

The Senate

Employment, Workplace Relations
and Education Legislation Committee

Provisions of the Australian Nuclear Science and
Technology Organisation Amendment Bill 2006

May 2006

© Commonwealth of Australia

ISBN 0 642 71652 8

This document was produced by the Senate Employment, Workplace Relations and Education Legislation Committee and printed by the Senate Printing Unit, Department of the Senate, Parliament House, Canberra.

Membership of the Committee

Members

Senator Judith Troeth	LP, Victoria	Chair
Senator Gavin Marshall	ALP, Victoria	Deputy Chair
Senator David Johnston	LP, Western Australia	
Senator Guy Barnett	LP, Tasmania	
Senator George Campbell	ALP, New South Wales	
Senator Natasha Stott Despoja	AD, South Australia	

Substitute Members

Senator Andrew Murray AD, Western Australia	in place of Senator Natasha Stott Despoja replace for Workplace Relations
Senator Lyn Allison AD, Victoria	in place of Senator Natasha Stott Despoja replace for schools and training

Secretariat

Senate Employment, Workplace Relations and Education
 Legislation Committee Secretariat
 Department of the Senate
 PO Box 6100
 Parliament House
 Canberra ACT 2600
 Phone: 02 6277 3520
 Fax: 02 6277 5706
 E-mail: eet.sen@aph.gov.au
 Internet: www.aph.gov.au/senate_employment

Table of Contents

Membership of the Committee	iii
Majority Report	1
Management of Commonwealth radioactive waste	1
Management of radioactive waste at the request of law enforcement and emergency services authorities.....	2
Management of waste following reprocessing of spent nuclear fuel.....	2
Conclusion.....	2
Recommendation.....	3
Opposition Reservation	5
Australian Democrats Minority Report	7
Appendix 1	11
List of submissions.....	11

Majority Report

1.1 This report represents the views of Government and Opposition senators on the committee.

1.2 The ANSTO Amendment Bill 2006 was referred to the committee on 30 March 2006 for examination and report. The committee received three submissions to its inquiry. As there was no indication given to the committee at the time of its referral that the provisions of the legislation would be contentious, the committee agreed that the bill would be reported solely on the basis of a reading of submissions.

1.3 This amendment to the Australian Nuclear Science and Technology Organisation Act 1987 will allow ANSTO to fully participate in actions that may be required to assist the Commonwealth and its agencies in the management of radioactive materials and waste, beyond those which relate to ANSTO's own operations. ANSTO is the pre-eminent nuclear science research agency. Its expertise is not only required by Commonwealth agencies, but those agencies under state and territory jurisdiction which require assistance and advice on matters relating to public health and safety in the event of accidents involving nuclear materials, and incidents resulting from criminal or terrorist activities.

1.4 There are three main elements to the bill, each of them dealing with provision of specific powers and responsibilities. These are outlined as follows.

Management of Commonwealth radioactive waste

1.5 As the law currently stands, ANSTO is impeded from making its expertise and facilities available to owners of nuclear waste who will be required to dispatch it to the new storage facility in the Northern Territory. There are special requirements for packaging and transporting of the waste, and as a result of the amendment ANSTO will be empowered to advise and assist in these processes.

1.6 In its submission to the inquiry, the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) noted that ANSTO is currently unable to make its own storage facilities available to other government agencies. If it was empowered to do so, this would allow ANSTO to handle the complete pre-disposal management of the Commonwealth's holdings of radioactive wastes, thus improving overall radiation protection.¹

1 ARPANSA, *Submission 2*, p.3

Management of radioactive waste at the request of law enforcement and emergency services authorities

1.7 Deficiencies in the current act became apparent when state emergency and law enforcement authorities approached ANSTO for advice and assistance in storage and disposal of nuclear materials that may be taken in the course of law enforcement work. Police forces around the country lack suitable storage facilities for this purpose.

1.8 Nor has ANSTO currently any legal powers under its legislation to advise law enforcement authorities in relation to dealing with 'dirty' bombs, or other materials that may emerge from terrorist or criminal activity. An amendment allowing for this will align Australia with the standards set out in the UN Convention for the Suppression of Acts of Nuclear Terrorism.²

Management of waste following reprocessing of spent nuclear fuel.

1.9 Spent nuclear waste from ANSTO's research reactor is shipped to Britain and France for reprocessing, together with spent fuel from other users. All waste is combined in a single batch, and on its return is allocated to users in proportion to their share in the original mixed batch.

