the Corporate Affairs Commission, the alteration shall come into effect.

(4) A constitution or alteration submitted for the approval of the Corporate Affairs Commission under this section shall be approved if it conforms with this Act and the law of the State.

(5) The constitution must specify the address of an office within thirty kilometres of the General Post Office at Adelaide at which legal process, notices and other documents may be served upon Anangu Pitjantjatjaraku or the Executive Board.

PART III
THE LANDS

Division I—Vesting of the Lands in Anangu Pitjantjatjaraku

DIVISION I

15. (1) The Governor may issue a land grant, in fee simple, of the whole or any part of the lands to Anangu Pitjantjatjaraku.

The Governor may grant certain land, in fee simple, to Anangu Pitjantjatjaraku.

(2) The Governor shall not exercise his powers under subsection (1) in relation to land (not being land comprised in Granite Downs Station) unless all persons with a legal or equitable estate or interest in the land have surrendered, or agreed to surrender, their respective interests.

(3) Where the Governor exercises his powers under subsection (1) to grant land comprised in Granite Downs Station in Anangu Pitjantjatjaraku, the following provisions shall apply:

- (a) any pastoral lease then in force in relation to that land shall, subject to its terms and the provisions of the Pastoral Act, 1936-1980, continue in force as if Anangu Pitjantjatjaraku had leased the land to the Crown and the Crown had sub-leased it to the lessee;
- (b) upon surrender or expiration of the lease, the lease shall not be renewed, and the land shall not be re-let by the Crown;
- (c) the lessee shall be entitled to compensation from the Crown for diminution in the value of the lease resulting from the operation of paragraph (b) (but compensation to which the lessee is entitled under his paragraph shall be calculated as if the land were unimproved);

and

- (d) the lessee shall, upon surrender or expiration of the lease, be entitled to compensation from Anangu Pitjantjatjaraku for the improvements upon the land determined as if the land had remained pastoral lands and had been re-let under the Pastoral Act, 1936-1980, to Anangu Pitjantjatjaraku on the date of the surrender or expiry of the lease.

(4) The compensation payable under subsection (3) (c) or (d) shall be determined by agreement, or in default of agreement, by the Land and Valuation Court.

16. (1) A land grant issued under this Division shall be expressed in the English language and in the Pitjantjatjara language, but the interpretation of the land grant shall be governed by those portions of the land grant that are expressed in the English language.

Special provisions in relation to the land grant.

(2) If, in the opinion of the Surveyor-General, a land grant issued under this Division erroneously or imperfectly defines the land to which it was intended to apply, the Surveyor-General may submit to the Minister of Lands a proposal to amend the land grant for the purpose of correcting the error, or defining the land with greater precision.

(3) If, in the opinion of the Minister of Lands, the proposal of the Surveyor-General should be carried into effect, he may direct the Registrar-General to amend the land grant in accordance with the proposal.

17. Subject to this Act, where land has vested in Anangu Pitjantjatjaraku in pursuance of this Part, no estate or interest in the land—

(a) may be alienated from Anangu Pitjantjatjaraku;

or

(b) may be compulsorily acquired, resumed or forfeited under the law of this State.

Division II—Entry to the Lands

18. All Pitjantjatjaras have unrestricted rights of access to the lands.

19. (1) A person (not being a Pitjantjatjara) who enters the lands without the permission of Anangu Pitjantjatjaraku is guilty of an offence and liable to a penalty not exceeding the maximum prescribed by subsection (2).

(2) The maximum penalty for an offence against subsection (1) is—

(a) where the offence was committed intentionally—a fine of two thousand dollars plus five hundred dollars for each day during which the convicted person remained on the land after the unlawful entry;

or

(b) in any other case—a fine of two hundred dollars.

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

(a) must be in writing, and lodged with the Executive Board;

and

(b) must set out—

(i) the purpose for which the applicant seeks to enter the lands;

(ii) the period for which the applicant seeks to be upon the lands;

and

(iii) the time at which the applicant seeks to enter the lands, and the place at which he intends to make his entry.

