

FIRST PRINT

URANIUM MINING AND NUCLEAR FACILITIES (PROHIBITIONS) BILL 1986

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to prohibit prospecting or 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.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day to be appointed by the Governor-in-Council.

Clause 3 specifies the objects of the proposed Act.

Clause 4 is an interpretation provision. Under the clause—

- (a) “mine” is defined to include the production of uranium ore concentrates;
- (b) “nuclear reactor” is defined to mean a nuclear fission reactor.

Clause 5 provides that the proposed Act binds the Crown.

Clause 6 ensures that the prohibitions in the proposed Act have effect notwithstanding any Act or law to the contrary. However, the clause makes it clear that the Radioactive Substances Act 1957 and the Occupational Health and Safety Act 1983 are not affected.

PART 2—PROHIBITION OF URANIUM MINING AND CERTAIN NUCLEAR FACILITIES

Clause 7 prohibits a person from prospecting or mining for uranium (maximum penalty—\$100,000). An exemption is provided for the recovery of minor amounts of uranium in the course of mining for any mineral other than uranium.

Clause 8 prohibits the construction or operation of certain facilities in the nuclear fuel cycle, including nuclear reactors, conversion or enrichment plants, fuel fabrication plants, reprocessing plants for spent fuel and separate storage or disposal installations for nuclear materials and wastes (maximum penalty—\$100,000). Nuclear facilities of the Australian Atomic Energy Commission, facilities for the storage or disposal of nuclear waste materials resulting from research, medical and other lawful uses and nuclear powered vessels are exempted from the prohibition.

Clause 9 confirms that the Electricity Commission and other authorities of the State are not authorised to construct or operate nuclear reactors for the generation of electricity.

PART 3—ENFORCEMENT

Clause 10 authorises the Land and Environment Court (at the suit of any person) to restrain or remedy breaches or threatened breaches of the proposed Act.

Clause 11 enables the directors and other persons concerned in the management of a corporation that contravenes the proposed Act to be prosecuted in certain circumstances.

Clause 12 provides that proceedings for an offence against the proposed Act are to be taken before the Land and Environment Court.

PART 4—MISCELLANEOUS

Clause 13 authorises the Governor to make regulations for the purposes of the proposed Act.

Clause 14 contains amendments to the Land and Environment Court Act 1979 which are consequential on the jurisdiction conferred on the Land and Environment Court by the proposed Act. Under the amendments, the jurisdiction of the Supreme Court in relation to judicial review arising under the proposed Act is transferred to the Land and Environment Court.

Clause 15 amends the Mining Act 1973 to exclude uranium from the minerals to which that Act applies.

