

South Australia

Nuclear Facility (Prohibition) Bill 2007

A BILL FOR

An Act to prohibit the establishment of certain nuclear facilities in South Australia; to make a related amendment to the *Radiation Protection and Control Act 1982*; to repeal the *Nuclear Waste Storage Facility (Prohibition) Act 2000*; and for other purposes.

Contents

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Act binds Crown
- 5 Application of Act
- 6 Effect of Act
- 7 Prohibition against construction or operation of nuclear facility
- 8 Prohibition against importation or transportation of nuclear waste for delivery to nuclear waste storage facility
- 9 Offences by body corporate
- 10 Powers of public authority
- 11 Orders by court against offenders
- 12 No public money to be used to encourage or finance construction or operation of nuclear facility
- 13 Public inquiry into environmental and socio-economic impact of nuclear facility

Schedule 1—Amendments and repeals

Part 1—Preliminary

- 1 Amendment provisions

Part 2—Amendment of *Radiation Protection and Control Act 1982*

- 2 Repeal of section 27

Part 3—Repeal

- 3 Repeal of *Nuclear Waste Storage Facility (Prohibition) Act 2000*
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The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Nuclear Facility (Prohibition) Act 2007*.

2—Commencement

5 This Act will come into operation 1 month after the day on which it is assented to by the Governor.

3—Interpretation

In this Act—

10 **Code of Practice** means the *Code of Practice for the Near-Surface Disposal of Radioactive Waste in Australia (1992)* approved by the National Health and Medical Research Council and published by the Australian Government Publishing Service as Radiation Health Series No. 35 (ISBN 0 644 28673 3);

enrichment, in relation to nuclear material, means any process by which the proportion of an isotope is increased in relation to the natural abundance of the isotope;

environmental harm has the same meaning as in the *Environment Protection Act 1993*;

ionizing radiation has the same meaning as in the *Radiation Protection and Control Act 1982*;

5 *nuclear facility* means—

- (a) a facility for the conversion of uranium ore into uranium hexafluoride or any other chemical in order to enable its enrichment; or
- (b) an isotope separation plant or other facility for the enrichment of nuclear material; or
- 10 (c) a fabrication plant or other facility for transforming nuclear material into a form suitable for use as fuel in a nuclear reactor; or
- (d) a nuclear reactor, whether or not designed for the purpose of generating electricity; or
- (e) a reprocessing plant or other facility for the chemical separation of fuel that
- 15 has been irradiated in a nuclear reactor; or
- (f) a radioisotope production facility; or
- (g) a nuclear weapons facility; or
- (h) a nuclear waste storage facility;

20 *nuclear fuel cycle* includes any process or step in the utilisation of material capable of undergoing nuclear fission, including its ultimate disposal;

nuclear material means a radioactive substance associated with the nuclear fuel cycle, including radioactive waste material;

nuclear reactor means a device designed to produce controlled nuclear fission;

nuclear waste means—

- 25 (a) Category A, Category B or Category C radioactive waste as defined in the Code of Practice; or
- (b) any waste material that contains a radioactive substance and is derived from—
 - 30 (i) the operations or decommissioning of a facility of a type referred to in paragraphs (a) to (g) of the definition of *nuclear facility*; or
 - (ii) the testing, use or decommissioning of nuclear weapons; or
 - (iii) the conditioning or reprocessing of spent nuclear fuel;

nuclear waste storage facility means an installation for the storage or disposal of nuclear waste;

35 *public authority* has the same meaning as in the *Environment Protection Act 1993*;

radioactive substance means a substance that spontaneously emits ionizing radiation.

4—Act binds Crown

This Act binds the Crown in right of the State and, in so far as the legislative power of the State permits, in all its other capacities.