(4) The applicant shall, at the request of Anangu Pitjantjatjaraku, furnish such further information as it may reasonably require to determine the application.

(5) Upon an application under this section, Anangu Pitjantjatjaraku may, by instrument in writing—

(a) grant permission to enter the lands unconditionally;

(b) grant permission to enter the lands subject to such conditions as it thinks fit;

or

(c) refuse permission to enter the lands.

(6) Anangu Pitjantjatjaraku may, upon such conditions as it thinks fit, delegate any of its powers under subsection (5) to any group of Pitjantjatjaras.

(7) A delegation under subsection (6) is revocable at will and does not derogate from the power of Anangu Pitjantjatjaraku to act itself in any matter.

(8) This section does not apply to—

- (a) a police officer acting in the course of carrying out his official duties;
 - (b) any other officer appointed pursuant to statute acting in the course of carrying out his official duties;
 - (c) a person acting upon the written authority of the Minister of Aboriginal Affairs, who enters the lands for the purpose of carrying out functions that have been assigned to a Minister or instrumentality of the Crown or a department of government;
 - (d) a member of the Parliament of the State or the Commonwealth, a person who is genuinely a candidate for election as a member of the Parliament of the State or the Commonwealth, or a person who is accompanying and genuinely assisting any such member or candidate;
 - (e) entry upon the lands in case of emergency;
- or
- (f) entry upon the lands in pursuance of Division III, Division IV or Division VI of this Part.

(9) Where a person proposes to enter the lands in pursuance of subsection (8) (b), (c) or (d) reasonable notice of the time, place and purpose of the proposed entry must be given to Anangu Pitjantjatjaraku.

(10) If Anangu Pitjantjatjaraku, by notice in writing to the Minister of Aboriginal Affairs, objects to an authorized person entering or remaining upon the lands, the Minister shall revoke or modify the authorization in order to give effect to the objection unless he is satisfied that there are sufficient reasons why the authorization should continue notwithstanding the objection.

(11) Where a pastoral lease remains in force in relation to any part of the lands, the holder of the lease, any member of his family, any employee or member of an employee's family, and any other person authorized in writing by the lessee, may, without the permission of Anangu Pitjantjatjaraku, enter land comprised in the lease.

(12) Where an authorization is granted by a lessee under subsection (11), notice in writing of the authorization shall be given by the lessee to Anangu Pitjantjatjaraku within one month after the authorization was granted.

Division III—Mining Operations on the Lands

20. (1) Notwithstanding the provisions of any other Act, a person who, without permission under this section—

- (a) carries out mining operations upon the lands;
- or

(b) enters the lands for the purpose of carrying out mining operations, shall be guilty of an offence and liable to a penalty not exceeding the maximum prescribed by subsection (2).

(2) The maximum penalty for an offence against subsection (1) is a fine of ten thousand dollars plus one thousand dollars for each day during which the convicted person—

(a) carried out unlawful mining operations on the lands;

or

(b) remained on the lands after the unlawful entry.

(3) An application for permission to carry out mining operations upon the lands—

(a) may be made only by a person who has applied for a mining tenement in respect of the lands or a part of the lands and has been notified by the Minister of Mines and Energy that he approves the making of an application under this section;

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

and

(c) must contain, or be accompanied by, all information submitted by the applicant to the Minister of Mines and Energy in support of his application for a mining tenement.

(4) The applicant shall, at the request of Anangu Pitjantjatjaraku, furnish in writing such further information as it may reasonably require to determine the application.

(5) The applicant shall, as soon as practicable after making his application, or furnishing information under subsection (3), send to the Minister of Mines and Energy a copy of the application or of the document by which the information was furnished.

(6) Upon an application under this section, Anangu Pitjantjatjaraku may—

(a) grant its permission unconditionally;

(b) grant its permission subject to such conditions (which must be consistent with the provisions of this Act) as it thinks fit;

or

(c) refuse its permission.

