



Australian Capital Territory

# Radiation Protection Amendment Act 2022

A2022-12

## Contents

---

	Page
<b>Part 1</b>	<b>Preliminary</b>
1	Name of Act 2
2	Commencement 2
3	Legislation amended 2
4	Legislation repealed 2
<b>Part 2</b>	<b>Radiation Protection Act 2006</b>
5	Radiation protection principle Section 4 (2) 3

---

J2021-746

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

## Contents

---

	Page	
6	Meaning of <i>deal</i> with radiation source	
	New section 11 (1) (ea)	3
7	Sections 13 (3) and 14	3
8	Section 14, new note	3
9	Divisions 3.2 and 3.3	4
10	Return of amended, suspended or cancelled licences	
	Section 40 (1) (a)	24
11	Disposal etc of prohibited radiation source	
	Section 45 (2)	24
12	New section 46A	25
13	New section 60A	25
14	New section 62A	26
15	Failure to notify council of dangerous event	
	Section 63 (2) (c)	27
16	Criminal liability of executive officers	
	Section 64 (6), definition of <i>executive officer</i>	27
17	Part 5	27
18	Section 115	32
19	Evidentiary certificates	
	Section 119	34
20	Approved forms	
	Section 121	34
21	Regulation-making power	
	Section 122 (3)	34
22	New part 11	35
23	Schedule 1	37
24	Dictionary, note 2	38
25	Dictionary, new definitions	38
26	Dictionary, definition of <i>council</i>	39
27	Dictionary, definition of <i>disciplinary action</i>	39
28	Dictionary, new definitions	39
29	Further amendments, mentions of <i>council</i>	40

	Page	
<b>Part 3</b>	<b>Radiation Protection Regulation 2007</b>	
30	Exemptions for certain radiation apparatus—Act, s 123 New section 9 (2) and (3)	41
<b>Schedule 1</b>	<b>Public Health Act 1997—Consequential amendments</b>	42





Australian Capital Territory

# Radiation Protection Amendment Act 2022

A2022-12

---

An Act to amend the *Radiation Protection Act 2006* and the *Radiation Protection Regulation 2007*, and for other purposes

---

The Legislative Assembly for the Australian Capital Territory enacts as follows:

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Radiation Protection Amendment Act 2022*.

### 2 Commencement

This Act commences 1 month after its notification day.

*Note* The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

### 3 Legislation amended

This Act amends the *Radiation Protection Act 2006* and the *Radiation Protection Regulation 2007*.

*Note* This Act also amends the *Public Health Act 1997* (see sch 1).

### 4 Legislation repealed

The *Radiation Protection Regulation 2007—Form—Consent form for clients of solarium* (AF2010-94) is repealed.

## Part 2                      Radiation Protection Act 2006

### 5                      Radiation protection principle Section 4 (2)

*omit*

The council

*substitute*

The advisory committee

### 6                      Meaning of *deal* with radiation source New section 11 (1) (ea)

*insert*

(ea) inspects and assesses the safety of the radiation source to ensure compliance with this Act; or

### 7                      Sections 13 (3) and 14

*omit*

doctor

*substitute*

health practitioner

### 8                      Section 14, new note

*insert*

*Note 2* **Health practitioner** includes a doctor registered under the [Health Practitioner Regulation National Law \(ACT\)](#).

**9 Divisions 3.2 and 3.3***substitute***Division 3.2 Licenses****16 Application for licence**

- (1) A person may apply to the chief health officer for a licence to deal with a regulated radiation source.
- (2) The application must—
  - (a) be in writing; and
  - (b) include any information prescribed by regulation.

*Note* Giving false or misleading information is an offence against the [Criminal Code](#), s 338.

- (3) The chief health officer may, by written notice, require an applicant for a licence to give the chief health officer more information—
  - (a) that the chief health officer reasonably needs to decide the application; and
  - (b) within a stated time.

**Examples—more information**

- 1 information about the proposed dealings under the licence
- 2 information about the applicant's skills and qualifications

- (4) If the applicant does not comply with a requirement in the notice, the chief health officer may refuse to issue the licence.

