

1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

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*(Presented pursuant to leave granted and read 1<sup>o</sup>, 30 May 1985)*

(SENATOR CHIPP)

## A BILL

FOR

### **An Act to prohibit the manufacture of nuclear weapons in, and the introduction of nuclear weapons into, Australia**

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

#### **Short title**

1. This Act may be cited as the *Nuclear Weapons Prohibitions Act 1985*.

#### **5 Commencement**

2. This Act shall come into operation on the day on which it receives the Royal Assent.

#### **Interpretation**

3. (1) In this Act, unless the contrary intention appears—

10 “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

15 (c) is incorporated in a Territory;

“nuclear weapons” includes—

- (a) nuclear systems, nuclear warheads, nuclear projectiles and other nuclear devices capable of exploding as a result of the energy released by nuclear reactions involving the fission, fusion or fission and fusion of atomic nuclei; and
- (b) components for nuclear weapons (including any of the foregoing).

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(2) in this Act, a reference to Australia shall be read as not including a reference to any part of the territorial sea of Australia that is below low-water mark, or the airspace above, that territorial sea.

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(3) In this Act, a reference to an external Territory shall be read as not including a reference to the territorial sea of that Territory that is below low-water mark, or the airspace above, that territorial sea.

#### **Extension to external Territories**

4. This Act extends to every external Territory.

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#### **Prohibition on manufacture, etc., of nuclear weapons**

5. The development, testing, manufacturing, transportation or storage of nuclear weapons in Australia—

- (a) by the Commonwealth;
- (b) by any person on behalf of the Commonwealth;
- (c) by a corporation;
- (d) by the Government, or the Defence Forces, of a foreign country; or
- (e) by any person on behalf of the Government, or the Defence Forces, of a foreign country,

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is prohibited absolutely.

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#### **Importation of nuclear weapons prohibited**

6. (1) The importation into Australia of nuclear weapons is prohibited absolutely.

(2) Sub-section (1) extends to the importation of nuclear weapons by or on behalf of the Crown in right of the Commonwealth, a State or the Northern Territory or by or on behalf of the Government of a foreign country.

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(3) The *Customs Act 1901* is incorporated in, and shall be read as one with, this section.

#### **Visiting forces not to introduce nuclear weapons**

7 (1) In this section—

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“civilian component”, in relation to a visiting force, means persons who, not being members of the visiting force, Australian citizens or persons ordinarily resident in Australia—

- (a) are employed by, or in the service of, that visiting force or a part of that visiting force;

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(b) are serving with an organisation that, with the approval of the Commonwealth, is accompanying that visiting force; or

(c) are attached to, or are accompanying, that visiting force and, in accordance with the law of the sending country, are subject to the service law of that country,

but does not include dependents of members of that visiting force or of persons referred to in paragraph (a), (b) or (c);

“visiting force” means a body, contingent or detachment of the forces of a foreign country that is for the time being present in Australia by arrangement with the Commonwealth.

(2) The Commonwealth shall not enter into an arrangement with a foreign country under which a visiting force of that country, or the civilian component of a visiting force of the country, is permitted to bring nuclear weapons into Australia, to store or test nuclear weapons in Australia or to transport nuclear weapons across or within Australia.

(3) The Commonwealth shall not grant, under an arrangement between the Commonwealth and a foreign country entered into before or after the commencement of this Act, permission for a visiting force of that country, or the civilian component of a visiting force of that country, to bring nuclear weapons into Australia, to store or test nuclear weapons in Australia or to transport nuclear weapons across or within Australia.

### **Injunctions**

8. (1) The Court may, on the application of a person to whom this section applies, grant an injunction restraining a person from engaging in conduct that constitutes or would constitute—

(a) a contravention of section 5, 6 or 7;

(b) aiding, abetting, counselling or procuring a person to contravene section 5, 6 or 7;

(c) inducing, or attempting to induce, a person to contravene section 5, 6 or 7;

(d) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of section 5, 6 or 7; or

(e) conspiring with others to contravene section 5, 6 or 7.

(2) Where, 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 sub-section (1).

(3) The Court may rescind or vary an injunction granted under (1) or (2).

(4) Where an application is made to the Court for the grant of an injunction restraining a person from engaging in conduct of a particular kind, being conduct referred to in sub-section (1), the Court may

(a) if it is satisfied that the person has engaged in conduct of that kind—grant an injunction under sub-section (1) restraining the person from engaging in conduct of that kind; or

- (b) if, in the opinion of the Court, it is desirable to do so—grant an interim injunction under sub-section (2) restraining the person from engaging in conduct of that kind,

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.

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(5) Where an application is made to the Court for the grant of an injunction restraining a person from engaging in conduct of a particular kind, being conduct referred to in sub-section (1), the Court may—

- (a) if it appears to the Court that, in the event that an injunction is not granted, it is likely that the person will engage in conduct of that kind—grant an injunction under sub-section (1) restraining the person from engaging in conduct of that kind; or

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- (b) if, in the opinion of the Court, it is desirable to do so—grant an interim injunction under sub-section (2) restraining the person from engaging in conduct of that kind,

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whether or not the person has previously engaged in conduct of that kind.

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

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(7) In sub-sections (1), (4) and (5), a reference to a person shall, without limiting the meaning of that expression, be read as including a reference to the Commonwealth.

(8) For the purpose of this section—

- (a) in relation to any contravention of section 5, 6 or 7—a member of the Senate or of the House of Representatives is a person to whom this section applies; and
- (b) in relation to a particular contravention of section 5, 6 or 7—a person whose ordinary place of residence or work is situated in the vicinity of the place where the contravention has occurred or is likely to occur is a person to whom this section applies.

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(9) In this section, “the Court” means the Federal Court of Australia.