(7) Anangu Pitjantjatjaraku shall, upon deciding an application under this section, notify the applicant, in writing, of its decision and the applicant shall, within seven days after receiving that notification, furnish the Minister of Mines and Energy with a copy of the notification.

(8) Where—

(a) Anangu Pitjantjatjaraku refuses its permission under this section or grants its permission but subject to conditions that are unacceptable to the applicant;

or

- (b) the applicant has not, at the expiration of one hundred and twenty days from the date of the application, received notice of a decision by Anangu Pitjantjatjaraku upon the application,

the applicant may request the Minister for Mines and Energy to refer the application to an arbitrator.

(9) If the Minister of Mines and Energy receives a request under subsection (8), the application shall be referred to an arbitrator appointed by the Minister of Mines and Energy.

(10) At least twenty-one days before an arbitrator is appointed under subsection (9), the Minister of Mines and Energy must inform Anangu Pitjantjatjaraku of whom he proposes to appoint and he must consider any representations of Anangu Pitjantjatjaraku in relation to the proposed appointment.

(11) The arbitrator must be a judge of the High Court, the Federal Court of Australia, or the Supreme Court of a State or Territory of Australia.

(12) The arbitrator—

- (a) shall have the powers of a commission of inquiry under the Royal Commissions Act;

and

- (b) may state a case for the opinion of the Supreme Court on a question of law.

(13) A case stated under subsection (12) shall be heard and determined by the Full Court.

(14) After hearing such evidence and submissions as—

- (a) Anangu Pitjantjatjaraku;
(b) the applicant;
(c) the Minister of Mines and Energy;

and

- (d) the Minister of Aboriginal Affairs,

may desire to make to him, and such other evidence and submissions as he thinks fit to receive, the arbitrator may—

- (e) affirm, vary or reverse the decision of Anangu Pitjantjatjaraku;

or

- (f) where no decision has been made by Anangu Pitjantjatjaraku upon the application—determine the application as the arbitrator thinks fit.

(15) In arriving at his determination, the arbitrator shall have regard to—

- (a) the effect of the grant of the mining tenement upon—

(i) the preservation and protection of Pitjantjatjara ways-of-life, culture and tradition;

(ii) the interests, proposals, opinions and wishes of the Pitjantjatjara people in relation to the management, use and control of the lands;

- (iii) the growth and development of Pitjantjatjara social, cultural and economic structures;
 - (iv) freedom of access by Pitjantjatjaras to the lands and their freedom to carry out on the lands rites, ceremonies and other activities in accordance with Pitjantjatjara traditions;
- (b) the suitability of the applicant to carry out the proposed mining operations and his capacity, in carrying out those operations, to minimize disturbance to the Pitjantjatjara people and the lands;
- (c) the preservation of the natural environment;
- and
- (d) the economic and other significance of the operations to the State and Australia.

(16) The arbitrator shall hear and determine the arbitration as expeditiously as possible.

(17) A determination under this section is binding upon Anangu Pitjantjatjaraku, the applicant and the Crown.

(18) The Arbitration Act, 1891-1974, does not apply to an arbitration under this section.

(19) This section does not apply in relation to prospecting or mining for precious stones on the Mintabie precious stones field.

(20) Where a person applies under this section for permission to prospect and mine for precious stones, and the proposed mining operations are to be carried out within a prescribed area, no compensation, or other consideration, shall be paid or given to Anangu Pitjantjatjaraku under or in respect of a permission granted under this section.

(21) No regulation prescribing an area for the purposes of subsection (20) shall be made unless—

- (a) the area to be prescribed has been delineated or otherwise identified by plan, photograph or other document;
- and
- (b) the plan, photograph or other document has been deposited in the General Registry Office by the Minister of Mines and Energy with the consent of Anangu Pitjantjatjaraku.

and any such regulation may be made by reference to a plan, photograph or other document so deposited.

