

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

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*(Presented and read a first time, 13 May 1993)*

(SENATOR COULTER)

## A BILL

FOR

**An Act to prohibit activities in relation to nuclear power  
production, uranium enrichment and reprocessing and to  
amend the *Nuclear Non-Proliferation (Safeguards) Act 1987*  
for related purposes**

BE IT ENACTED by the Queen, and the Senate and the House of Representatives  
of the Commonwealth of Australia, as follows:

### PART 1—PRELIMINARY

#### Short title

1. This Act may be cited as the *Nuclear Power, Uranium Enrichment and  
Reprocessing (Prohibition) Act 1993*.

#### Commencement

2. This Act commences on the day on which it receives the Royal Assent.

## Interpretation

**3. In this Act, unless the contrary intention appears:**

**“Australia”** means Australia or an external Territory;

**“corporation”** means a body corporate that—

- (a) is a foreign corporation;
- (b) is a trading corporation formed within the limits of Australia or is a financial corporation so formed; or
- (c) is incorporated in a Territory;

**“court”** means the Federal Court of Australia;

**“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;

“**facility**” means a nuclear power reactor, an enrichment plant, a fuel fabrication plant, a spent nuclear fuel reprocessing plant, or a plutonium production plant;

“**fissile material**” means a substance capable of undergoing sustained and controlled nuclear fission;

“**fuel fabrication plant**” means any plant designed to transform fissile material into a form suitable for use in a nuclear power reactor;

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

**“nuclear fuel cycle”** means any process or step in the utilisation of the fissile material, including its ultimate disposal;

“**nuclear material**” means any radioactive substance associated with the nuclear fuel cycle;

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

**“nuclear reactor”** means any device designed to produce controlled nuclear fission;

**“reprocessing”** means the chemical separation of spent fuel;

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

**Extension to external Territories**

4. This Act extends to every external Territory.

**Application of the Act**

5. (1) This Act applies to:

- (a) the Commonwealth;
- (b) an authority or instrumentality of the Commonwealth;
- (c) a person acting on behalf of the Commonwealth;
- (d) a corporation.

(2) Nothing in this Act renders the Commonwealth liable to prosecution for an offence under this Act.

**PART 2—PROHIBITION OF NUCLEAR POWER, URANIUM  
ENRICHMENT AND REPROCESSING**

**Prohibition of certain nuclear activities**

6. (1) A person to whom this Act applies is prohibited absolutely from constructing or operating:

- (a) a nuclear power reactor;
- (b) a facility for enrichment or reprocessing of any nuclear material.

Penalty: \$1,000,000.

(2) A person to whom this Act applies must not knowingly assist another person, directly or indirectly, in any activity intended to, or likely to, result in the construction or operation of:

- (a) a nuclear power reactor;
- (b) a facility for enrichment or reprocessing of any nuclear material.

Penalty: \$750,000.

(3) For the purposes of subsection (2), “person” includes a body politic.

**Injunction after a conviction**

7. (1) The Court may grant an injunction restraining a person convicted of an offence under section 6 from repeating or continuing the offence.

**(2)** Any person who does an act or thing in disobedience of an injunction under subsection (1) is guilty of an offence and liable for a penalty for each day during which the offence continues.

**Penalty: \$10,000 each day.**

(3) The provisions of this section are in addition to, and do not derogate from, any other powers of the Court to enforce obedience to an injunction.

## Injunctions

**8.(1)** Where a person has engaged, is engaging, or is proposing to engage, in any conduct that constituted, constitutes or would constitute an offence under section 6 of this Act, the Court may, on the application of the Minister or any other person, grant an injunction restraining the person from engaging in the conduct and, if in the Court's opinion it is desirable to do so, requiring the person to do anything.

(2) If, in the opinion of the Court, it is desirable to do so, the Court may grant an interim injunction pending determination of an application under subsection (1).

**(3) The Court may discharge or vary an injunction granted under this section.**

(4) The power of the Court to grant an injunction restraining a person from engaging in conduct may be exercised:

- (a) whether or not it appears to the Court that the person intends to engage again, or to continue to engage, in conduct of that kind; and
- (b) whether or not the person has previously engaged in conduct of that kind.

(5) Where the Minister makes an application to the Court for the grant of an injunction under this section, the Court is not to require the Minister or any other person, as a condition of the granting of an interim injunction, to give any undertakings as to damages.

**(6)** The powers conferred on the Court under this section are in addition to, and not in derogation of, any other powers of the Court.

**(7) Jurisdiction is conferred on the Court to hear and determine applications for injunctions under this Act.**

**PART 3—NUCLEAR NON-PROLIFERATION (SAFEGUARDS) ACT 1987**

**No permit to possess nuclear material or associated items**

9.(1) In this Part, “Principal Act” means the *Nuclear Non-Proliferation (Safeguards) Act 1987*.

5 (2) Section 13 of the Principal Act is amended by inserting after subsection (2) the following subsection:

“(2A) A permit under subsection (1) must not be granted if the Minister has reasonable grounds to believe that the possession of nuclear material or an associated item may lead to a contravention of section 6 of the *Nuclear Power, Uranium Enrichment and Reprocessing (Prohibitions) Act 1993*.”.

0 (3) Section 16 of the Principal Act is amended by inserting after subsection (2) the following subsection:

5 “(2A) A permit under subsection (1) must not be granted if the Minister has reasonable grounds to believe that the possession of nuclear material or an associated item may lead to a contravention of section 6 of the *Nuclear Power, Uranium Enrichment and Reprocessing (Prohibitions) Act 1993*.”.







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