

1992

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

AUSTRALIAN NUCLEAR SCIENCE AND TECHNOLOGY ORGANISATION

AMENDMENT BILL 1992

EXPLANATORY MEMORANDUM

(Circulated by authority of the
Minister for Industry, Technology and Commerce
Senator the Hon John N Button)



AUSTRALIAN NUCLEAR SCIENCE AND TECHNOLOGY ORGANISATION
AMENDMENT BILL 1992

OUTLINE

The purpose of this Bill is to amend the Australian Nuclear Science and Technology Organisation Act 1987 to implement the Government's decision to

- (i) include in the functions of the Australian Nuclear Science and Technology Organisation (ANSTO), (s 5 of the Principal Act)
 - (a) the conditioning, storage and management of radioactive materials and radioactive waste, and
 - (b) revisions which better reflect the Commonwealth's objectives for commercialisation of ANSTO's activities
- (ii) provide for the immunity of ANSTO from specified classes of State and Territory laws and regulations (new s 7A), following advice that, although not intended by the Government, ANSTO may be fully subject to State and Territory laws
- (iii) include provisions relating to resignation and termination of appointment of the Executive Director (new s 21)
- (iv) repeal section 25 of the Act and replace it with a new Part, dealing with the establishment, functions and powers of the Nuclear Safety Bureau (NSB), and providing for the independence of the NSB from ANSTO, with funding by direct appropriation and the Director of the NSB, who is to be appointed by the Minister, exercising relevant powers over the staff of the NSB (new Part VIIA, incorporating new s 37 and 37A to 37U)
- (v) make changes of an administrative nature, which include increasing the limit for which ANSTO must seek Ministerial approval to enter contracts to spend or receive money from \$200,000 to \$1 million (s 31) and repealing the requirement for all commercial revenues received to be paid to Consolidated Revenue (present s 37), in line with earlier decisions on science funding and revenue retention.

FINANCIAL IMPACT STATEMENT

- 2. Additional costs in the order of \$150,000 annually will be incurred on an ongoing basis to cover added administration costs associated with separating the NSB from ANSTO.

NOTES ON CLAUSES

Clause 1: Short title, etc

3. This clause provides:

- . for the Act to be cited as the Australian Nuclear Science and Technology Organisation Amendment Act 1992; and
- . that in the Act a reference to the "Principal Act" means the Australian Nuclear Science and Technology Organisation Act 1987.

Clause 2: Commencement

4. This clause provides that the Act will commence on the day on which it receives the Royal Assent.

Clause 3: Interpretation

5. Amends section 3 of the Principal Act by defining in subsection (1) "Bureau" as meaning the Nuclear Safety Bureau established by section 37, and "Director" as meaning the Director of the Bureau.

Clause 4: Functions of the Organisation

6. Subclause 4(1) extends the set of functions listed in section 5 of the Principal Act.

7. ANSTO is accorded the function of conditioning, managing and storing radioactive materials and radioactive waste arising from its own activities, the activities of companies in which it has a controlling interest, or the use by third parties of radioactive materials produced by ANSTO or such companies, as well as other radioactive substances arising from the activities of persons who are specified in regulations.

8. ANSTO is also accorded the function of providing and selling goods and services in connection with the conditioning, management and storage of radioactive materials or radioactive waste, together with the function of making available, on a commercial basis, its knowledge, expertise, equipment and facilities. The restriction which limits ANSTO's training activities to the training of scientific and research workers is removed.

9. In carrying out its functions, ANSTO is required to have regard to the Commonwealth's national science, technology and energy policy objectives, and the Commonwealth's commercialisation objectives for public research institutions.

10. Subclause 4(2) specifies that, for the purpose of the functions regarding radioactive material and radioactive waste, any such substances stored on ANSTO's premises on the commencement of this Act are taken to have arisen from ANSTO's activities.

11. Subclause 4(3), with effect from 5 February 1995, removes from the application of subclause 4(2) certain radioactive material and radioactive waste that is the subject of order 3 of the orders made in the NSW Land and Environment Court on 5 February 1992 in the matter of the Council of the Shire of Sutherland v. the Australian Nuclear Science and Technology Organisation (viz, soil from Fishermans Bend, Victoria, contaminated with radioactivity).

Clause 5: Immunity of Organisation etc. from certain State and Territory Laws

12. Subclause 5(1) inserts into the Principal Act a new section 7A which provides that certain State and Territory laws do not apply, and never have applied, to ANSTO and companies in which it holds a controlling interest, or the property or transactions of those bodies or any act or thing done by or on behalf of those bodies. Matters wholly unconnected with ANSTO's functions or powers are excluded from the application of section 7A.

13. The classes of State and Territory laws to which section 7A applies are specified as relating to

- . the use or proposed use of land or premises
- . environmental consequences of the use, of land or premises
- . radioactive materials or dangerous goods
- . licensing in relation to employment, or carrying on a particular kind of business or undertaking, or conducting a particular kind of operation.