21. (1) Where prospecting or mining is permitted upon the lands in pursuance of this Division, the person in whose favour the permission was granted and his agents, contractors and employees may, subject to the conditions (if any) upon which the permission was granted, and to the provisions of the Mining Act, 1971-1978, or the Petroleum Act, 1940-1978, as the case may require (but without requiring any further permission or authority to enter the lands under the provisions of either those Acts), enter the lands for the purpose of prospecting or mining.

(2) A mining tenement shall not be granted in respect of the lands or a part of the lands except to a person who has permission to carry out mining

operations on the lands under this Division, but this Act does not prevent the taking of any step under the Mining Act or the Petroleum Act antecedent to the grant of a mining tenement.

(3) Before a mining tenement is granted in pursuance of the Mining Act or the Petroleum Act in relation to the lands or a part of the lands, the Minister administering the relevant Act shall afford Anangu Pitjantjatjaraku a reasonable opportunity to make submissions relating to the conditions subject to which the tenement should be granted.

(4) No mining tenement in respect of the lands shall be granted to a person who, before the grant of the tenement, makes a payment, or gives some other consideration, to Anangu Pitjantjatjaraku in respect of the proposed carrying out of mining operations in pursuance of the tenement, and the amount or value of any such payment or consideration made or given before the grant of the mining tenement may be recovered from Anangu Pitjantjatjaraku as a debt due to the Crown.

(5) If, in respect of the carrying out or proposed carrying out of mining operations on the lands, a person makes a payment, or gives some other consideration, to Anangu Pitjantjatjaraku otherwise than in conformity with—

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

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

or

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

the amount of the payment, or value of the consideration (insofar as it exceeds the amount or value of a payment or consideration to be made or given under any such conditions or agreement) is recoverable from Anangu Pitjantjatjaraku as a debt due to the Crown.

(6) If a person—

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

or

(b) makes, in respect of the carrying out or proposed carrying out of mining operations on the lands, a payment to Anangu Pitjantjatjaraku otherwise than in conformity with—

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

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

or

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

no mining tenement in respect of the lands shall be granted to that person, and any such mining tenement held by that person shall be cancelled.

22. (1) Royalty paid in respect of minerals recovered from the lands shall be paid into a separate fund maintained by the Minister of Mines and Energy.

(2) Subject to subsection (3), the royalty shall be applied as follows:

(a) one-third shall be paid to Anangu Pitjantjatjaraku;

(b) one-third shall be paid to the Minister of Aboriginal Affairs to be applied towards the health, welfare and advancement of the Aboriginal inhabitants of the State generally;

and

(c) one-third shall be paid into the General Revenue of the State.

(3) If the income of the fund maintained under subsection (1) exceeds in any financial year the prescribed limit, the excess shall be paid in full into the General Revenue of the State.

(4) No moneys shall be paid out of the fund maintained under subsection (1) unless a regulation is in force prescribing a limit for the purposes of subsection (3).

(5) In this section—

“royalty” means royalty payable under the Mining Act, 1971-1978, or the Petroleum Act, 1940-1978.

Offence in relation to obtaining permission to carry out mining operations.

23. (1) A person who, without the consent of the Minister of Mines and Energy, gives, offers, or agrees to give a payment or other consideration to another person in connection with obtaining the permission of Anangu Pitjantjatjaraku to carry out mining operations upon the lands shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars.

(2) Where a body corporate commits an offence against subsection (1), each director of the body corporate shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars unless he proves that he could not, by the exercise of reasonable diligence, have prevented the commission of the offence by the body corporate.

Certain payments or other consideration to Anangu Pitjantjatjaraku must represent fair compensation.

24. (1) This section applies to payments made, or to be made, or consideration given, or to be given, to Anangu Pitjantjatjaraku (not being a payment of royalty under section 22) in respect of the carrying out or proposed carrying out of mining operations on the lands.

(2) A payment or consideration to which this section applies must be reasonably proportioned to the disturbance to the lands, the Pitjantjatjara people, and their ways-of-life, that has resulted or is likely to result from the grant of the relevant mining tenement.

