

South Australia

NUCLEAR WASTE STORAGE FACILITY (PROHIBITION) ACT 2000

An Act to prohibit the establishment of certain nuclear waste storage facilities in South Australia; and for other purposes.

*This Act is published under the Legislation Revision and Publication Act 2002 and incorporates all amendments in force as at **27 March 2003**.*

Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.

NUCLEAR WASTE STORAGE FACILITY (PROHIBITION) ACT 2000

being

Nuclear Waste Storage Facility (Prohibition) Act 2000 No. 68 of 2000
[Assented to 30 November 2000]¹

as amended by

Nuclear Waste Storage Facility (Prohibition) Amendment Act 2003 No. 1 of 2003 [Assented to
27 March 2003]

¹ Came into operation 25 January 2001: *Gaz.* 25 January 2001, p. 300.

NOTE:

- *Asterisks indicate repeal or deletion of text.*
- *For the legislative history of the Act see Appendix.*

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**APPENDIX
LEGISLATIVE HISTORY**

The Parliament of South Australia enacts as follows:

Short title

1. This Act may be cited as the *Nuclear Waste Storage Facility (Prohibition) Act 2000*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Objects of Act

3. The objects of this Act are to protect the health, safety and welfare of the people of South Australia and to protect the environment in which they live by prohibiting the establishment of certain nuclear waste storage facilities in this State.

Interpretation

4. In this Act—

"**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);

"**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*;

"**nuclear waste**" means—

- (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—
 - (i) the operations or decommissioning of—
 - (A) a nuclear reactor; or
 - (B) a nuclear weapons facility; or
 - (C) a radioisotope production facility; or
 - (D) a uranium enrichment plant; 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 any installation for the storage or disposal of nuclear waste;

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

"**radioactive substance**" means any substance that spontaneously emits ionizing radiation.

Act binds Crown

5. 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.

Application of Act

6. This Act does not apply in relation to—

- (a) nuclear waste lawfully stored in the State before the commencement of this Act; or
- (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
 - (ii) the storage or disposal of which has been authorised by or under that Act.

Effect of Act

7. This Act has effect despite any other Act or law.

Prohibition against construction or operation of nuclear waste storage facility

8. A person must not construct or operate a nuclear waste storage 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.

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

9. 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.

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.

Offences by body corporate

10. (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.

(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.

Powers of public authority

11. A public authority may do one or more of the following:

- (a) remove a nuclear waste storage 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.

Orders by court against offenders

12. (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 one or more of the following:

- (a) order the defendant to take specified action to—
 - (i) remove a nuclear waste storage facility constructed or operated in contravention of this Act;
 - (ii) make good any environmental harm resulting from the construction or operation of that facility;
 - (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 11 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.

No public money to be used to encourage or finance construction or operation of nuclear waste storage facility

13. 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 waste storage facility in this State.

Public inquiry into environmental and socio-economic impact of nuclear waste storage facility

14. If a licence, exemption or other authority to construct or operate a nuclear waste storage 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.

Expiry of Act

15. This Act expires on 19 July 2003.

APPENDIX

LEGISLATIVE HISTORY

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| Section 4: | definition of "Code of Practice" inserted by 1, 2003, s. 2(a) |
| | definition of "nuclear waste" substituted by 1, 2003, s. 2(b) |
| Section 15: | inserted by 1, 2003, s. 3 |