ENVIRONMENT PROTECTION (NORTHERN TERRITORY SUPREME COURT) BILL 1978

Date Introduced: 10 April 1978

House: House of Representatives

Presented by: Hon. R.I. Viner, M.P.,
Minister representing the
Attorney-General

Short Digest of Bill

Purpose

To confer jurisdiction on the Supreme Court of the Northern Territory in relation to the enforcement by it of certain legal requirements for the protection of the environment in the Alligator Rivers Region.

Background

The Ranger Uranium Environmental Inquiry was concerned that provisions for the protection of the environment from the effects of uranium mining in the Alligator Rivers Region be legally enforceable by people with a special interest in the matter; that is, the Northern Land Council, representing the interests of Aboriginal land owners and the Director of National Parks and Wildlife as the person responsible for the national park to be established in the area. The government accepted this recommendation and also further recommendations that enforceability should be by way of injunction at the suit of the Northern Land Council or the Director with jurisdiction to issue injunctions lying with the N.T. Supreme Court.

Main Provisions

Clause 4 grants jurisdiction to the N.T. Supreme Court to make orders about the enforcement in relation to uranium mining operations of requirements which have effect under prescribed instruments so far as the requirements are connected with matters affecting the environment in the Alligator Rivers Region. "Prescribed instruments" are laws of the Commonwealth or the Northern Territory; permits, licences or leases under such a law; an authority under section 41 of the Atomic Energy Act 1953 to carry on mining operations on behalf of or in association with the Commonwealth; an agreement to allow mining on Aboriginal land under Part IV of the Aboriginal Land Rights (Northern Territory) Act 1976; an instrument under section 10 of the National Parks and Wildlife Conservation Act 1975 giving the approval...
of the Governor-General to carry on mining operations in a park, reserve or conservation zone in accordance with the relevant plan of management (clause 3).

The Land Council has standing to invoke the Court's jurisdiction where the matter affects the environment in a part of the Alligator Rivers Region that is included in the area for which the Land Council has been established and is Aboriginal land (sub-clause 4(2)). The Director's standing arises where the matter affects the environment in a part of the Region that is national park, reserve or conservation zone (sub-clause 4(3)).

The Supreme Court is by clause 5 granted a wide discretion in the exercise of its jurisdiction, having power to make whatever orders it considers appropriate according to circumstances. These include the granting of injunctions and orders requiring, for example, a person to carry out work to remedy a detriment to the environment caused by a failure to comply with a requirement in a prescribed instrument. The court could also make an order authorising or approving the carrying out or the doing of work by a third person to remedy a detriment to the environment of the Region and order the reimbursement of costs incurred.

2 May 1978

Law and Government Group
LEGISLATIVE RESEARCH SERVICE