

1987

THE PARLIAMENT OF THE COMMONWEALTH
OF AUSTRALIA

SENATE

NUCLEAR NON-PROLIFERATION
(SAFEGUARDS) BILL 1986

AMENDMENTS

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister
for Resources and Energy,
Senator the Hon Gareth Evans, QC)

OUTLINE

The purpose of amendment (1) is to meet a concern expressed by the Senate Standing Committee for the Scrutiny of Bills.

Amendments (2) and (3) recognise the special position of the Patent Office in relation to information on nuclear technology (as defined in the Bill) which might be submitted to the Patent Office in an application for a patent. The amendments exempt the Patent Office from the requirement to hold a permit or authority in relation to such applications. The Patents Act 1952 will be amended to require the Commissioner of Patents to submit such applications to the Director of Safeguards for his advice and to prohibit the publication of any specifications which contain information on nuclear technology.

Amendment (4) removes an uncertainty in the Bill in respect of the operation of certain clauses when the Minister delegates his powers to the Director.

FINANCIAL IMPACT

The amendments will have no financial impact.

NOTES ON AMENDMENTS

Amendment (1)

Sub-clause 22(3) is amended to remove a provision that failure to notify a person of a decision does not affect the validity of that decision.

Sub-clause 22(1) of the Bill provides for the notification of decisions relating to the granting or variation of permits or authorities and sub-clause 22(2) provides that such notice shall include a statement that application may be made to the Administrative Appeals Tribunal for review of the relevant decision. Sub-clause 22(3) states that a failure to comply with the requirements of sub-clauses 22(1) and (2) shall not be taken to affect the validity of a decision. The Senate Standing Committee for the Scrutiny of Bills expressed concern that sub-clause 22(3) provides that the failure to notify a person of a decision affecting that person should not affect the validity of the relevant decision and the Government accepts that that concern is well-founded.

Amendment (2)

Sub-clause (6) is added at the end of clause 23 to provide that it is not an offence for a Commonwealth officer employed in the Patent Office to possess nuclear technology without a permit in the course of carrying out duties in the Office.

Amendment (3)

Sub-clause (4) is added at the end of clause 26 to provide that it is not an offence for a Commonwealth officer employed in the Patent Office to communicate information on nuclear technology without an authority in the course of carrying out duties in the Office.

Amendment (4)

Sub-clauses (4), (5) and (6) are added to clause 72 which empowers the Minister to delegate his powers to the Director or an officer of the Department. Clauses 13, 16 and 18 enable the Minister to grant permits and authorities. Clauses 12, 14, 15 and 17 require the Director to submit certain reports to the Minister before the Minister grants a permit or authority and to state in the reports that the Director is satisfied as to certain things. In a situation where the Minister delegates his powers to the Director, the amendment removes the requirement for the Director to submit a report but retains the requirement for the Director to be satisfied as to certain things before the Director, as delegate of the Minister, can issue a permit or authority.