



Western Australia

Nuclear Waste Storage (Prohibition) Act 1999

No. 54 of 1999

An Act to prohibit the storage or disposal in Western Australia of certain nuclear waste, to amend the *Nuclear Activities Regulation Act 1978* and the *Radiation Safety Act 1975*, and for other purposes.

[Assented to 7 December 1999]

The Parliament of Western Australia enacts as follows:

1. Short title

This Act may be cited as the *Nuclear Waste Storage (Prohibition) Act 1999*.

2. Commencement

This Act comes into operation on the day on which it receives the Royal Assent.

3. Interpretation

In this Act unless otherwise provided —

“nuclear waste” means any radioactive substance —

- (a) which is derived from any source including a nuclear reactor, a nuclear weapon, a nuclear weapon facility, a nuclear reprocessing plant or an isotope enrichment plant; and
- (b) for which the Radiological Council is satisfied that no beneficial use is envisaged,
except for any radioactive substance which has been —
- (c) generated in Australia otherwise than from waste radioactive substances imported into Australia; or
- (d) used under a licence, registration, exemption, disposal permit or temporary permit under the *Radiation Safety Act 1975*;

“nuclear waste storage facility” means any installation for the storage or disposal of any nuclear waste;

“public moneys” and **“moneys of a statutory authority”** have the meanings given to them by section 3 of the *Financial Administration and Audit Act 1985*;

“radioactive substance” has the meaning given to it by section 4 of the *Radiation Safety Act 1975*.

“Radiological Council” has the meaning given to it by section 13 of the *Radiation Safety Act 1975*.

4. Objects of Act

The objects of this Act are to protect the health, welfare and safety of the people of Western Australia and to protect the environment in which they dwell by prohibiting the establishment of a nuclear waste storage facility in this State or the use of any place in this State for the storage or disposal of nuclear waste.

5. Relation to other laws

- (1) Subject to subsection (2) this Act has effect notwithstanding any other written law.
- (2) This Act does not derogate from the *Radiation Safety Act 1975* and where any provision of that Act or any regulation made under that Act is inconsistent with any provision of this Act the provisions of that Act or that regulation prevail.

6. Act to bind Crown

This Act shall bind the Crown in right of the State of Western Australia and, so far as the legislative competence of the Parliament of Western Australia extends, in all its other capacities.

7. Prohibition against constructing or operating a nuclear waste storage facility

- (1) A person shall not construct or operate a nuclear waste storage facility in the State or use any place in the State for the storage or disposal of nuclear waste.
- (2) A person who contravenes subsection (1) shall be guilty of an offence and punishable by a fine not exceeding \$500 000.

8. Offence by corporation

- (1) Where a corporation contravenes section 7, each person who is a director of the corporation or who is concerned in the management of the corporation contravenes the section unless the person satisfies the court that —
- (a) the corporation contravened the section without the knowledge of the person; or
 - (b) the person —
 - (i) was not in a position to influence the conduct of the corporation in relation to its contravention of section 7; or
 - (ii) being in such a position, used all due diligence to prevent the contravention by the corporation.
- (2) A person may be proceeded against and convicted under section 7 because of subsection (1) whether or not the corporation has been proceeded against or convicted under that provision.
- (3) Nothing in this section prejudices or affects any liability imposed by this Act on any corporation by which an offence against section 7 is actually committed.

9. No public expenditure on storage or disposal of nuclear waste

No public moneys or moneys of a statutory authority are to be expended or to be granted or advanced to any person —

- (a) for the purpose of; or
- (b) for the purpose of encouraging or financing any activity associated with,

the development, construction or operation of a nuclear waste storage facility in the State or the use of any place in the State for the storage or disposal of nuclear waste.

10. Consequential amendments

(1) Section 5 of the *Nuclear Activities Regulation Act 1978* is amended —

(a) by inserting at the beginning of the section the following —

“ (1) Subject to subsection (2) ”; and

(b) by inserting after the section the following —

“

(2) This Act does not affect the operation of the *Nuclear Waste Storage (Prohibition) Act 1999* and nothing in this Act authorizes the doing of anything that is prohibited by that Act.

”.

(2) After section 41 of the *Radiation Safety Act 1975* the following section is inserted —

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41A. Restriction on authorization of storage or disposal of nuclear waste

(1) In this section —

“**authorization**” means a licence, registration, exemption, disposal permit or temporary permit under this Act;

“**nuclear waste**” has the meaning given to it by section 3 of the *Nuclear Waste Storage (Prohibition) Act 1999*.

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- (2) Despite anything in this Part, an authorization relating to nuclear waste is not to be granted or effected unless both Houses of Parliament by resolution consent to the authorization being granted or effected, and then only on such terms and conditions as are specified in the resolution.

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