(3) A person who makes or gives, or agrees to make or give, a payment or consideration to which this section applies shall, with fourteen days of the date of making or giving the payment or consideration, or entering into the agreement, notify the Minister of Mines and Energy of the amount or value of the payment or consideration, or of the terms of the agreement.

Penalty: Two thousand dollars

Division IV—The Mintabie Precious Stones Field

Special provisions relating to the Mintabie precious stones field.

25. (1) A person is not entitled to enter or remain upon the Mintabie precious stones field unless—

(a) he has permission under this Act to be upon that field;

or

(b) he is a member of a class of persons who are, under subsection (2), entitled to enter and remain on the field without permission under this Act.

(2) Subject to this section, persons of the following classes are entitled to enter and remain on the Mintabie precious stones field without permission under this Act—

(a) persons who hold precious stones prospecting permits;

(b) persons carrying on a lawful business at an established place of business upon the field;

(c) the lawful or *de facto* spouse, or parent or child, of a person who is entitled to be on the field under paragraph (a) or (b);

(d) persons whose purpose in entering, or being on, the field is to transact lawful business with persons referred to in paragraph (a), (b) or (c), being business that cannot reasonably be transacted from a place outside the lands.

(3) A person who is entitled under subsection (2) to enter and remain on the field is entitled, without permission under this Act, to use roads that provide access to the field for the purpose of entering and leaving the field.

(4) Where a person carries on, or proposes to carry on, a business of a kind referred to in subsection (2) (b), and the business is not such that a licence, permit or other authorization is required under the law of the State in respect of that business, he shall notify the designated officer in writing of the nature of the business and of the place at which it is being or is to be carried on.

Penalty: Five hundred dollars.

(5) Subject to subsection (6), a person who proposes to enter the field under subsection (2) (d) shall, before doing so, give notice, in the prescribed form, to the designated officer.

Penalty: Five hundred dollars.

(6) A person is not required to give notice under subsection (5) where he has been invited to the field by a person referred to in subsection (2) (a), (b) or (c) and that person has given the prescribed notice to the designated officer.

(7) The designated officer shall maintain a list of notices given under this section.

(8) The list shall be open for inspection by any member of the public.

(9) In this section—

“the designated officer” means the person to whom the Minister of Mines and Energy assigns the functions of designated officer under this section.

26. (1) There shall be a committee entitled the “Mintabie Consultative Committee”.

(2) The Committee shall at the request of the Minister of Mines and Energy, and may of its own motion, tender advice to the Minister of Mines and Energy on matters related to the administration of the Mintabie precious stones field.

(3) The Committee shall consist of the following members:

- (a) two Pitjantjatjaras nominated by Anangu Pitjantjatjaraku and appointed by the Governor;
- (b) a member of the Police Force nominated by the Commissioner of Police and appointed by the Governor;
- (c) a person nominated by the Minister of Mines and Energy and appointed by the Governor;

and

- (d) a person nominated by the Mintabie Progress Association and appointed by the Governor.

(4) The Governor shall appoint one of the members nominated by Anangu Pitjantjatjaraku to be chairman of the Committee.

(5) The members of the Committee shall hold office at the pleasure of the Governor.

(6) The Pitjantjatjara members of the Committee are entitled to be accompanied at meetings of the Committee by advisers and interpreters.

(7) A member of the Committee may appoint a person to act as his deputy, and a person so appointed may, in the absence of that member, act in his place at a meeting of the Committee.

(8) Subject to this section and the regulations, the procedures for convening meetings of the Committee and transacting its business shall be as determined by the Committee.

(9) A decision carried by a majority of the votes cast by the members present at a meeting of the Committee shall be a decision of the Committee.

(10) Each member present at a meeting of the Committee shall have one vote on any matter arising for decision at that meeting and, in the event of an equality of votes, the chairman shall have a second, or casting, vote.

27. (1) A court of summary jurisdiction may upon the application of the Committee or of Anangu Pitjantjatjaraku, make an order prohibiting a person from entering or remaining on the Mintabie precious stones field.

