

Western Australia

**Nuclear Waste Storage (Prohibition)
Amendment Act 2004**

As at 01 Apr 2004

No. 2 of 2004

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Nuclear Waste Storage (Prohibition) Amendment Act 2004

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Western Australia

Nuclear Waste Storage (Prohibition) Amendment Act 2004

No. 2 of 2004

An Act to amend the *Nuclear Waste Storage (Prohibition) Act 1999*.

[Assented to 1 April 2004]

The Parliament of Western Australia enacts as follows:

1. Short title

This Act may be cited as the *Nuclear Waste Storage (Prohibition) Amendment Act 2004*.

s. 2

2. Commencement

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

3. The Act amended

The amendments in this Act, other than in sections 13 and 14, are to the *Nuclear Waste Storage (Prohibition) Act 1999**.

[* *Act No. 54 of 1999.*]

4. Long title amended

The long title is amended by deleting “or disposal” and inserting instead —

“ , disposal or transportation ”.

5. Section 1 amended

Section 1 is amended by inserting after “*Storage*” —

“ *and Transportation* ”.

6. Section 3 amended

- (1) Section 3 is amended by inserting before “In this Act” the subsection designation “(1)”.
- (2) Section 3 is amended by inserting the following definitions in the appropriate alphabetical positions —

“

“**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;

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

”.

- (3) Section 3 is amended by deleting the definition of “nuclear waste” and inserting instead —

“

“nuclear waste” means material —

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

”.

- (4) Section 3 is amended by deleting the definition of “Radiological Council”.

- (5) At the end of section 3 the following subsections are inserted —

“

- (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.

”.

s. 7

7. Section 4 amended

Section 4 is amended as follows:

- (a) by deleting “State or” and inserting instead —
“ State, ”;
- (b) by inserting after “waste” in the second place where it occurs —
“ and the transportation in this State of nuclear waste ”.

8. Section 5 amended

Section 5(2) is repealed and the following subsection is inserted instead —

- “
- (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.
- ”.

9. Section 7 amended

After section 7(2) the following subsections are inserted —

- “
- (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.
- ”.

10. Section 7A inserted

After section 7 the following section is inserted —

“

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.

”.

11. Section 8 amended

- (1) Section 8(1) is amended as follows:
 - (a) by deleting “7” in the first place where it occurs and inserting instead —
“ 7 or 7A ”;
 - (b) by deleting “section 7” in the second place where it occurs and inserting instead —
“ the section ”.
- (2) Section 8(2) and (3) are amended by deleting “7” and inserting instead —
“ 7 or 7A ”.

12. Section 8A inserted

After section 8 the following section is inserted —

“

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).

”.

13. Consequential amendment to the *Nuclear Activities Regulation Act 1978*

- (1) The amendment in this section is to the *Nuclear Activities Regulation Act 1978**.

[* *Act No. 104 of 1978.*

For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 267.]

- (2) Section 5(2) is amended by inserting after “*Storage*” —
“ *and Transportation* ”.

14. Consequential amendment to the *Radiation Safety Act 1975*

- (1) The amendment in this section is to the *Radiation Safety Act 1975**.

[* *Reprinted as at 25 February 2000.*

For subsequent amendments see Act No. 9 of 2003.]

- (2) Section 41A(1) is amended in the definition of “nuclear waste” by inserting after “*Storage*” —
“ *and Transportation* ”.

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