

Nuclear Activities (Prohibition) Bill 2001

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Western Australia

LEGISLATIVE COUNCIL

(Hon Giz Watson)

Nuclear Activities (Prohibition) Bill 2001

A Bill for

An Act to prohibit in Western Australia certain activities associated with the nuclear fuel chain, and for related purposes.

The Parliament of Western Australia enacts as follows:

1. Short title and commencement

- (1) This Act may be cited as the *Nuclear Activities (Prohibition) Act 2001*.
- 5 (2) This Act comes into operation on the day on which it receives the Royal Assent.

2. **Interpretation**

In this Act unless inconsistent with the context —

“**conversion**” means the transformation of fertile material into fissile material;

5 “**enrichment**”, in relation to fissile material, means any process by which the proportion of an isotope is increased in relation to the natural abundance of the isotope;

“**exploration**” means searching for uranium or thorium ore bodies using either radiometric or other survey techniques;

10 “**fabrication of fuel**” means any process or step in the transformation of fissile material into a form suitable for use in a nuclear reactor;

15 “**facility**” includes a reactor, a critical facility, a conversion plant, a fabrication plant, a reprocessing plant, an isotope separation plant or a separate storage installation;

“**fertile material**” means any substance which is capable of being transformed into fissile material;

“**fissile material**” means a substance capable of undergoing nuclear fission in a nuclear reactor;

20 “**mining**” has the same meaning as defined in the *Mining Act 1978*;

“**mining tenement**” has the same meaning as defined in the *Mining Act 1978*;

25 “**Minister**” means the Minister from time to time charged with the administration of the *Mining Act 1978*;

“**nuclear activities**” means any procedure or operation involved in the exploration for, mining, milling, conversion, enrichment, fabrication, use, reprocessing, storage or disposal of nuclear material;

30 “**nuclear fission**” means the splitting of a nucleus into two more or less equal fragments;

“**nuclear fuel chain**” includes any process or step in the utilisation of fissile material, including its disposal at the stage at which such material has no commercial value;

5 “**nuclear material**” means any radioactive substance associated with the nuclear fuel chain, including fertile and fissile material, spent fuel and waste;

“**nuclear power reactor**” means a nuclear reactor designed for the generation of electricity;

10 “**nuclear reactor**” means a reactor designed to produce controlled nuclear fission;

“**reprocessing**” means the conversion of spent fuel for reuse;

“**spent fuel**” means any fuel which has been partly consumed in a nuclear reactor;

15 “**thorium**”, the radioactive metallic element of the Actinide Series having the symbol Th and atomic number 90, and includes any of its isotopes or compounds;

“**uranium**”, the radioactive metallic element of the Actinide Series having the symbol U and atomic number 92, and includes any of its isotopes or compounds;

20 “**waste**” means any radioactive material lacking commercial value which is produced as a result of nuclear activities.

3. **Objects of Act**

The objects of this Act are to —

- 25 (a) protect the health, welfare and safety of the people of Western Australia;
- (b) limit deterioration of the environment by prohibiting nuclear activities.

4. **Acts binds the Crown**

30 This Act binds the Crown in right of the State of Western Australia and, so far as the legislative competence of the

Parliament of Western Australia permits, in all its other capacities.

5. Prohibition against exploration etc. for uranium and thorium

- 5 (1) Despite the provisions of a mining tenement, it is an offence for any person to carry out a mining operation, or permit exploration, for thorium or uranium.
- (2) The Minister must cancel any mining tenement held by a person who or which is convicted of a second offence under subsection
10 (1).
- (3) It is a defence to a charge under subsection (1) for the person to show that —
- (a) the extraction of thorium or uranium is incidental to, or unavoidable in the course of, a mining operation; and
15 (b) the mining product contains, by weight, not more than 0.05% uranium and not more than 2% thorium.
- (4) In this section “**mining operation**” and “**mining product**” have the meanings given to them in section 8(1) of the *Mining Act 1978*.

20 **6. Facilities and transport for nuclear activities prohibited**

- (1) It is an offence for any person to construct or operate any facility, or alter or modify an existing facility, for any purpose that is intended for, or enables engaging in, nuclear activities.
- (2) It is an offence for any person to transport, or cause to be
25 transported, any nuclear material.

7. Enforcement of this Act

- (1) Any person may seek an order from the Supreme Court or a Judge that remedies or restrains another person from breaching or engaging in conduct that will, or is likely to, breach a
30 provision of this Act, and it does not matter that the interests or

rights of the person seeking the order is, or will be, adversely affected by the breach or threatened breach.

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- (2) A person seeking an order under subsection (1) may act for any other person having a like or common interest in the proceedings if the other person consents.
 - (3) In subsection (2), the consent required for a person who is not a natural person is that of the person's controlling body.

8. Offences

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- (1) A person convicted of an offence under this Act is liable —
 - (a) if a natural person, to a fine not exceeding \$250 000;
 - (b) if a body corporate, to a fine not exceeding \$500 000;
 - (c) where the offence is a continuing offence, to a fine not exceeding \$50 000 for each day.
 - (2) Without affecting the liability of a body corporate under subsection (1), any officer, employee, or agent of that body corporate who knew, or who ought to have known, that its acts or course of conduct was in breach, or likely to be in breach, of this Act commits a separate offence and subsection (1)(a) and (c) apply accordingly.
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20 **9. Saving and repeals**

- (1) Nothing in this Act affects the operation of the *Radiation Safety Act 1975* or anything done under the authority of that Act.
- (2) The *Nuclear Activities Regulation Act 1978* and the *Nuclear Waste (Prohibition) Act 1999* are repealed.

