

Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986

As at 14 September 2012

Long Title

An Act to prohibit in New South Wales uranium mining and certain nuclear facilities; and for other purposes.

Part 1 – Preliminary

1 Name of Act

This Act may be cited as the *Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986*.

2 Commencement

(1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

3 Objects of Act

The objects of this Act are:

(a) to prohibit mining for uranium, and

(b) to prohibit the construction or operation of nuclear reactors and other facilities in the nuclear fuel cycle,

in order to protect the health, safety and welfare of the people of New South Wales and the environment in which they live.

4 Definitions

In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

"**enrichment**", in relation to nuclear material, means any process by which the proportion of an isotope is increased in relation to the natural abundance of the isotope.

"**mine**", in relation to uranium, includes to produce uranium ore concentrates in a mill or other plant.

"**nuclear facility**" means a nuclear facility within the meaning of section 8.

"**nuclear fuel cycle**" includes any process or step in the utilisation of material capable of undergoing nuclear fission, including its ultimate disposal.

"**nuclear material**" means any radioactive substance associated with the nuclear fuel cycle, including radioactive waste material.

"**nuclear reactor**" means a device designed to produce controlled nuclear fission.

"**regulation**" means a regulation made under this Act.

5 Act to bind Crown

This Act binds the Crown, not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

6 Act to prevail over other Acts and laws

- (1) This Act has effect notwithstanding any other Act or law to the contrary.
- (2) Nothing in this Act affects the operation of:
 - (a) the *Radiation Control Act 1990*, or
 - (b) the *Work Health and Safety Act 2011*.

Part 2 – Prohibition of uranium mining and certain nuclear facilities

7 Mining for uranium prohibited

- (1) A person shall not mine for uranium. Maximum penalty: 1,000 penalty units.
- (2) An authority, mineral claim or opal prospecting licence under the *Mining Act 1992* (whether granted before or after the commencement of this subsection) does not authorise the holder of the authority, claim or licence to mine for uranium in contravention of this section.
- (3) A person who mines uranium in the course of mining for some other mineral is not guilty of an offence under this section if:
 - (a) the person establishes that there are reasonable grounds for believing that the amount of uranium in the total amount of material that has at that stage been removed from the land being mined does not exceed .02 per cent by weight, and
 - (b) the person complies with such conditions (if any) as may be prescribed by the regulations with respect to the mining and the treatment, handling and disposal of the material containing uranium.
- (4) Nothing in this section prevents a person from using radiometric or other means for searching for a mineral other than uranium.

8 Constructing or operating certain nuclear facilities prohibited

- (1) In this section: "**nuclear facility**" means:
 - (a) a facility for the conversion of uranium ore into uranium hexafluoride or any other chemical in order to enable its enrichment,
 - (b) an isotope separation plant or other facility for the enrichment of nuclear material,
 - (c) a fabrication plant or other facility for transforming nuclear material into a form suitable for use as fuel in a nuclear reactor,
 - (d) a nuclear reactor, whether or not designed for the purpose of generating electricity,
 - (e) a reprocessing plant or other facility for the chemical separation of fuel that has been irradiated in a nuclear reactor, or
 - (f) a separate storage installation for the storage or disposal of any nuclear material (including radioactive waste material) in the nuclear fuel cycle, being nuclear material used in or resulting from any of the facilities described in paragraphs (a)-(e).
- (2) A person shall not construct or operate a nuclear facility. Maximum penalty: 1,000 penalty units.
- (3) Nothing in this section prevents:
 - (a) the construction or operation, under an Act of the Commonwealth, of a nuclear facility by the Australian Atomic Energy Commission or by any authority of the Commonwealth that replaces that Commission,
 - (b) the construction or operation of a facility for the storage or disposal of any radioactive waste material resulting from the use of nuclear materials for research or medical purposes or for any other purpose authorised under the *Radioactive Substances Act 1957*, or

(c) the operation of a nuclear powered vessel.

9 State authorities not to construct or operate nuclear reactors to generate electricity

Without affecting the generality of this Act, nothing in any other Act authorises an authority of the State (including an electricity generator within the meaning of the *Energy Services Corporations Act 1995*) to construct or operate, or to approve or permit the construction or operation of, a nuclear reactor for the purpose of generating electricity or any other form of energy.