**17 Decision about licence application**

- (1) If a person applies for a licence, the chief health officer must—
  - (a) issue the licence; or
  - (b) refuse to issue the licence.

*Note* A licence may be issued with a condition (see s 19).

- (2) The chief health officer may issue the licence to the applicant, only if satisfied that the applicant is a suitable person to hold the licence in accordance with section 17A.
- (3) The chief health officer must refuse to issue the licence if satisfied it is not in the public interest to issue the licence.
- (4) In considering the public interest under subsection (3), the chief health officer must consider the risk of a dose limit being exceeded.
- (5) Subsection (4) does not limit the matters the chief health officer may consider relevant to the public interest.

**17A Suitable person to hold licence**

- (1) In deciding whether an applicant is a suitable person to hold a licence, the chief health officer must consider the following:
  - (a) whether the applicant has the knowledge, skills and experience to safely deal with the regulated radiation source the subject of the application;
  - (b) for an applicant who is, or was, a licensee under this Act, or a corresponding law—
    - (i) whether any conditions were imposed on the licence; and
    - (ii) if a condition was imposed on the licence—whether the applicant failed to comply with the condition; and
    - (iii) whether the applicant was given an improvement notice or prohibition notice; and

- (iv) whether any disciplinary action was taken against the applicant; and
- (v) whether the licence was amended or cancelled;
- (c) whether the applicant has been convicted or found guilty of an offence against a law that relates to the applicant's ability to safely deal with a radiation source, including this Act or a corresponding law;

**Examples—law that relates to applicant's ability to safely deal with radiation source**

- 1 the *Dangerous Substances Act 2004*
- 2 the *Health Practitioner Regulation National Law (ACT)*
- 3 the *Veterinary Practice Act 2018*

- (d) any other information prescribed by regulation.
- (2) If the applicant is a corporation, the chief health officer must also consider the matters mentioned in subsection (1) for each influential person for the corporation.
- (3) The chief health officer may consider anything else the chief health officer considers relevant.

## **18 Form of licence**

- (1) A licence must—
  - (a) be in writing; and
  - (b) include the following information:
    - (i) the full name and address of the licensee;
    - (ii) a unique identifying number;
    - (iii) the term of the licence;
    - (iv) any conditions on the licence;
    - (v) any other information prescribed by regulation; and

- (c) identify or describe—
  - (i) each regulated radiation source to which the licence applies (the *relevant source*); and
  - (ii) each kind of dealing authorised by the licence in relation to each relevant source.
- (2) The licence may include any other information the chief health officer considers relevant.

## **19 Licence conditions**

A licence is subject to—

- (a) any condition the chief health officer imposes when issuing the licence; and
- (b) any other condition prescribed by regulation.

### **Examples—par (a)**

- 1 compliance with an approved code of practice or standard
- 2 compliance with a national incident reporting framework
- 3 compliance with particular requirements of inspection and reporting
- 4 compliance with particular security procedures

## **20 Term of licence**

The chief health officer may issue a licence for not longer than 3 years.

## **21 Offence—fail to update name or address**

- (1) A person commits an offence if the person—
  - (a) is a licensee; and
  - (b) changes their name or address from the name or address mentioned in the licence; and

- (c) does not tell the chief health officer, in writing, about the change within 14 days after the day the change happens.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.

## **22 Amendment of licence by chief health officer**

- (1) The chief health officer may amend a licence at any time and on the chief health officer's own initiative.

### **Examples**

- 1 changing a dealing with a radiation source authorised under a licence
- 2 imposing a condition on a licence
- 3 amending an existing condition of the licence

- (2) However, the chief health officer may take action under this section (a *proposed action*) only if—
  - (a) the chief health officer has given the licensee written notice of the proposed action; and
  - (b) the notice states that written comments on the proposed action may be made to the chief health officer before the end of a stated period of at least 14 days after the day the notice is issued to the person; and
  - (c) the chief health officer has considered any comments made before the end of the stated period.
- (3) Subsection (2) does not apply if the licensee applied for, or agreed in writing to, the action.