URANIUM MINING AND NUCLEAR FACILITIES (PROHIBITIONS) BILL 1986

NEW SOUTH WALES



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PART 2—PROHIBITION OF URANIUM MINING AND CERTAIN NUCLEAR FACILITIES

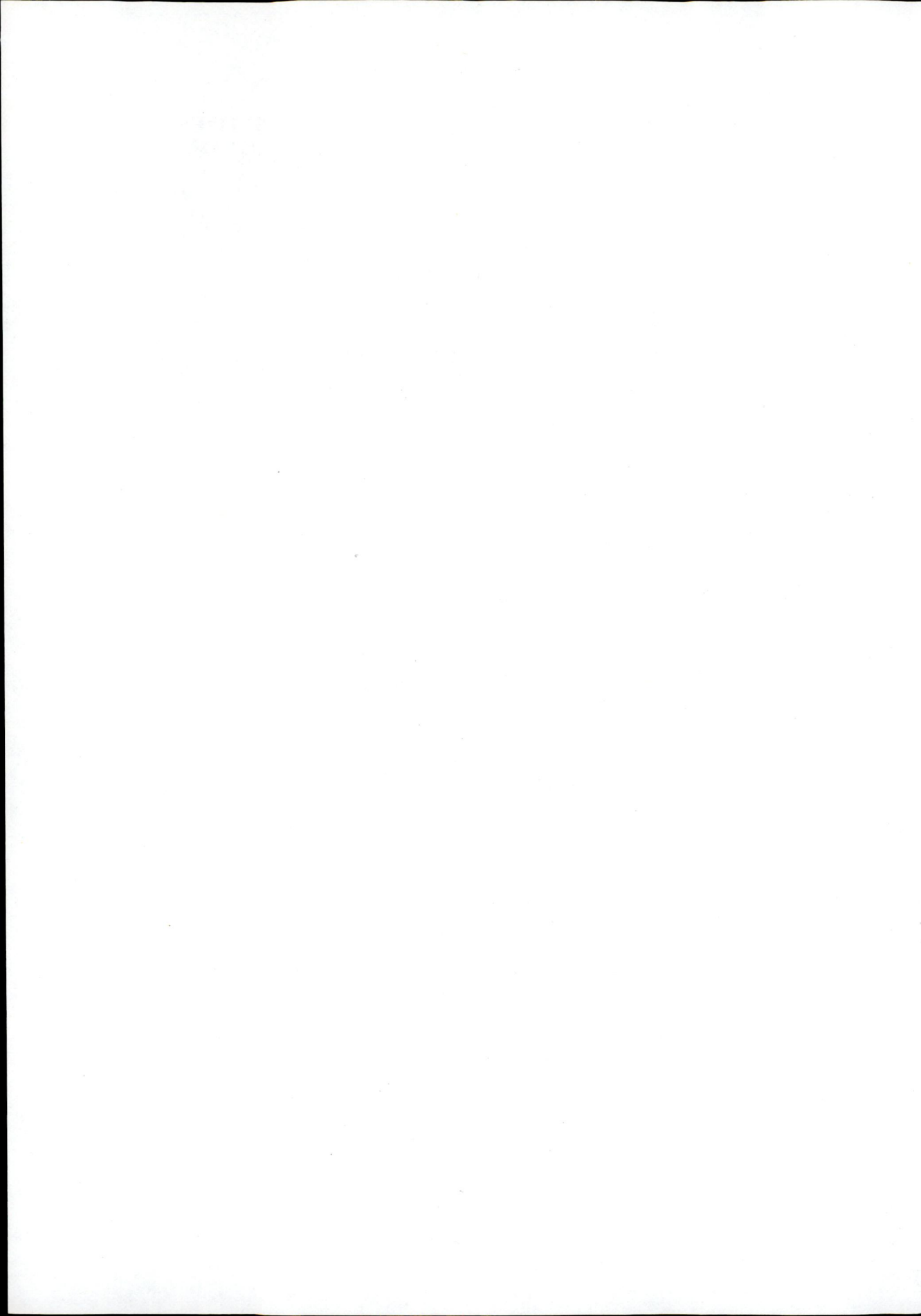
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-



**URANIUM MINING AND NUCLEAR FACILITIES
(PROHIBITIONS) BILL 1986**

NEW SOUTH WALES



No. , 1986

A BILL FOR

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

Uranium Mining and Nuclear Facilities (Prohibitions) 1986

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

5

PART 1
PRELIMINARY

Short title

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

10 **Commencement**

2. (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
15 published in the Gazette.

Objects of Act

3. The objects of this Act are—

- (a) to prohibit prospecting or mining for uranium; and
20 (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.

Interpretation

4. In this Act, except in so far as the context or subject-matter otherwise
25 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;

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

Uranium Mining and Nuclear Facilities (Prohibitions) 1986

- “nuclear facility” means a nuclear facility within the meaning of section 8;
- 5 “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;
- 10 “prospect”, in relation to uranium, means to search for uranium ore bodies by any means, and includes to carry out works or remove samples to test the uranium-bearing qualities of land for the purpose of mining;
- “regulation” means a regulation made under this Act.

15 **Act to bind Crown**

5. 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.

Act to prevail over other Acts and laws

- 20 6. (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 Radioactive Substances Act 1957; or
- (b) the Occupational Health and Safety Act 1983.

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PART 2

PROHIBITION OF URANIUM MINING AND CERTAIN NUCLEAR FACILITIES

Prospecting or mining for uranium prohibited

7. (1) A person shall not prospect or mine for uranium.

Uranium Mining and Nuclear Facilities (Prohibitions) 1986

Penalty: \$100,000.

(2) An authority, licence or claim under the Mining Act 1973 (whether granted or registered before or after the commencement of this Act) does not authorise the holder of the authority, licence or claim to prospect or 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.

Constructing or operating certain nuclear facilities prohibited

8. (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).

Uranium Mining and Nuclear Facilities (Prohibitions) 1986

(2) A person shall not construct or operate a nuclear facility.

Penalty: \$100,000.

(3) Nothing in this section prevents—

- 5 (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;
- 10 (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.

Electricity Commission, etc., not to construct or operate nuclear reactors to generate electricity

15 9. Without affecting the generality of this Act, nothing in the Electricity Commission Act 1950, the Electricity Development Act 1945, the Energy Authority Act 1976 or any other Act authorises—

- (a) the Electricity Commission of New South Wales;
- (b) the Energy Authority of New South Wales; or
- 20 (c) any other authority of the State,

to construct or operate, or to approve or permit the construction or operation of, a nuclear reactor for the purpose of generating electricity.

PART 3

ENFORCEMENT

25 **Restraint, etc., of breaches of Act**

10. (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.

Uranium Mining and Nuclear Facilities (Prohibitions) 1986

(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

5 (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
10 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.

15 (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—

20 (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.

Offences by corporations

25 11. (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.

