

Version No. 025
Nuclear Activities (Prohibitions) Act 1983
No. 9923 of 1983

Version incorporating amendments as at 1 January 2010

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Version No. 025

Nuclear Activities (Prohibitions) Act 1983

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An Act to prohibit in Victoria certain activities associated with the nuclear fuel cycle, to amend the **State Electricity Commission Act 1958**, the **Electric Light and Power Act 1958**, and the **Mines Act 1958** and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

PART I—PRELIMINARY

1 Short title and commencement

- (1) This Act may be cited as the **Nuclear Activities (Prohibitions) Act 1983**.
- (2) This Act shall come into operation on the day on which it receives the Royal Assent.

* * * * *

S. 1(3)
repealed by
No. 74/2000
s. 3(Sch. 1
item 89.1).

2 Definitions

In this Act unless inconsistent with the context or subject-matter—

conversion means the transformation of fertile material into fissile material;

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;

exploration means searching for uranium or thorium ore bodies using either radiometric or other survey techniques;

fabrication of fuel means any process or step in the transformation of fissile material into a form suitable for use in a nuclear reactor;

facility means a reactor, a critical facility, a conversion plant, a fabrication plant, a reprocessing plant, an isotope separation plant or a separate storage installation;

fertile material means any substance which is capable of being transformed into fissile material;

fissile material means a substance capable of undergoing nuclear fission;

mining title means any lease, licence, permit or other authority issued or granted under the **Geothermal Energy Resources Act 2005**, the **Greenhouse Gas Geological Sequestration Act 2008**, the **Mineral Resources (Sustainable Development) Act 1990**, or the **Petroleum Act 1998**, whether marked out, registered, issued or granted before or after the commencement of this Act;

S. 2 def. of *mining title* amended by Nos 92/1990 s. 128(Sch. 1 item 21.1(a)(b)), 67/1995 s. 58 (Sch. 1 item 12), 96/1998 s. 257(5), 7/2005 s. 172, 63/2006 s. 61(Sch. item 25.1), 61/2008 s. 321, 6/2009 s. 55.

nuclear activities means any procedure or operation involved in the mining, milling, conversion, enrichment, fabrication, use, reprocessing or disposal of nuclear material;

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

nuclear fuel cycle includes any process or step in the utilization of fissile material, including its ultimate disposal;

nuclear material means any radioactive substance associated with the nuclear fuel cycle, including fertile and fissile material, spent fuel and waste;

nuclear power reactor means a nuclear reactor designed for the generation of electricity;

nuclear reactor means a reactor 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;

waste means any unwanted radioactive material derived from nuclear activities.

3 Objects of Act

The objects of this Act are to protect the health, welfare and safety of the people of Victoria and to limit deterioration of the environment in which they dwell by prohibiting the establishment of nuclear activities and by regulating the possession of certain nuclear materials, in a manner consistent with and conducive to assisting the Commonwealth of Australia in meeting its international nuclear non-proliferation objectives.

4 Act to bind Crown

This Act shall bind the Crown in right of the State of Victoria and, so far as the legislative competence of the Parliament of Victoria extends, in all its other capacities.

**PART II—PROHIBITION OF CERTAIN NUCLEAR
ACTIVITIES**

5 Prohibition against exploration etc. for uranium or thorium

- (1) Subject to section 6, but notwithstanding anything else to the contrary in any Act, and notwithstanding the terms of any mining title, a person shall not explore, mine or quarry for uranium or thorium.
- (2) A contravention of the provisions of subsection (1) shall be an offence against this Act.
- (3) Where a person is found guilty of an offence under subsection (1), the Minister shall cancel the mining title or titles of that person (if any) affecting the land upon which such exploration, mining or quarrying took place.

6 Mining in the course of mining for minerals other than uranium or thorium etc.

- (1) Notwithstanding section 5, a person who is the holder of a mining title and who mines or quarries uranium or thorium in the course of mining or quarrying pursuant to his mining title for some mineral other than uranium or thorium shall not be guilty of an offence under this Act provided that—
 - (a) uranium of an amount greater than .02 per centum by weight or thorium of an amount greater than .05 per centum by weight is not removed from the land covered by the mining title;
 - (b) mined or quarried material containing uranium or thorium is treated in the prescribed manner; and

(c) he complies with such conditions (if any) as the Governor in Council may from time to time impose in respect of the mining or quarrying in which he is, or is to be, engaged.

