

Chapter 1

Introduction

Referral of inquiry

1.1 On 18 June 2015, the Australian Radiation Protection and Nuclear Safety Amendment Bill 2015 (the bill) was introduced into the House of Representatives by the Minister for Health, the Hon Sussan Ley MP.¹ On 25 June 2015, on the recommendation of the Selection of Bills Committee, the Senate referred the provisions of the bill to the Senate Community Affairs Legislation Committee (the committee) for inquiry and report by 17 August 2015.²

1.2 The reason for the referral of the bill cited by the Selection of Bills Committee was 'to ensure that the wider community of involved stakeholders has the ability to put forward its views to fully inform Senators on the details of the legislation'.³

Background

1.3 The bill makes amendments to the *Australian Radiation Protection and Nuclear Safety Act 1998* (ARPNS Act) which provides a regime 'to protect the health and safety of people, and the environment, from the harmful effects of radiation'. The ARPNS Act establishes the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) and the office of Chief Executive Officer (CEO). One of ARPANSA's key roles includes regulating the use of radiation and the safety of nuclear installations by, and for, Australian Government entities.

1.4 The introduction of the bill follows a review by the Australian National Audit Office (ANAO) into the regulation of Commonwealth Radiation and Nuclear Activities.⁴ The review concluded that 'ARPANSA has been generally effective in managing key aspects of the regulatory framework applying to the possession and use of radiation and nuclear sources and facilities by Australian Government entities'.⁵ However, the ANAO also made several recommendations 'aimed at strengthening ARPANSA's management of potential conflicts of interest and expanding the risk-based approach to regulation'.⁶

1.5 On 19 March 2015, the South Australian Government established a Royal Commission to undertake an investigation into South Australia's potential future participation in the areas of activity that form part of the nuclear fuel cycle. Former

1 House of Representatives, *Votes and Proceedings*, 18 June 2015, p. 1405.

2 *Journals of the Senate*, 25 June 2014, p. 2831.

3 Senate Selection of Bills Committee, *Report 8 of 2015*, 25 June 2015, Appendix 2.

4 ANAO, *Regulation of Commonwealth Radiation and Nuclear Activities*, Audit Report No. 29 2013–14 (ANAO audit report).

5 ANAO audit report, p. 16.

6 ANAO audit report, p. 19.

Governor of South Australia, Rear Admiral the Hon Kevin Scarce AC CSC RAN (Rtd), was appointed to head the Royal Commission. The Nuclear Fuel Cycle Royal Commission will report no later than 6 May 2016.⁷

Overview of the bill

1.6 In her second reading speech, Minister Ley stated that since the introduction of the ARPNS Act in 1998, there have been 'changes to international approaches to radiation and nuclear safety, as well as a number of reviews that have identified the desirability of minor changes to the regulatory scheme'. She stated:

Drawing on the recommendations of the various reviews and the experience of ARPANSA, this bill makes changes to the legislation to provide greater clarity regarding the reach of the legislation, improve risk management of radiation activities undertaken by Commonwealth entities and provide greater capacity for ARPANSA to act in the event of an emergency or noncompliance with the legislation.⁸

1.7 Minister Ley described the amendments of the bill as reflecting 'sound administrative practice' and highlighted proposed changes in four areas:

Firstly, the amendments provide ARPANSA with greater powers to monitor compliance with the legislation and to take action in the event of noncompliance. For example, the amendments enable the CEO of ARPANSA to require a licence holder to produce information or documents, or to appear before the CEO to answer questions. Inspectors are also being empowered to issue improvement notices to require licence holders to address contraventions of the legislation, or likely contraventions, within certain time frames....

Secondly, the amendments clarify the application of the legislation to contractors and those in arrangements with the Commonwealth or operating from facilities owned or controlled by Commonwealth entities. This provides greater regulatory certainty and ensures there is no gap in regulatory coverage between entities regulated by ARPANSA and those regulated by state and territory authorities....