30 (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.

Uranium Mining and Nuclear Facilities (Prohibitions) 1986

(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.

Proceedings for offences

- 5 **12.** 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

10 Regulations

13. (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.

- 15 **(2)** A regulation may create an offence punishable by a penalty not exceeding \$2,000.

(3) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- 20 (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.

Amendment of Land and Environment Court Act 1979 No. 204

- 25 **14.** The Land and Environment Court Act 1979 is amended—

(a) by inserting after section 20 (1) (b) the following paragraph:

- (ba) proceedings under section 10 of the Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986;

Uranium Mining and Nuclear Facilities (Prohibitions) 1986

(b) by inserting in section 20 (3) (a) in alphabetical order of Acts the following:

Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986;

(c) by inserting after section 21 (f) the following paragraph:

5 (fa) proceedings under section 12 of the Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986;

Amendment of Mining Act 1973 No. 42

15. The Mining Act 1973 is amended by inserting in the definition of "mineral" in section 6 (1) after the words "but does not include" the word
10 "uranium,".

URANIUM MINING AND NUCLEAR FACILITIES (PROHIBITIONS) ACT 1986 No. 194

NEW SOUTH WALES



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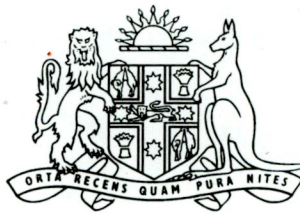
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**URANIUM MINING AND NUCLEAR FACILITIES (PROHIBITIONS)
ACT 1986 No. 194**

NEW SOUTH WALES



Act No. 194, 1986

An Act to prohibit in New South Wales uranium mining and certain nuclear facilities; and for other purposes. [Assented to 18 December 1986]

Uranium Mining and Nuclear Facilities (Prohibitions) 1986

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

PART 1
PRELIMINARY

Short title

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

Commencement

2. (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.

Objects of Act

3. The objects of this Act are—

- (a) to prohibit prospecting or 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.

Interpretation

4. 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;

Uranium Mining and Nuclear Facilities (Prohibitions) 1986

- “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;
- “prospect”, in relation to uranium, means to search for uranium ore bodies by any means, and includes to carry out works or remove samples to test the uranium-bearing qualities of land for the purpose of mining;
- “regulation” means a regulation made under this Act.

Act to bind Crown

5. 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.

Act to prevail over other Acts and laws

6. (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 Radioactive Substances Act 1957; or
 - (b) the Occupational Health and Safety Act 1983.

PART 2

PROHIBITION OF URANIUM MINING AND CERTAIN NUCLEAR FACILITIES

Prospecting or mining for uranium prohibited

7. (1) A person shall not prospect or mine for uranium.

Uranium Mining and Nuclear Facilities (Prohibitions) 1986

Penalty: \$100,000.

(2) An authority, licence or claim under the Mining Act 1973 (whether granted or registered before or after the commencement of this Act) does not authorise the holder of the authority, licence or claim to prospect or 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.

Constructing or operating certain nuclear facilities prohibited

8. (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).

Uranium Mining and Nuclear Facilities (Prohibitions) 1986

(2) A person shall not construct or operate a nuclear facility.

Penalty: \$100,000.

(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.

Electricity Commission, etc., not to construct or operate nuclear reactors to generate electricity

9. Without affecting the generality of this Act, nothing in the Electricity Commission Act 1950, the Electricity Development Act 1945, the Energy Authority Act 1976 or any other Act authorises—

- (a) the Electricity Commission of New South Wales;
- (b) the Energy Authority of New South Wales; or
- (c) any other authority of the State,

to construct or operate, or to approve or permit the construction or operation of, a nuclear reactor for the purpose of generating electricity.

PART 3

ENFORCEMENT

Restraint, etc., of breaches of Act

10. (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.

Uranium Mining and Nuclear Facilities (Prohibitions) 1986

- (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.

Offences by corporations

11. (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.

Uranium Mining and Nuclear Facilities (Prohibitions) 1986

(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.

Proceedings for offences

12. 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

Regulations

13. (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 \$2,000.

(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.

Amendment of Land and Environment Court Act 1979 No. 204

14. The Land and Environment Court Act 1979 is amended—

(a) by inserting after section 20 (1) (b) the following paragraph:

(ba) proceedings under section 10 of the Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986;

Uranium Mining and Nuclear Facilities (Prohibitions) 1986

- (b) by inserting in section 20 (3) (a) in alphabetical order of Acts the following:
Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986;
- (c) by inserting after section 21 (f) the following paragraph:
 - (fa) proceedings under section 12 of the Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986;

Amendment of Mining Act 1973 No. 42

15. The Mining Act 1973 is amended by inserting in the definition of "mineral" in section 6 (1) after the words "but does not include" the word "uranium,".