

South Australia

# **Nuclear Waste Storage Facility (Prohibition) Act 2000**

An Act to prohibit the establishment of certain nuclear waste storage facilities in South Australia; and for other purposes.

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## **Legislative history**

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### **The Parliament of South Australia enacts as follows:**

#### **1—Short title**

This Act may be cited as the *Nuclear Waste Storage Facility (Prohibition) Act 2000*.

#### **3—Objects of Act**

The objects of this Act are to protect the health, safety and welfare of the people of South Australia and to protect the environment in which they live by prohibiting the establishment of certain nuclear waste storage facilities in this State.

## 4—Interpretation

In this Act—

**Code of Practice** means the *Code of Practice for the Near-Surface Disposal of Radioactive Waste in Australia (1992)* approved by the National Health and Medical Research Council and published by the Australian Government Publishing Service as Radiation Health Series No. 35 (ISBN 0 644 28673 3);

**environmental harm** has the same meaning as in the *Environment Protection Act 1993*;

**ionizing radiation** has the same meaning as in the *Radiation Protection and Control Act 1982*;

**nuclear waste** means—

- (a) Category A, Category B or Category C radioactive waste as defined in the Code of Practice; or
- (b) any waste material that contains a radioactive substance and is derived from—
  - (i) the operations or decommissioning of—
    - (A) a nuclear reactor; or
    - (B) a nuclear weapons facility; or
    - (C) a radioisotope production facility; or
    - (D) a uranium enrichment plant; or
  - (ii) the testing, use or decommissioning of nuclear weapons; or
  - (iii) the conditioning or reprocessing of spent nuclear fuel;

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

**public authority** has the same meaning as in the *Environment Protection Act 1993*;

**radioactive substance** means any substance that spontaneously emits ionizing radiation.

## 5—Act binds Crown

This Act binds the Crown in right of the State and, in so far as the legislative power of the State permits, in all its other capacities.

## 6—Application of Act

This Act does not apply in relation to—

- (a) nuclear waste lawfully stored in the State before the commencement of this Act; or
- (b) nuclear waste—
  - (i) from radioactive material that has been used or handled in accordance with the *Radiation Protection and Control Act 1982* pursuant to a licence, permit or other authority granted under that Act; and

- (ii) the storage or disposal of which has been authorised by or under that Act.

### **7—Effect of Act**

This Act has effect despite any other Act or law.

### **8—Prohibition against construction or operation of nuclear waste storage facility**

A person must not construct or operate a nuclear waste storage facility.

Maximum penalty:

In the case of a natural person—\$500 000 or imprisonment for 10 years.

In the case of a body corporate—\$5 000 000.

### **9—Prohibition against importation or transportation of nuclear waste for delivery to nuclear waste storage facility**

A person must not—

- (a) bring nuclear waste into the State; or
- (b) transport nuclear waste within the State,

for delivery to a nuclear waste storage facility in the State.

Maximum penalty:

In the case of a natural person—\$500 000 or imprisonment for 10 years.

In the case of a body corporate—\$5 000 000.

### **10—Offences by body corporate**

- (1) If a body corporate is guilty of an offence against this Act, each person who is a director of the body corporate or a person concerned in the management of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence when committed by a natural person unless it is proved that the person could not by the exercise of reasonable diligence have prevented the commission of the offence by the body corporate.
- (2) A person referred to in subsection (1) may be prosecuted and convicted of an offence against that subsection whether or not the body corporate has been prosecuted or convicted of the principal offence committed by the body corporate.

### **11—Powers of public authority**

A public authority may do one or more of the following:

- (a) remove a nuclear waste storage facility constructed or operated in contravention of this Act;
- (b) make good any environmental harm resulting from the construction or operation of that facility;
- (c) prevent or mitigate any future environmental harm resulting from the construction or operation of that facility.

## **12—Orders by court against offenders**

- (1) If, in proceedings for an offence against this Act, the court finds the defendant guilty of a contravention of this Act, the court may, in addition to any penalty it may impose, do one or more of the following:
  - (a) order the defendant to take specified action to—
    - (i) remove a nuclear waste storage facility constructed or operated in contravention of this Act;
    - (ii) make good any environmental harm resulting from the construction or operation of that facility;
    - (iii) prevent or mitigate any future environmental harm resulting from the construction or operation of that facility;
  - (b) order the defendant to take specified action to publicise the contravention and its environmental and other consequences and any other orders made against the defendant;
  - (c) order the defendant to pay—
    - (i) to a public authority that has incurred costs or expenses in taking action of a kind referred to in section 11 as a result of the contravention; and
    - (ii) to any person who has suffered injury or loss or damage to property as a result of the contravention, or incurred costs or expenses in taking action to prevent or mitigate such injury, loss or damage,the reasonable costs and expenses so incurred, or compensation for the injury, loss or damage so suffered, as the case may be, in such amount as is determined by the court.
- (2) The court may, by an order under this section, fix a period for compliance and impose any other requirements the court considers necessary or expedient for enforcement of the order.

## **13—No public money to be used to encourage or finance construction or operation of nuclear waste storage facility**

- (1) Despite any other Act or law to the contrary, no public money may be appropriated, expended or advanced to any person for the purpose of encouraging or financing any activity associated with the construction or operation of a nuclear waste storage facility in this State.
- (2) Subsection (1) does not prohibit the appropriation, expenditure or advancement to a person of public money for the purpose of financing the maintenance or sharing of information or to enable the State to engage with other jurisdictions.

**14—Public inquiry into environmental and socio-economic impact of nuclear waste storage facility**

If a licence, exemption or other authority to construct or operate a nuclear waste storage facility in this State is granted under a law of the Commonwealth, the Environment, Resources and Development Committee of Parliament must inquire into, consider and report on the likely impact of that facility on the environment and socio-economic wellbeing of this State.

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
2000	68	<i>Nuclear Waste Storage Facility (Prohibition) Act 2000</i>	30.11.2000	25.1.2001 ( <i>Gazette 25.1.2001 p300</i> )
2003	1	<i>Nuclear Waste Storage Facility (Prohibition) Amendment Act 2003</i>	27.3.2003	27.3.2003
2003	22	<i>Nuclear Waste Storage Facility (Prohibition) (Miscellaneous) Amendment Act 2003</i>	18.7.2003	18.7.2003
2016	17	<i>Nuclear Waste Storage Facility (Prohibition) (Public Money) Amendment Act 2016</i>	21.4.2016	21.4.2016 except s 4—9.5.2016 ( <i>Gazette 9.5.2016 p1388</i> )
<b>2017</b>	<b>60</b>	<b><i>Nuclear Waste Storage Facility (Prohibition) (Public Money) Amendment Act 2017</i></b>	<b>12.12.2017</b>	<b>12.12.2017</b>

### Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>s 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>18.7.2003</i>
s 4		
Code of Practice	inserted by 1/2003 s 2(a)	27.3.2003
nuclear waste	substituted by 1/2003 s 2(b)	27.3.2003
s 13		
s 13(1)	s 13 redesignated as s 13(1) by 17/2016 s 4	9.5.2016
s 13(2)	inserted by 17/2016 s 4	9.5.2016
	<b>substituted by 60/2017 s 3</b>	<b>12.12.2017</b>
<i>s 15</i>	<i>inserted by 1/2003 s 3</i>	<i>27.3.2003</i>
	<i>deleted by 22/2003 s 3</i>	<i>18.7.2003</i>

## Historical versions

Reprint No 1—27.3.2003

Reprint No 2—18.7.2003

9.5.2016