1.10 What is returned and reallocated will contain matter which originally came from different users. ANSTO is concerned that it is not clear that a court would regard returned and reprocessed waste as being waste arising from the operations of its research reactor. The committee accepts that it is important that ANSTO's power to receive and manage these residues is put beyond legal question, given the possibility of legal actions by groups opposed to nuclear activities. A successful legal action would effectively place Australia in breach of commitments given to the governments of Britain and France as to the origin of the waste.³

Conclusion

1.11 The committee regards this bill as important and essential legislation. It will significantly improve levels of protection from radioactive contamination in routine management of waste, and in the event of criminal or terrorist activities involving radioactive materials. The committee notes that the legislation has been supported by the Federation of Australian Scientific and Technological Societies (FASTS), the only non-government body to make a submission to the inquiry.

1.12 The committee also notes that for some time senators interested in the management of the nuclear research program and nuclear waste issues have asked questions of ANSTO and ARPANSA at estimates hearings about their respective roles. The ability of ANSTO to answer technical questions has been limited by the

2 ANSTO, *Submission 4*, p.3

3 *ibid.*, p.4

constraints of its act. While the committee has not focussed on this issue previously, individual senators have noted the administrative fragmentation in the field of nuclear energy research and nuclear waste management. The practical difficulties arising from this problem have now been recognised. The committee is pleased to see this legislation introduced.

Recommendation

The committee recommends that the Senate pass this bill.

Senator Judith Troeth

Chairman

Opposition Reservation

Opposition Senators acknowledge that as the expert agency on nuclear research and management, ANSTO has a critical role to play in the management of nuclear waste and materials nationally. In the current security climate, it is also sensible for ANSTO to assist law enforcement agencies in the management of nuclear materials.

The Opposition's reservation to this bill hinges on two critical issues. First, this bill strengthens ANSTO's ability to be involved in management of nuclear materials and waste destined for the nuclear waste repository to be constructed in the Northern Territory. Labor reiterates its opposition to the nuclear waste facility has been imposed on the Northern Territory under provisions of the *Commonwealth Radioactive Waste Management Act 2005*. The concerns of the Opposition were made clear in its dissenting report on this bill tabled by this committee on 29 November 2005. Further, the Opposition is concerned that the Government may use this Bill not just to enable ANSTO to usefully lend its expertise to national nuclear waste management but to pre-empt and close off opportunities for the community to express its concerns over the proposed nuclear waste repository in the Northern Territory.

The Opposition emphasises strongly its concern that the Government may use the legislation to allow the Lucas Heights nuclear facility to become a de facto national waste repository in the event of any delays or other problems with any planned national repository. Labor opposes Lucas Heights becoming the site of a national waste repository.

While supporting the extension of ANSTO's powers, the Opposition will be pressing the Government on these broader waste issues and requiring reassurances in relation to storage at Lucas Heights.

Senator George Campbell

for

Senator Gavin Marshall
Deputy Chair

Australian Democrats Minority Report

Democrats Senators have some concerns with the Australian Science and Technology Organisation Amendment Bill 2006.

A provision of the Bill clarifies ANSTO's authority to handle radioactive waste material returned to Australia as a result of contractual arrangements involving ANSTO sending spent nuclear fuel overseas for reprocessing. The Democrats understand that this provision fulfils a contractual obligation, however, we are concerned that this opens the door to the importation and disposal of foreign nuclear wastes, particularly given that there is no specific legislation to prevent this. More specifically, the legislation may facilitate the imposition of an international high-level nuclear waste dump on unwilling communities and States or Territories should the Commonwealth decide to support such a dump. The Government should use the current legislative process to give legal weight to its stated view of opposition to Australia's hosting of a high-level international nuclear dump.

While the Democrats oppose a national storage facility, particularly one as remote as is being proposed in the Northern Territory, we note that if the Commonwealth Radioactive Waste Management Facility is not in operation by 2011, when spent fuel reprocessing waste is due to return, this waste may then be stored at Lucas Heights which goes against repeated promises from the Federal Government not to return spent fuel reprocessing wastes to Lucas Heights.

The Democrats draw attention to recent revelations that ANSTO has stopped 24 hour monitoring of radiation levels at Lucas Heights reactor and has "cut back on reactor inspections"¹, potentially compromising safety at Lucas Heights. Given that a provision of this bill, as ANSTO asserts in its submission, effectively allows ANSTO to manage and operate the Commonwealth Radioactive Waste Management Facility, we are concerned about ANSTO's ability to ensure safety at the facility.