(2) The Governor in Council may from time to time by notice in writing vary or revoke any condition imposed under subsection (1)(c), and may impose such further conditions as to him seem necessary to achieve or promote the objects of this Act, and he may vary or revoke such further conditions.

7 Radiometric surveys etc. to be permissible

Nothing in this Act shall prevent the use of radiometric surveys or methods, or of geological surveys, core sampling or boring in the search for any materials other than uranium or thorium, or boring in the search for or in the extraction of groundwater as permitted under this or any other Act.

8 Prohibition against constructing or operating certain facilities

- (1) A person shall not construct or operate—
- (a) a mill for the production of uranium or thorium ore concentrates (except where permitted under section 6);
 - (b) a facility for conversion or enrichment of any nuclear material;
 - (c) a facility for the fabrication of fuels for use in nuclear reactors;
 - (d) a nuclear reactor or a nuclear power reactor;
 - (e) a facility for reprocessing spent fuel; or

-
- (f) a facility for the storage or disposal of any nuclear materials (including any waste) resulting from any of the processes or facilities described in paragraphs (a) to (e).
- (2) A person who contravenes any provision of subsection (1) shall be guilty of an offence and punishable by a fine not exceeding 500 penalty units.
- (3) The Supreme Court may grant an injunction restraining any person convicted of an offence under subsection (1) from repeating or continuing the offence.
- (4) Any person who does any act or thing in disobedience of such injunction shall be guilty of an offence against this Act and liable to a penalty not exceeding 50 penalty units for each day during which the offence continues.
- (5) The provisions of this section (apart from subsection (4)) shall not be deemed to derogate from the power of the Supreme Court to enforce obedience to an injunction.

S. 8(3)
amended by
No. 57/1989
s. 3(Sch.
item 140.1).

9 Prohibitions against possessing etc. nuclear material

- (1) A person shall not—
- (a) have in his possession;
 - (b) use;
 - (c) sell;
 - (d) transport;
 - (e) store; or

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(f) dispose of by any means—
any nuclear material unless, in respect of the
nuclear material concerned—

S. 9(1)(g)
substituted by
Nos. 9889
s. 7, 62/2005
s. 144(1).

(g) the person holds a management licence or
use licence (as the case requires) to do so;

S. 9(1)(h)
substituted by
No. 9889
s. 7,
amended by
Nos 10262
s. 4(Sch.),
46/1998
s. 7(Sch. 1),
substituted by
No. 62/2005
s. 144(1).

(h) the person may do so under an exemption
under section 16 of the **Radiation Act 2005**;

S. 9(1)(i)
amended by
Nos 92/1990
s. 128(Sch. 1
item 21.2),
63/2006
s. 61(Sch.
item 25.2).

(i) he has complied with section 113 of the
**Mineral Resources (Sustainable
Development) Act 1990**.

S. 9(1A)
inserted by
No. 62/2005
s. 144(2).

(1A) In subsection (1)(g) *management licence* and *use
licence* have the same meaning as in the
Radiation Act 2005.

(2) A person who has in his possession, uses, sells,
transports, stores or disposes of nuclear material
in breach of the provisions of subsection (1), shall
be guilty of an offence and liable to a penalty of
not more than 50 penalty units and in the case of a
continuing offence to a daily penalty of not more
than 20 penalty units for each day the offence
continues after conviction.

(3) Proceedings for an offence against this section shall be taken before the Magistrates' Court.

S. 9(3) amended by Nos 16/1986 s. 30(Sch.), 57/1989 s. 3 (Sch. item 140.2).

10 Where two or more persons commit etc. an offence under the Act

Where two or more persons commit or knowingly authorise or permit the commission of any offence against this Act each person shall be liable for the offence and the liability of each person shall be independent of the liability of the other or others.

11 No advances for exploring etc. for uranium or thorium

S. 11 amended by No. 90/1987 s. 22(2).

Notwithstanding anything to the contrary in any other Act, no moneys shall be granted or advanced to any person out of the Consolidated Fund or out of the fund of any public statutory body for the purpose of encouraging or financing any activity associated with exploring, mining or quarrying for uranium or thorium, except where such exploring, mining or quarrying is not in breach of the provisions of this Act.

* * * * *

Pt 3 (Heading and ss 12–14) repealed by No. 74/2000 s. 3(Sch. 1 item 89.2).

PART IV—REGULATIONS

15 Regulations

The Governor in Council may make regulations prescribing all matters that are by this Act required or permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, in relation to mining or quarrying for nuclear material, for or in respect of the preservation of the environment.