Particular laws may be excluded from the application of section 7A if specified in regulations made for the purpose.

14. Subclause 5(2) excludes from the application of section 7A, with effect from 5 February 1995, the radioactive material and waste which is subject to the Court order mentioned in para 11, above.

Clause 6: Executive Director

15. Amends the Principal Act by inserting provisions dealing with the resignation and termination of appointment of the Executive Director of ANSTO.

Clauses 7 & 8: Safety Review

16. Clause 8 repeals section 25 of the Principal Act, dealing with the establishment of the Nuclear Safety Bureau (or NSB; the NSB is re-established as an independent body at Clause 12). As a result, Part VI deals only with the Safety Review Committee. Clause 7 has the effect of changing the title of Part VI to reflect this.

Clause 9: Money of the Organisation

17. Amends section 27 of the Principal Act, which relates to ANSTO's money and the ways in which it may spend that money, to take account of the establishment of the NSB as a separate body.

Clause 10: Contracts

18. Amends section 31 of the Principal Act by increasing from \$200,000 to \$1,000,000 the maximum value of contracts into which ANSTO can enter without the approval of the Minister.

Clause 11: Commercial Revenue

19. Repeals section 37 of the Principal Act which requires all commercial revenues received to be paid to Consolidated Revenue and which is incompatible with Government science funding and revenue retention decisions.

Clause 12: Nuclear Safety Bureau

20. This clause deals with the establishment and operation of the NSB as an entity accountable to the Minister and independent of ANSTO. The clause has the effect of inserting into the Principal Act a new part, Part VIIA - Nuclear Safety Bureau, which has four divisions.

(a) Division 1 - Establishment, functions and powers of NSB

21. This Division comprises new sections 37 and 37A to 37D which establish the NSB with functions of

- . monitoring and reviewing the safety of any nuclear plant owned or operated by ANSTO, and
- . providing technical advice to the Commonwealth on the safety of nuclear plant and related matters.

The NSB is to have such other functions as the Minister determines in writing (a determination is a disallowable instrument).

22. The NSB is empowered to impose such conditions or restrictions as it thinks appropriate on the operation of nuclear plant owned or operated by ANSTO, which must comply. The Minister may direct the NSB with respect to the performance of its functions or the exercise of its powers and the Bureau must comply.

(b) Division 2 - Director and staff

23. This Division comprises sections 37E to 37P which relate to the Director and staff of the NSB. The Minister is to appoint the Director, and must be satisfied the appointee has qualifications relevant to, or special experience or interest in, a field related to the NSB's functions. No-one who has attained the age of 65 years can be appointed. The Director, who is to manage the affairs of the NSB, holds office for a period not exceeding 5 years and may be re-appointed. A term cannot extend beyond the day on which the person attains the age of 65 years.

24. Division 2 also covers the Director's remuneration (determined by the Remuneration Tribunal), allowances (determined by the Minister, subject to the remuneration Tribunal Act 1973), leave of absence, resignation, termination of employment and disclosure of interests. Provision is made for the appointment of an Acting Director.

25. Such staff as the Director thinks necessary for the performance of the NSB's functions may be employed under terms and conditions determined by the Minister.

(c) Division 3 - Finance

26. Division 3 comprises sections 37Q to 37T which specify that the NSB is paid such money as is appropriated by the Parliament for the purposes of the NSB in such amounts and at such times as are specified by the Minister for Finance. The money of the NSB is to be applied only for expenses, charges, obligations and liabilities incurred in the performance of its functions and the exercise of its powers, in payment of remuneration and allowances, and in making any other payments required or permitted of the NSB.

27. Money not immediately required may be invested. Division 3 of Part XI of the Audit Act applies and directions given to the NSB by the Minister during each financial year are to be included in the annual report concerned. The NSB is not subject to income tax, nor to State or Territory taxation and, except with the Minister's approval, must not enter into a contract for an amount exceeding \$200,000.

(d) Division 4 - Miscellaneous

28. This Division comprises new sections 37U and 37V which specify that the NSB may submit such reports to the Minister as it considers appropriate and must submit to the Minister such reports as the Minister directs. The Minister may table reports in Parliament. The Director may delegate all or any of his powers to another person in the employ of the NSB.

Clause 13: Gifts, grants, etc

29. Amends section 38 of the Principal Act by removing the condition that ANSTO may only accept gifts, grants, bequests and devises, and may act as a trustee, with the approval of the Minister.

Clause 14: Advisory Council

30. Repeals section 40 of the Principal act which deals with the establishment of an Australian Nuclear Science and Technology Advisory Council, since there are several internal and independent bodies which provide advice and audit ANSTO's operations, including a number of Program Advisory Committees of external experts.

Clause 15: Delegation by Minister

31. Amends section 42 of the Principal Act as a consequence of the establishment of the NSB and the repeal of section 40.