(2) An order shall not be made against a person under subsection (1) unless the person against whom the order is sought—

(a) has, after the commencement of this Act, been convicted of—

- (i) an offence involving violence or a breach of the peace;
- (ii) an offence of a sexual nature;
- (iii) an offence involving the unlawful sale of a motor vehicle;
- (iv) larceny;

(v) an offence involving the unlawful sale of liquor;

or

(vi) an offence involving wilful interference with an Aboriginal sacred site;

or

(b) has acted in a manner prejudicial to—

(i) the welfare of an Aboriginal individual or group;

or

(ii) the welfare of those who are lawfully on the field in pursuance of this Division

(3) A person in respect of whom an order is in force under subsection (1) who enters or remains on the field in contravention of the order shall be guilty of an offence and liable to a penalty not exceeding ten thousand dollars or imprisonment for two years.

(4) A court of summary jurisdiction may, upon the application of a person against whom an order has been made under this section, revoke the order, but it shall not do so unless it has first allowed the Committee and Anangu Pitjantjatjaraku a reasonable opportunity to be heard upon the matter.

28. (1) The defined area shall be deemed to have been leased by Anangu Pitjantjatjaraku to the Crown for a term of twenty-one years commencing on the date of commencement of this Act.

Annual licences and incidental rights for Mintabie residents.

(2) The Minister of Lands may, upon the application of a Mintabie resident, issue or renew an annual licence entitling him, subject to the terms and conditions of the licence, to occupy land within the defined area, but no such licence shall operate after the expiration of the period referred to in subsection (1).

(3) The annual rental payable under a licence issued under subsection (2) shall be twenty dollars or such other amount as may be determined by the Minister of Lands, and in determining any such annual rental he shall have regard to, and generally follow, the rates of rental fixed by the Crown in respect of annual licences issued in comparable situations.

(4) Once in each year, the Minister of Lands shall pay to Anangu Pitjantjatjaraku all amounts collected during the preceding period of twelve months by way of annual rental under licences issued in pursuance of this section.

(5) The Minister of Lands shall not issue a licence under this section to a person who is, by order of a court, prohibited from entering or remaining on the Mintabie precious stones field, and, if such an order is made against a licensee, the Minister shall revoke his licence.

(6) An annual licence issued under this section is not transferable nor may any of the rights conferred by the licence be assigned.

(7) The Minister of Lands shall, as soon as practicable after issuing a licence under this section, notify Anangu Pitjantjatjaraku of—

(a) the name of the licensee;

and

(b) the land to which the licence relates.

(8) A Mintabie resident shall be entitled, without permission under this Act, to use and maintain the airfield adjacent to the defined area as an airfield, and to have such access to the lands as is reasonably necessary for the purpose.

(9) A Mintabie resident shall be entitled, without permission under this Act:—

(a) to use and maintain the bore and water distribution system by which water is provided on the Mintabie precious stones field.

and

(b) to drill a further bore or bores (either in addition to or in substitution for the present bore) on a site to be agreed with Anangu Pitjantjatjaraku (which agreement shall not be unreasonably or capriciously withheld) and to install and maintain such pumps, pipes and other equipment as may be necessary to connect it to the water distribution system, and to have such access to the lands as is necessary for those purposes.

(10) In this section—

“the defined area” means section 1291 Out of Hundreds (Everard)..

(11) This section shall cease to operate in the event of the Mintabie precious stones field ceasing to be a precious stones field for the purposes of the Mining Act, 1971-1978.

Interaction of this
Division and the
Mining Act.

29. (1) Subject to subsection (2), this Division does not derogate from the provisions of the Mining Act, 1971-1978.

(2) Notwithstanding the provisions of the Mining Act, 1971-1978, the consent of Anangu Pitjantjatjaraku is not required to the pegging out of a precious stones claim on the Mintabie precious stones field.

DIVISION V

Division V—Right of the Crown to Continue in Occupation
of Certain Parts of the Lands

Right of the
Crown to
continue its
occupation of
certain land.