ENDNOTES

1. General Information

The **Nuclear Activities (Prohibitions) Act 1983** was assented to on 23 June 1983 and came into operation on 23 June 1983.

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Endnotes

2. Table of Amendments

This Version incorporates amendments made to the **Nuclear Activities (Prohibitions) Act 1983** by Acts and subordinate instruments.

Health (Radiation Safety) Act 1983, No. 9889/1983

Assent Date: 17.5.83
Commencement Date: Ss 1, 6 on 26.2.84: Government Gazette 22.2.84 p. 614; ss 2–5, 7 on 16.5.84: Government Gazette 9.5.84 p. 1438
Current State: All of Act in operation

Health (Amendment) Act 1985, No. 10262/1985

Assent Date: 10.12.85
Commencement Date: S. 4 on 1.3.86: Government Gazette 26.2.86 p. 451
Current State: This information relates only to the provision/s amending the **Nuclear Activities (Prohibitions) Act 1983**

Courts (Amendment) Act 1986, No. 16/1986

Assent Date: 22.4.86
Commencement Date: S. 30 on 1.7.86: Government Gazette 25.6.86 p. 2180
Current State: This information relates only to the provision/s amending the **Nuclear Activities (Prohibitions) Act 1983**

Mines (Miscellaneous Amendments) Act 1987, No. 90/1987

Assent Date: 1.12.87
Commencement Date: Ss 1-19 on 1.12.87: s. 2(2); ss 20-22 on 18.12.90: s. 2(1)—being the assent date of the **Mineral Resources Development Act 1990**, No. 92/1990
Current State: All of Act in operation

Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989

Assent Date: 14.6.89
Commencement Date: S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217
Current State: All of Act in operation

Mineral Resources Development Act 1990, No. 92/1990

Assent Date: 18.12.90
Commencement Date: S. 128(Sch. 1 items 21.1, 21.2) on 6.11.91: Government Gazette 30.10.91 p. 2970
Current State: This information relates only to the provision/s amending the **Nuclear Activities (Prohibitions) Act 1983**

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Extractive Industries Development Act 1995, No. 67/1995

Assent Date: 17.10.95
Commencement Date: S. 58(Sch. 1 item 12) on 1.6.96: Special Gazette (No. 60) 31.5.96 p. 4
Current State: This information relates only to the provision/s amending the **Nuclear Activities (Prohibitions) Act 1983**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Nuclear Activities (Prohibitions) Act 1983**

Petroleum Act 1998, No. 96/1998

Assent Date: 24.11.98
Commencement Date: S. 257(5) on 1.12.99: s. 2(3)
Current State: This information relates only to the provision/s amending the **Nuclear Activities (Prohibitions) Act 1983**

Statute Law Revision Act 2000, No. 74/2000

Assent Date: 21.11.00
Commencement Date: S. 3(Sch. 1 item 89) on 22.11.00: s. 2(1)
Current State: This information relates only to the provision/s amending the **Nuclear Activities (Prohibitions) Act 1983**

Geothermal Energy Resources Act 2005, No. 7/2005

Assent Date: 27.4.05
Commencement Date: S. 172 on 4.4.06: Special Gazette (No. 104) 4.4.06 p. 1
Current State: This information relates only to the provision/s amending the **Nuclear Activities (Prohibitions) Act 1983**

Radiation Act 2005, No. 62/2005

Assent Date: 20.9.05
Commencement Date: S. 144 on 1.9.07: s. 2(2)
Current State: This information relates only to the provision/s amending the **Nuclear Activities (Prohibitions) Act 1983**

Mineral Resources Development (Sustainable Development) Act 2006, No. 63/2006

Assent Date: 29.8.06
Commencement Date: S. 61(Sch. item 25) on 30.8.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Nuclear Activities (Prohibitions) Act 1983**

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Greenhouse Gas Geological Sequestration 2008, No. 61/2008

Assent Date: 5.11.08

Commencement Date: S. 321 on 1.12.09: Special Gazette (No. 439) 1.12.09
p. 1

Current State: This information relates only to the provision/s
amending the **Nuclear Activities (Prohibitions) Act
1983**

Resources Industry Legislation Amendment Act 2009, No. 6/2009

Assent Date: 3.3.09

Commencement Date: S. 55 on 1.1.10: s. 2(2)

Current State: This information relates only to the provision/s
amending the **Nuclear Activities (Prohibitions) Act
1983**

3. Explanatory Details

No entries at date of publication.