5—Application of Act

This Act does not apply in relation to—

- (a) nuclear waste lawfully stored in the State before the commencement of the *Nuclear Waste Storage Facility (Prohibition) Act 2000*; or
- 5 (b) nuclear waste—
 - (i) from radioactive material that has been used or handled in accordance with the *Radiation Protection and Control Act 1982* pursuant to a licence, permit or other authority granted under that Act; and
 - 10 (ii) the storage or disposal of which has been authorised by or under that Act.

6—Effect of Act

This Act has effect despite any other Act or law.

7—Prohibition against construction or operation of nuclear facility

15 A person must not construct or operate a nuclear facility.

Maximum penalty:

In the case of a natural person—\$500 000 or imprisonment for 10 years;

In the case of a body corporate—\$5 000 000.

8—Prohibition against importation or transportation of nuclear waste for delivery to nuclear waste storage facility

20 A person must not—

- (a) bring nuclear waste into the State; or
- (b) transport nuclear waste within the State,

for delivery to a nuclear waste storage facility in the State.

25 Maximum penalty:

In the case of a natural person—\$500 000 or imprisonment for 10 years;

In the case of a body corporate—\$5 000 000.

9—Offences by body corporate

- 30 (1) If a body corporate is guilty of an offence against this Act, each person who is a director of the body corporate or a person concerned in the management of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence when committed by a natural person unless it is proved that the person could not by the exercise of reasonable diligence have prevented the commission of the offence by the body corporate.
- 35 (2) A person referred to in subsection (1) may be prosecuted and convicted of an offence against that subsection whether or not the body corporate has been prosecuted or convicted of the principal offence committed by the body corporate.

10—Powers of public authority

A public authority may do 1 or more of the following:

- (a) remove a nuclear facility constructed or operated in contravention of this Act;
- (b) make good any environmental harm resulting from the construction or operation of that facility;
- (c) prevent or mitigate any future environmental harm resulting from the construction or operation of that facility.

11—Orders by court against offenders

(1) If, in proceedings for an offence against this Act, the court finds the defendant guilty of a contravention of this Act, the court may, in addition to any penalty it may impose, do 1 or more of the following:

- (a) order the defendant to take specified action to—
 - (i) remove a nuclear facility constructed or operated in contravention of this Act; or
 - (ii) make good any environmental harm resulting from the construction or operation of that facility; or
 - (iii) prevent or mitigate any future environmental harm resulting from the construction or operation of that facility;
- (b) order the defendant to take specified action to publicise the contravention and its environmental and other consequences and any other orders made against the defendant;
- (c) order the defendant to pay—
 - (i) to a public authority that has incurred costs or expenses in taking action of a kind referred to in section 10 as a result of the contravention; and
 - (ii) to any person who has suffered injury or loss or damage to property as a result of the contravention, or incurred costs or expenses in taking action to prevent or mitigate such injury, loss or damage, the reasonable costs and expenses so incurred, or compensation for the injury, loss or damage so suffered, as the case may be, in such amount as is determined by the court.

(2) The court may, by an order under this section, fix a period for compliance and impose any other requirements the court considers necessary or expedient for enforcement of the order.

12—No public money to be used to encourage or finance construction or operation of nuclear facility

Despite any other Act or law to the contrary, no public money may be appropriated, expended or advanced to any person for the purpose of encouraging or financing any activity associated with the construction or operation of a nuclear facility in this State.

13—Public inquiry into environmental and socio-economic impact of nuclear facility

5 If a licence, exemption or other authority to construct or operate a nuclear facility in this State is granted under a law of the Commonwealth, the Environment, Resources and Development Committee of Parliament must inquire into, consider and report on the likely impact of that facility on the environment and socio-economic wellbeing of this State.

Schedule 1—Amendments and repeals

Part 1—Preliminary

10 1—Amendment provisions

In this Schedule, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Radiation Protection and Control Act 1982*

15 2—Repeal of section 27

Section 27—delete the section

Part 3—Repeal

3—Repeal of *Nuclear Waste Storage Facility (Prohibition) Act 2000*

The *Nuclear Waste Storage Facility (Prohibition) Act 2000* is repealed.