The Democrats also object to the relatively short period allowed for this inquiry and that no hearing was held. Four submissions were received and, notably, there is a lack of submissions from environmental groups. We note that a hearing on this bill may have resolved some of our questions and concerns. The Democrats will not be supporting the bill in its current form.

The Democrats have participated extensively in past committee work on issues of nuclear waste handling and storage. See Senator Stott Despoja's supplementary reports to the Senate Economics References Committee Inquiry "*A New Reactor at Lucas Heights*" and the Select Committee for an Inquiry into the contract for a new reactor at Lucas Heights.

¹ Joe Hildebrand "Safety cut at Sydney nuke plant" *Daily Telegraph* 5/5/06

The Democrats take this opportunity to make further general comments about uranium waste disposal in Australia which remains an ongoing concern for many.

We consider it hypocritical of this Government to call for a national code for the siting and development of wind farms to ensure community concerns are taken into consideration, while on the other hand, it overrides, via the Commonwealth Radioactive Waste Management Bill 2005, Territory Government objections, and majority community objections, on the siting of nuclear waste storage facilities. Rather than consult, the Government did quite the opposite - the Northern Territory Chief Minister first heard about the Government's decision in a press release from the Minister, similarly, Alice Springs Council first heard of the proposal on local radio, and a property owner adjacent to one of the sites found out through a friend.

The International Atomic Energy Agency has stated that recent experience suggests that broad public acceptance will enhance the likelihood of project approval, that an inclusive approach to public involvement should be adopted from the beginning of the planning process, and that providing open access to accurate and understandable information about the development program was critical for trust and acceptance.

The Democrats argue that it is imperative to manage Australia's radioactive waste in a responsible, scientifically robust and transparent manner. To date the Federal Government has failed to act in such a manner. Specifically we object to:

- lack of consultation with and impact on the democratic rights of Territorians and the will of the NT Parliament;
- overriding the rights and interests of local communities and local government authorities along proposed transport routes across Australia;
- the disregard for the rights and interests of Traditional Owners of the proposed dump site areas;
- lack of comparative and quantified community risk analysis of continued onsite storage verses risks in transport of wastes to a centralised facility;
- lack of quantified analysis of the claimed reduction in number of Commonwealth waste storage sites if the proposed NT dump facility were to go ahead.
- lack of comparative costings for enhancing onsite storage facilities for Commonwealth organisations generating radioactive wastes verses the NT nuclear dump plan with the continuation of onsite storage facilities for existing users in any case;
- lack of studies of siting suitability and design for above ground storage and a comparative analysis of above ground and burial options (in fact one of the sites identified was recently submerged under water during the recent floods in Katherine); and
- the lack of a long-term strategy to reduce minimise waste generation.

The Democrats remain concerned that the Government's push for a radioactive store is not a genuine attempt to address a growing environmental issue but a move to facilitate an industry expansion that would result in the creation of even more radioactive waste.

Our concerns have been heightened in light of the recent deal to sell uranium to China and the possibility of selling uranium to India. In this context, we are concerned that the Australian Government intends, or is under increasing pressure for Australia to be, a repository for high level waste generated by countries to which we export uranium.

The Australian Democrats recognise that radioactive waste is a reality and a serious issue.

We continue to hold the view that low level waste should be stored as close as possible to its production and that repositories should be established in each state and territory for this purpose and we continue our long opposition to the construction of a new nuclear reactor at Lucas Heights.

The Australian Democrats support the strategy advocated by the Medical Association for the Prevention of War, the Australian Conservation Foundation and Friends of the Earth, viz:

Firstly, the Government must minimise waste generation.

Secondly, the Government should aim to minimise transportation. Waste management is preferably done on-site, in a retrievable and secure fashion.

Thirdly, the Government should focus on establishing a secure, monitored, above ground storage which responsibly addresses the need to maximise long-term safety and does not preclude any improved storage options which become available in the future.

Fourthly, the Government should gain community acceptance of the management system – based on the principles promoted by the International Atomic Energy Agency. This does not simply mean “consultation”: the community must give *informed consent* to the facility.

Senator Lyn Allison
Australian Democrats

Senator Natasha Stott Despoja
Australian Democrats

Appendix 1

List of submissions

Sub No:	From:
1	Federation of Australian Scientific & Technological Societies
2	Australian Radiation Protection & Nuclear Safety Agency
3	Department of Education, Science & Training
4	Australian Nuclear Science & Technology Organisation