30. Where before the commencement of this Act the Crown occupied a part of the lands for purposes connected with the health, education, welfare or advancement of the Pitjantjatjara people, the Crown may continue to occupy that part of the lands, for a period of up to fifty years, for the same or similar purposes and without payment of rent or compensation to Anangu Pitjantjatjaraku.

DIVISION VI

Division VI—Construction of Roads by the Commissioner
of Highways

Consent of
Anangu
Pitjantjatjaraku
required for road
works.

31. (1) The Commissioner of Highways may carry out road works upon the lands with the consent of Anangu Pitjantjatjaraku.

(2) The consent of Anangu Pitjantjatjaraku may be given subject to such conditions as Anangu Pitjantjatjaraku thinks fit.

(3) Anangu Pitjantjatjaraku shall not withhold its consent to the construction or re-construction of a road referred to in the second schedule, but this subsection does not prejudice the right of Anangu Pitjantjatjaraku to negotiate conditions affecting the location of the road, the road works, or ancillary or associated works.

32. (1) Where the Commissioner of Highways desires to carry out road works on the lands, he shall submit to Anangu Pitjantjatjaraku proposals containing—

- (a) a plan describing the land on which the road works are to be carried out;
 - (b) a description of all ancillary or associated works that are to be carried out and of the areas in which more ancillary or associated works are to be carried out;
 - (c) a description of the access roads to be used for the purpose of the road works, or the ancillary or associated works;
 - (d) a general description of the areas in which gravel or stone is to be quarried for the purpose of the road works;
- and
- (e) such other information as Anangu Pitjantjatjaraku may reasonably require.

(2) If the Commissioner and Anangu Pitjantjatjaraku are unable to agree on the proposals, or on some modified form of the proposals, the Commissioner may submit the differences to arbitration.

(3) The arbitrator shall be the arbitrator appointed in pursuance of section 20.

(4) The arbitrator is empowered to determine any matter in dispute and his determination shall be binding on the Commissioner and on Anangu Pitjantjatjaraku.

(5) No compensation is payable to Anangu Pitjantjatjaraku in respect of loss or damage arising from road works where those road works are carried out in relation to the roads referred to in the second schedule and in accordance with conditions agreed by Anangu Pitjantjatjaraku and the Commissioner, or determined by the arbitrator.

(6) For the purposes of this section, the document entitled “Proposal for the Establishment of a Road Construction Corridor and the Construction of the new Stuart Highway” executed by the Commissioner of Highways and the Pitjantjatjara Council Incorporated, deposited in the General Registry Officer and numbered 2293 of 1980, shall be deemed to constitute proposals agreed upon by Anangu Pitjantjatjaraku and the Commissioner.

33. (1) The area comprised within one hundred metres each side of the centre line of the roads referred to in the second schedule (the centre line being ascertained by reference to the road as constructed) constitutes a road reserve.

Road reserves.

(2) The Commissioner of Highways is entitled to unrestricted use of a road reserve for purposes related to road works.

(3) A member of the public shall be entitled to free and unrestricted access to any of the roads referred to in the second schedule and to land comprised in a road reserve.

34. The provisions of sections 31 and 32 shall not apply to the maintenance or repair (being maintenance or repair not involving re-alignment) of a road referred to in the second schedule provided that materials used in the course of the maintenance or repair of the road are not taken from any part of the lands that lies outside the road reserve.

Consent not
required for
maintenance or
repair of roads
referred to in
second schedule.

PART IV
DISPUTES

Tribal assessor.

35. (1) There shall be a tribal assessor.

(2) The tribal assessor shall be appointed by the Minister of Aboriginal Affairs with the approval of Anangu Pitjantjatjaraku.

(3) The terms and conditions upon which the tribal assessor holds office shall be determined by the Minister after considering the advice of the Public Service Board.

Disputes.

36. (1) Any Pitjantjatjara who is aggrieved by a decision or action of Anangu Pitjantjatjaraku, or any of its members, may appeal to the tribal assessor against that decision or action.