**23 Amendment of licence on application**

- (1) A licensee may apply to the chief health officer to amend the licensee's licence.

**Examples**

- 1 changing a dealing with a radiation source authorised under the licence
  - 2 amending a licence condition
  - 3 removing a licence condition
- (2) The chief health officer may, by written notice, require the licensee to give the chief health officer more information the chief health officer reasonably needs to decide the application.
- (3) If the licensee does not comply with a requirement under subsection (2), the chief health officer may refuse to consider the application.
- (4) In deciding whether to amend the licence, the chief health officer may consider anything the chief health officer may consider under section 17 in relation to an application for a licence.
- (5) On an application by a licensee to amend a licence, the chief health officer must—
- (a) amend the licence in the way applied for; or
  - (b) refuse to amend the licence.

**24 Automatic cancellation of licence**

- (1) This section applies if—
- (a) a licence is in force in relation to a regulated radiation source; and
  - (b) the radiation source becomes a prohibited radiation source.
- (2) The licence is automatically cancelled.
- (3) The chief health officer must give written notice to the person who was the licensee within 7 days after the day the licence is cancelled.

## Division 3.3 Registration of radiation sources

### 25 Application for registration of radiation source

- (1) The owner of a regulated radiation source may apply to the chief health officer to register the radiation source.
- (2) The application must—
  - (a) be in writing; and
  - (b) include a radiation management plan, for the radiation source, in accordance with section 33C; and
  - (c) include any other information prescribed by regulation.

*Note* Giving false or misleading information is an offence against the [Criminal Code](#), s 338.

- (3) The chief health officer may, by written notice, require the applicant to give the chief health officer more information—
  - (a) that the chief health officer reasonably needs to decide the application; and
  - (b) within a stated time.

**Example—more information**

how people, property and the environment will be protected from unnecessary exposure to radiation from a radiation source

- (4) The chief health officer may, by written notice, require that an applicant amend a radiation management plan included in an application if the chief health officer is satisfied that the plan does not adequately address the requirements under section 33C.
- (5) If an applicant does not comply with a requirement under subsection (3) or (4), the chief health officer may refuse to register the radiation source.

**26 Decision about radiation source registration application**

- (1) If a person applies for registration of a regulated radiation source, the chief health officer must—
  - (a) register the radiation source; or
  - (b) refuse to register the radiation source.
- (2) In deciding whether to register the regulated radiation source, the chief health officer must consider—
  - (a) whether the person is a suitable person to own a regulated radiation source in accordance with section 26A; and
  - (b) whether it is in the public interest that the regulated radiation source be registered; and
  - (c) anything the chief health officer considers relevant in relation to the person's ability to comply with this Act; and
  - (d) any criteria prescribed by regulation.
- (3) The chief health officer must refuse to register the regulated radiation source if the chief health officer is not satisfied of either matter mentioned in subsection (2) (a) or (b).
- (4) If the chief health officer refuses to register the regulated radiation source, the chief health officer must tell the person about the decision as soon as practicable, but not later than 7 days, after the day the chief health officer makes the decision.

**26A Suitable person to own registered regulated radiation source**

- (1) In deciding whether an applicant is a suitable person to own a registered regulated radiation source, the chief health officer must consider the following:
  - (a) whether the applicant can satisfy any relevant requirements set out in the national directory;

- (b) for an applicant who is, or was, a registered owner under this Act or a corresponding law—
  - (i) whether any conditions were imposed on the registration; and
  - (ii) if a condition was imposed on the registration—whether the applicant failed to comply with the condition; and
  - (iii) whether the applicant was given an improvement notice or prohibition notice or the equivalent of such a notice; and
  - (iv) whether any disciplinary action was taken against the applicant; and
  - (v) whether the registration was amended or cancelled;
- (c) whether the applicant has been convicted or found guilty of an offence against a law that relates to the applicant’s ability to safely deal with a radiation source, including this Act or a corresponding law;

**Examples—law that relates to applicant’s ability to safely deal with radiation source**

- 1 the *Dangerous Substances Act 2004*
- 2 the *Health Practitioner Regulation National Law (ACT)*
- 3 the *Veterinary Practice Act 2018*

- (d) any other information prescribed by regulation.
- (2) If the applicant is a corporation, the chief health officer must also consider the matters mentioned in subsection (1) for each influential person for the corporation.
  - (3) The chief health officer may consider anything else the chief health officer considers relevant.

