

2016-2017

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

NUCLEAR FUEL CYCLE (FACILITATION) BILL 2017

EXPLANATORY MEMORANDUM

(Circulated by authority of Senator Bernardi)

NUCLEAR FUEL CYCLE (FACILITATION) BILL 2017

OUTLINE

The Nuclear Fuel Cycle (Facilitation) Bill 2017:

- proposes
 - removing the blanket prohibition on the Minister for Environment and Energy considering applications relating to the construction or operation of certain nuclear facilities as described in section 140A of the *Environment Protection and Biodiversity Conservation Act 1999*, by repealing that section; and
 - removing the blanket prohibition on the construction or operation of certain nuclear facilities as described in section 10 of the *Australian Radiation Protection and Nuclear Safety Act 1998*, by repealing that section; and
- leaves unaffected
 - the other elements of the *Environment Protection and Biodiversity Conservation Act 1999*, pursuant to which the Minister would assess any application to establish a facility previously named in the repealed sections;
 - state and territory powers to protect their citizens and the environment from potential adverse radiation impacts; and
 - the power vested in the Minister for Foreign Affairs to determine whether or not to issue a permit under the *Nuclear Non-Proliferation (Safeguards) Act 1987* for such a proposed facility.

NOTES ON CLAUSES

Clause 1: Short Title

1. This clause is a formal provision specifying that the short title of the Act may be cited as the *Nuclear Fuel Cycle (Facilitation) Act 2017*.

Clause 2: Commencement

2. The Bill's provisions are to commence the day after the Act receives the Royal Assent.

Clause 3: Schedules

3. Each Act specified in a Schedule to this Act is amended or repealed as is set out in the applicable items in the Schedule. Any other item in a Schedule to this Act has effect according to its terms.

Schedule 1 – Amendments

Item 1 – Australian Radiation Protection and Nuclear Safety Act 1998

4. This item repeals section 10 of the *Australian Radiation Protection and Nuclear Safety Act 1998* (the ARPANS Act) which provides that nothing in the Act is to be taken to authorise the construction or operation of certain nuclear installations.

The ARPANS Act regulates activities undertaken by Commonwealth entities affecting radiation, to ensure that the health and safety of people, and the environment, are protected from the harmful effects of radiation. Repeal of section 10 does not affect the ability of the Minister and Australian Radiation Protection and Nuclear Safety Agency to ensure those protections remain in place.

Item 2 – Environment Protection and Biodiversity Conservation Act 1999

5. This item repeals section 140A of the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) which provides that the Minister must not approve an action consisting of or involving the construction or operation of certain nuclear installations.

The EPBC Act provides for the protection of the environment, ecologically sustainable development, biodiversity conservation and heritage protection by giving the Commonwealth a role in regulating matters of national environmental significance. Repeal of section 140A does not affect the ability of the Minister and Department to ensure those protections remain in place and that the other objects of the Act are respected.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Nuclear Fuel Cycle (Facilitation) Bill 2017

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill

The Nuclear Fuel Cycle (Facilitation) Bill 2017:

- proposes
 - removing the blanket prohibition on the Minister for Environment and Energy considering applications relating to the construction or operation of certain nuclear facilities as described in section 140A of the *Environment Protection and Biodiversity Conservation Act 1999*, by repealing that section; and
 - removing the blanket prohibition on the construction or operation of certain nuclear facilities as described in section 10 of the *Australian Radiation Protection and Nuclear Safety Act 1998*, by repealing that section; and
- leaves unaffected
 - the other elements of the *Environment Protection and Biodiversity Conservation Act 1999*, pursuant to which the Minister would assess any application to establish a facility previously named in the repealed sections;
 - state and territory powers to protect their citizens and the environment from potential adverse radiation impacts; and
 - the power vested in the Minister for Foreign Affairs to determine whether or not to issue a permit under the *Nuclear Non-Proliferation (Safeguards) Act 1987* for such a proposed facility.

Human rights implications

This Bill does not engage any of the applicable rights or freedoms.

Conclusion

This Bill is compatible with human rights as it does not raise any human rights issues.

Senator Bernardi