(2) The tribal assessor—

(a) shall hear the appeal at some suitable place upon the lands;

and

(b) shall conduct the hearing as expeditiously as possible and without undue formality.

(3) The tribal assessor is not bound by the rules of evidence in proceedings under this section, but may inform himself in such manner as he thinks fit.

(4) In proceedings under this section, the tribal assessor should observe, and where appropriate give effect to, the customs and traditions of the Pitjantjatjara people.

(5) The tribal assessor may in proceedings under this section—

(a) give such directions as he considers just or expedient to resolve any matters in dispute;

or

(b) refer the matter back to Anangu Pitjantjatjaraku to be further dealt with in accordance with his directions.

Order
compelling
compliance
with direction
of the tribal
assessor.

37. (1) If a person refuses or fails to comply with a direction of the tribal assessor, any party to the proceedings before the assessor may apply to a local court or full jurisdiction for an order to compel that person to comply with the direction.

(2) Upon an application under this section, the local court shall, unless satisfied that the direction of the tribal assessor is unjust or unreasonable, make an order requiring the person against whom the direction was made to comply with the direction.

(3) Proceedings under this section shall be heard at some suitable place upon the lands, and shall be conducted as expeditiously as possible and without undue formality.

PART V
MISCELLANEOUS

- | | |
|---|---|
| 38. Proceedings in respect of offences against this Act shall be disposed of summarily. | Summary procedure. |
| 39. Where a person is convicted of an offence against this Act or any other Act, and it appears to the court by which that person is convicted that Anangu Pitjantjatjaraku has suffered damage to its property as a result of the commission of the offence, the court may order the convicted person to pay such compensation to Anangu Pitjantjatjaraku as the court considers just. | Power of court to order compensation in certain cases. |
| 40. No land tax is payable upon the lands. | Exemption of lands from land tax. |
| 41. The moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for those purposes. | Financial provision. |
| 42. (1) The Outback Areas Community Development Trust Act, 1978, does not apply to the lands. | Non-application of Outback Areas Community Development Trust Act. |
| (2) Notwithstanding subsection (1), the Outback Areas Community Development Trust may extend moneys for the benefit of residents of the Mintabie precious stones field. | |
| 43. (1) The Governor may make regulations— | Regulations. |
| (a) regulating, restricting or prohibiting the depasturing of stock upon any specified part of the lands; | |
| (b) regulating, restricting or prohibiting any activity on the lands that may have adverse environmental consequences; | |
| (c) regulating, restricting or prohibiting the supply or consumption of alcoholic liquor on the lands; | |
| (d) providing for the confiscation of alcoholic liquor; | |
| (e) prescribing other matters contemplated by this Act, or necessary or expedient for the purposes of this Act; | |
| and | |
| (f) prescribing penalties (not exceeding two thousand dollars) for breach of, or non-compliance with, any regulation. | |
| (2) A regulation shall not be made under subsection (1) (b), (c) or (d) except upon the recommendation of Anangu Pitjantjatjaraku. | |

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

K. D. SEAMAN, Governor

THE FIRST SCHEDULE

- s. 4.
- (a) The North West Reserve, blocks, 915, 948, 950, 953, 964, 1018, 1019, 1031, 1032 and 1217, Out of Hundreds.
 - (b) Section 462, Out of Hundreds.
 - (c) Pastoral blocks 1033, 1058, 1060 and 1074 and Section 1280, Out of Hundreds.
 - (d) Pastoral blocks 863, 900, 907, 908 and 1165, Out of Hundreds.
 - (e) Pastoral blocks 1034 and 1202, Out of Hundreds.
 - (f) Pastoral blocks 1036, 1037, 1038 and 1077, Out of Hundreds.
 - (g) The land in respect of which partial surrender No. 4603197 and partial surrender No. 4603198 were registered in the Register of Crown Leases.

THE SECOND SCHEDULE

- ss. 31. 33.
- 1. The Stuart Highway.
 - 2. The Oodnadatta to Granite Downs Road.