

**NUCLEAR WASTE TRANSPORT, STORAGE AND DISPOSAL (PROHIBITION)
AMENDMENT BILL 2018**

SERIAL NO. 62

LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY
MINISTER FOR ENVIRONMENT AND NATURAL RESOURCES

EXPLANATORY STATEMENT

GENERAL OUTLINE

The Nuclear Waste Transport, Storage and Disposal (Prohibition) Amendment Bill 2018 (the Bill) amends the *Nuclear Waste, Transport, Storage and Disposal (Prohibition) Act 2004* (the Act).

The purpose of this Bill is to provide clarity and certainty to the offshore oil and gas industry about the application of the Act to nuclear waste, including Naturally Occurring Radioactive Materials (NORMs) that may be generated from offshore oil and gas activities and subsequently brought into the Territory.

The amendments clarify that nuclear waste deriving from pipelines and exploration and recovery activities in the offshore oil and gas industry is exempt from the Act, provided that the relevant project has a relationship with the Territory and is providing an economic benefit to the Territory.

NOTES ON CLAUSES

Clause 1. Short Title

This is a formal clause which provides for the citation of the Act. When passed, the Act may be referred to as the *Nuclear Waste, Transport, Storage and Disposal (Prohibition) Amendment Act 2018*.

Clause 2. Commencement

This clause provides for the commencement of the Bill. The Bill will commence after the day on which the Administrator gives assent to the Act.

Clause 3. Act amended

This is a formal clause that identifies that the *Nuclear Waste, Transport, Storage and Disposal (Prohibition) Act 2004* is amended by this Bill.

Clause 4. Section 2 amended (Definitions)

This clause deletes the definition of 'legislative authority' from the Act. This definition will no longer be used in the Act and is therefore not required.

Clause 5. Section 5 amended (Application of Act)

This clause amends the exemptions contained in the Act. The clause reframes existing exemptions within the Act to improve clarity and certainty about the application of the Act. The reframing of the exemptions provides greater certainty to industry while maintaining the legislature's original intention when passing the Act.

Subsection (2) of the Act is replaced in its entirety.

The new subsection (2) identifies that, except as identified in section 5, the Act applies to all nuclear waste whether it originates inside or outside of the Territory. This consistent with the objectives of the Act and is included to provide certainty.

The new subsection (3) specifies certain exemptions to the Act in relation to nuclear waste that was stored in the Territory before the Act commenced, and waste that originates from inside the Territory. Each of these exemptions is designed to support the operation of industries within the Territory by managing nuclear wastes that may be produced in the Territory.

Subsection (3)(a) clarifies that if nuclear waste was lawfully stored before the Act commenced then it can continue to be stored in the Territory. This provision has the same terms as the previous exemption.

Subsection (3)(b) clarifies that the Act does not apply to nuclear waste produced in the Territory and stored or disposed of in accordance with the *Radiation Protection Act*. This is a reframing of an existing exemption which used the term 'legislative authority' which has now been deleted.

Subsection (3)(c) clarifies that the Act does not apply to a mining activity related to the mining of uranium ores or uranium oxide if that activity is authorised under the *Mining Management Act*. Subject to minor drafting improvements, this provision is in the same terms as the previous exemption.

Subsection (3)(d) clarifies that the Act does not apply to the possession, packaging, storage or transportation of uranium ores or uranium oxide if that activity is authorised under the *Radioactive Ores and Concentrates (Packaging and Transport) Act*. Subject to minor drafting improvements, this provision is in the same terms as the previous exemption.

Subsection (3)(e) clarifies that the Act does not apply to nuclear waste that is produced incidentally within the Territory from the operation or maintenance of a pipeline for conveying petroleum or other energy producing carbons, such as liquid natural gas. This addresses issues associated with nuclear waste, such as naturally occurring radioactive material, that may be produced as a natural by-product of petroleum and other energy producing hydrocarbons and which may accumulate within pipelines and needs to be removed in order to support the efficient operation of the pipeline. This clause reflects the intention of the original exemptions contained in previous sections 5(2)(c)(i) and (iii) of the Act, while ensuring that the language covers all pipelines which are wholly or partly located in the Territory including those licensed under the *Energy Pipelines Act* and *Petroleum (Submerged Lands) Act*.

Subsection (3)(f) clarifies that the Act does not apply to nuclear waste that is produced incidentally within the Territory from activities relating to the exploration, recovery or exploitation of petroleum or other energy producing carbons. This addresses issues associated with nuclear waste, such as naturally occurring radioactive material, that may be produced as a natural by-product of petroleum and other energy producing hydrocarbons and which may accumulate on equipment and parts, such as pumps, valves, separators, traps, drill bits and heads, used during exploratory and production activities. It also addresses other nuclear wastes which may be produced from the use of monitoring, testing or investigative equipment during exploration, recovery or exploitation activities, such as fixed density gauges, multi-phase flow meters and well logging devices using sealed radiation sources as well as unsealed radioactive material used in reservoir tracer studies. This provision is drafted consistently with the surrounding provisions, but otherwise reflects the intention of the original exemption contained in previous section 5(2)(c)(iii) of the Act, while ensuring that the language covers exploration, recovery and exploitation activities licensed under the *Petroleum Act* and *Petroleum (Submerged Lands) Act*.

The new subsection (4) specifies certain exemptions to the Act in relation to nuclear waste that originates from outside the Territory.

Subsection (4)(a) identifies that waste is only exempt, and therefore can be transported into and stored in, the Territory if it is produced incidentally from the operation of a pipeline conveying petroleum or other energy producing hydrocarbons into the Territory.

Under subsection (4)(b) projects that meet certain criteria may be prescribed under the Regulations and therefore be exempt from the Act. To be prescribed projects must:

1. Produce nuclear waste incidentally as part of exploration, recovery or exploitation of petroleum or other energy producing hydrocarbons, and
2. Deliver significant economic and social benefits to the Territory, and
3. Be located within 800 km of the Territory as measured from the Territorial Sea Baseline.

As with subsections (3)(e) and (f), this exemption addresses issues associated with nuclear waste, such as naturally occurring radioactive material, that may be produced as a natural by-product of petroleum and other energy producing hydrocarbons and which may accumulate within drilling and exploration wells, pipelines or on other parts and equipment; as well as other nuclear wastes which may be produced from the use of monitoring, testing or investigative equipment associated with the exploration, recovery and exploitation of petroleum and other energy producing hydrocarbons.

This provision ensures that the language covers offshore oil and gas projects that are licensed under Commonwealth laws, but, requires projects to have a sufficient connection to the Territory. The area 800 km as measured from the Territorial Sea Baseline was identified to include all areas where offshore developments are likely to occur in the medium to long term where the operators of those developments may choose to use the Territory as the base of their operations.

New petroleum and other energy producing hydrocarbon projects will be able to be prescribed if they meet the criteria of providing social and economic benefits for the Territory, such as by using the Territory as the base of their operations, and occur within the 800 km limit.

This exemption provides certainty about the Territory's support for offshore oil and gas projects without allowing the operators of those projects to use the Territory as a place to store or dispose of nuclear wastes unless an established a relationship with the Territory exists. This will prevent the use of the Territory for 'dumping' of nuclear waste which the Act seeks to prevent. The projects that will be prescribed for the purposes of this section will include all existing petroleum and other energy producing hydrocarbon related projects that are contributing to the economic and social development of the Territory.

Clause 6. Repeal of Act

This is a formal clause that identifies that the Act is repealed the day after it commences. As this is an amending Act, there is no need to retain the Act on the statute book once all the amendments have been effected.