Part 3 – Enforcement

10 Restraint etc of breaches of Act

(1) Any person may bring proceedings in the Land and Environment Court for an order to remedy or restrain a breach of this Act, whether or not any right of that person has been or may be infringed by or as a consequence of that breach.

(2) Proceedings under this section may be brought by a person:

(a) on the person's own behalf, or

(b) on behalf of the person and on behalf of:

(i) other persons (with their consent), or

(ii) a body corporate or unincorporated (with the consent of its committee or other controlling or governing body),

having like or common interests in those proceedings.

(3) Any person on whose behalf proceedings are brought is entitled to contribute to or provide for the payment of the legal costs and expenses incurred by the person bringing the proceedings.

(4) If the Land and Environment Court is satisfied that a breach of this Act has been committed or that a breach of this Act will, unless restrained by order of that Court, be committed, it may make such order as it thinks fit to remedy or restrain the breach.

(5) The powers and functions of the Land and Environment Court under this section are in addition to and not in derogation from any other powers and functions of that Court.

(6) In this section, a reference to a breach of this Act is a reference to:

(a) a contravention, whether by act or omission, of this Act or the regulations, or

(b) a threatened or an apprehended contravention, whether by act or omission, of this Act or the regulations.

11 Offences by corporations

(1) If a corporation contravenes, whether by act or omission, any provision of this Act or a regulation, each person who is a director of the corporation or who is concerned in the management of the corporation shall be deemed to have contravened the same provision if the person knowingly authorised or permitted the contravention.

(2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or been convicted under that provision.

(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

12 Proceedings for offences

Proceedings for an offence against this Act or the regulations may be taken only before the Land and Environment Court in its summary jurisdiction.

Part 4 – Miscellaneous

13 Regulations

(1) The Governor may make regulations, not inconsistent with this Act, for or with

- respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) A regulation may create an offence punishable by a penalty not exceeding 20 penalty units.
- (3) A provision of a regulation may:
- (a) apply generally or be limited in its application by reference to specified exceptions or factors,
 - (b) apply differently according to different factors of a specified kind, or
 - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.

14, 15 (Repealed)

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
ClI	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments *Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986 No 194*. Assented to 18.12.1986. Date of commencement, secs 1 and 2 excepted, 9.1.1987, sec 2 (2) and GG No 6 of 9.1.1987, p 66. This Act has been amended as follows:

1993	No 47	<i>Statute Law (Penalties) Act 1993</i> . Assented to 15.6.1993. Date of commencement, assent, sec 2.
1995	No 18	<i>Electricity Legislation Amendment Act 1995</i> . Assented to 19.6.1995. Date of commencement of Sch 5, 30.6.1995, sec 2 and GG No 79 of 30.6.1995, p 3434.
	No 95	<i>Energy Services Corporations Act 1995</i> . Assented to 21.12.1995. Date of commencement of the provision of Sch 4 relating to the <i>Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986</i> , 1.3.1996, sec 2 and GG No 26 of 1.3.1996, p 832.
1999	No 85	<i>Statute Law (Miscellaneous Provisions) Act (No 2) 1999</i> . Assented to 3.12.1999. Date of commencement of Sch 4, assent, sec 2 (1).
2000	No 93	<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2000</i> . Assented to 8.12.2000. Date of commencement of Sch 2.59, assent, sec 2 (2).
2011	No 67	<i>Work Health and Safety Legislation Amendment Act 2011</i> . Assented to 28.11.2011. Date of commencement of Sch 4, 1.1.2012, sec 2 (1).
2012	No 2	<i>Mining Legislation Amendment (Uranium Exploration) Act 2012</i> . Assented to 4.4.2012. Date of commencement, 14.9.2012, sec 2 and 2012 (459) LW 14.9.2012.

Table of amendments

Sec 3	Am 2012 No 16, Sch 3 [1].
Sec 4	Am 2012 No 16, Sch 3 [2].
Sec 6	Am 2000 No 93, Sch 2.59; 2011 No 67, Sch 4.30.
Sec 7	Am 1993 No 47, Sch 1; 2012 No 16, Sch 3 [3] [4].
Sec 8	Am 1993 No 47, Sch 1.
Sec 9	Am 1995 No 18, Sch 5. Subst 1995 No 95, Sch 4.
Sec 13	Am 1993 No 47, Sch 1.
Secs 14, 15	Rep 1999 No 85, Sch 4.