Thirdly, the proposed amendments improve the licensing regime and make it more efficient by:

- enabling ARPANSA to issue time limited licences in circumstances where time limits may be more appropriate and ensures that unnecessary licences do not exist into perpetuity—currently, no licences expire;
- providing for ARPANSA to regulate activities to maintain the integrity and safety of contaminated legacy sites as under current arrangements, ARPANSA does not have a clear legal basis to undertake this work; and

7 Further information regarding the Nuclear Fuel Cycle Royal Commission is available at: www.nuclearrc.sa.gov.au.

8 The Hon Sussan Ley MP, *House of Representatives Hansard*, 18 June 2015, p. 6773.

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- clarifying that ARPANSA may issue single licences for multiple activities to reduce regulatory burden and streamline arrangements.

Finally, the bill makes a number of minor technical and administrative amendments, such as updates to definitions and removal of outdated provisions to improve the operation of the legislation.⁹

1.8 Similarly, the Explanatory Memorandum (EM) states that the proposed amendments in the bill 'update and improve the operation of the ARPANS Act by':

- making some adjustments to the licensing regime to expressly enable ARPANSA to regulate remediation activities involving contaminated legacy sites, to clarify that ARPANSA may issue single licences for multiple facilities and/ or sources where this supports end-to end risk management and to enable ARPANSA to issue time limited licences;
- clarifying the application of the legislation to contractors and others working with Commonwealth entities;
- providing ARPANSA with greater capacity to respond to emergencies and to adopt a graduated response to non-compliance by introducing a wider range of monitoring and enforcement measures;
- updating the language used in technical definitions to better reflect internationally accepted terms and concepts; and
- making minor, technical amendments to improve clarity, remove redundant provisions and enhance administration of the regulatory regime.¹⁰

Consideration of the bill by other committees

1.9 The bill was considered by the Parliamentary Joint Committee on Human Rights (Human Rights committee) on 18 June 2015. The Human Rights committee stated the bill did not 'require additional comment as it promotes human rights or contains justifiable limitations on human rights (and may contain both justifiable limitations on rights and promotion of human rights)'.¹¹

1.10 The bill was also considered by the Senate Standing Committee for the Scrutiny of Bills (Scrutiny Committee) on 12 August 2015. The Scrutiny Committee made no comment on the bill.¹²

Conduct of inquiry

1.11 Details of the inquiry, including a links to the text of the bill and associated documents, were placed on the committee's website. The committee advertised the

9 The Hon Sussan Ley MP, *House of Representatives Hansard*, 18 June 2015, pp. 6773–6774.

10 Explanatory Memorandum (EM), p. 1.

11 Parliamentary Joint Committee on Human Rights, *Human Rights Scrutiny Report: Twenty-fourth report of the 44th Parliament*, 24 June 2015, p. 1.

12 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest No. 7 of 2015*, 12 August 2015, p. 24.

inquiry on its website and in *The Australian* newspaper. The committee also wrote to a range of individuals and organisations likely to have an interest in the bill, drawing their attention to the inquiry and inviting them to make written submissions.

1.12 The committee received 5 submissions to the inquiry. These submissions are listed at [Appendix 1](#). The committee held a public hearing on 5 August 2015 at Parliament House in Canberra. Witnesses who gave evidence to the committee are listed at [Appendix 2](#). Public submissions, the public hearing transcript and additional documents are available on the committee's website: www.aph.gov.au/senate_ca.

Structure of report

1.13 Chapter 2 summarises key provisions of the bill. Chapter 3 outlines key issues raised during the inquiry and contains the committee's view and recommendation.

Acknowledgements

1.14 The committee acknowledges the short period of time available for those who made submissions and gave evidence at the public hearing. The committee thanks all those who assisted with the inquiry.

Notes on references

1.15 References to the committee *Hansard* are to the *Proof Hansard*. Page numbers may vary between the proof and official *Hansard* transcript.