

Western Australia

**Nuclear Waste Storage and
Transportation (Prohibition) Act 1999**

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Nuclear Waste Storage and Transportation (Prohibition) Act 1999

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Nuclear Waste Storage and Transportation (Prohibition) Act 1999

An Act to prohibit the storage, disposal or transportation 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.

[Long title amended by No. 2 of 2004 s. 4.]

1. Short title

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

[Section 1 amended by No. 2 of 2004 s. 5.]

2. Commencement

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

3. Interpretation

(1) In this Act unless otherwise provided —

“nuclear plant” means a nuclear reactor, a radioisotope enrichment plant involved in the enrichment of uranium or plutonium, a nuclear reprocessing plant or a nuclear weapons facility, whether or not it is in a place to which this Act applies;

“nuclear waste” means material —

- (a) that is or contains a radioactive substance; and
- (b) that —

s. 4

- (i) is waste of a nuclear plant; or
- (ii) results from the testing, use or decommissioning of nuclear weapons, whether or not that material has been conditioned or reprocessed;

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

“person” includes, without limiting the *Interpretation Act 1984*, the Crown in all its capacities;

“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*.

- (2) For the purposes of the definition of “nuclear waste”, waste of a nuclear plant does not include waste that results from the use of the products of a nuclear plant.
- (3) For the purposes of this Act, a person transports nuclear waste in the State whether or not the origin or destination of the waste is a place to which this Act applies.

[Section 3 amended by No. 2 of 2004 s. 6.]

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, the use of any place in this State for the storage or disposal of nuclear waste and the transportation in this State of nuclear waste.

[Section 4 amended by No. 2 of 2004 s. 7.]

5. Relation to other laws

- (1) Subject to subsection (2) this Act has effect notwithstanding any other written law.
- (2) An authorisation within the meaning of section 41A of the *Radiation Safety Act 1975* that has been granted or effected with the consent of both Houses of Parliament in accordance with that section has effect according to its terms.

[Section 5 amended by No. 2 of 2004 s. 8.]

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.
- (3) Subsection (1) does not apply if the construction or operation, or the use of the place —
 - (i) results from an emergency situation; and
 - (ii) is for the purpose of preventing danger to human life or health, or irreversible damage to the environment, arising from that situation.
- (4) Proceedings for a contravention of subsection (1) are to be dealt with by a court constituted by a magistrate.

[Section 7 amended by No. 2 of 2004 s. 9.]

s. 7A

7A. Prohibition against transporting nuclear waste

- (1) A person shall not transport nuclear waste in the State.
- (2) A person who contravenes subsection (1) commits an offence.
Penalty: \$500 000.
- (3) Subsection (1) does not apply if the transport is carried out in an emergency situation to prevent danger to human life or health or irreversible damage to the environment.
- (4) Proceedings for a contravention of subsection (1) are to be dealt with by a court constituted by a magistrate.

[Section 7A inserted by No. 2 of 2004 s. 10.]

8. Offence by corporation

- (1) Where a corporation contravenes section 7 or 7A, 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 the section; 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 or 7A 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 or 7A is actually committed.

[Section 8 amended by No. 2 of 2004 s. 11.]

8A. Injunctions

- (1) The Minister may apply to a court for an injunction to prevent a person from doing anything that would involve —
 - (a) the construction or operation of a nuclear waste storage facility in the State;
 - (b) the use of any place in the State for the storage or disposal of nuclear waste;
 - (c) the transport of nuclear waste in the State,or that would facilitate or provide assistance in relation to any of those matters.
- (2) It is not necessary for the Minister to prove that the act or failure sought to be prevented by the injunction has previously occurred or would, if the injunction were not granted, be likely to occur or continue.
- (3) An interim injunction may be granted before final determination of an application under subsection (1).
- (4) The court is not to require, as a condition of granting an interim injunction, that an undertaking be given as to damages or costs.
- (5) The taking of proceedings against any person for an offence under this Act is not affected by —
 - (a) the making of an application under subsection (1) for an injunction;
 - (b) the grant or refusal of an injunction upon an application under subsection (1); or
 - (c) the rescission, variation, or expiry of an injunction granted upon an application under subsection (1).

[Section 8A inserted by No. 2 of 2004 s. 12.]

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 —

“

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*.

- (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.

”.

Notes

¹ This is a compilation of the *Nuclear Waste Storage and Transportation (Prohibition) Act 1999* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Nuclear Waste Storage (Prohibition) Act 1999</i> ²	54 of 1999	7 Dec 1999	7 Dec 1999 (see s 2)
<i>Nuclear Waste Storage (Prohibition) Amendment Act 2004</i> s. 1-12	2 of 2004	1 Apr 2004	1 Apr 2004 (see s. 2)

² Now known as the *Nuclear Waste Storage and Transportation (Prohibition) Act 1999*; short title changed (see note under s. 1).