## **27 Form of registration**

- (1) The registration of a regulated radiation source must—
  - (a) be in writing; and

- (b) include the following information:
  - (i) the full name and address of the person to whom the registration is granted;
  - (ii) a description or identification of the radiation source;
  - (iii) each place where the radiation source may be kept;
  - (iv) the term of the registration;
  - (v) any conditions on the registration.
- (2) The person mentioned in subsection (1) (b) (i) is the *registered owner* of the registered regulated radiation source.

## 28 Registration conditions

- (1) The registration of a regulated radiation source is subject to—
  - (a) any condition the chief health officer imposes when registering a regulated radiation source; and
  - (b) any other condition prescribed by regulation.

### Examples—conditions imposed on registration

- 1 compliance with an approved code of practice or standard
  - 2 compliance with a national incident reporting framework
  - 3 compliance with particular requirements of inspection and reporting
  - 4 compliance with particular security procedures
  - 5 requirement to tell chief health officer if radiation source is transported
- (2) Also, registration of a regulated radiation source is subject to a condition that the registered owner of the regulated radiation source—
    - (a) has in place, a radiation management plan in accordance with the registration for the radiation source; and
    - (b) employs or retains at least 1 radiation safety officer in accordance with the radiation management plan for the radiation source; and

- (c) ensures the radiation source operates in accordance with an approved code of practice for the radiation source.

## **29 Term of registration**

The chief health officer may register a regulated radiation source for not longer than 3 years.

## **30 Registered owner must update details**

- (1) A person commits an offence if the person—
  - (a) is a registered owner of a regulated radiation source; and
  - (b) changes their name or address from the name or address mentioned in the registration; and
  - (c) does not tell the chief health officer, in writing, about the change within 14 days after the day the change happens.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.

## **31 Amendment of registration by chief health officer**

- (1) The chief health officer may amend a registration at any time and on the chief health officer's own initiative.

### **Examples**

- 1 changing a requirement about how the radiation source is to be kept
- 2 imposing a condition on a registration
- 3 amending an existing condition of a registration

- (2) However, the chief health officer may only amend a registration under this section if—
  - (a) the chief health officer has given the registered owner of the regulated radiation source written notice of the proposed amendment; and

- (b) the notice states that written comments on the proposed amendment may be made to the chief health officer before the end of a stated period of at least 14 days after the day the notice is issued to the person; and
  - (c) the chief health officer has considered any comments made before the end of the stated period.
- (3) Subsection (2) does not apply if the registered owner applied for, or agrees in writing to, the proposed amendment.

## **32 Amendment of registration on application**

- (1) A registered owner of a radiation source may apply to the chief health officer to amend a registration.

### **Examples**

- 1 changing a dealing with a radiation source authorised under the licence
  - 2 amending a registration condition
  - 3 removing a registration condition
- (2) The chief health officer may, by written notice, require the registered owner to give the chief health officer additional information the chief health officer considers reasonably necessary to decide the application.
- (3) If the registered owner does not comply with a requirement under subsection (2), the chief health officer may refuse to amend the registration.
- (4) In deciding whether to amend the registration, the chief health officer may consider anything the chief health officer may consider under section 25 in relation to an application for a registration of a regulated radiation source.

- (5) On application by a registered owner of a regulated radiation source to amend a registration, the chief health officer must—
- (a) amend the registration; or
  - (b) refuse to amend the registration.

### **33 Automatic cancellation of registration**

- (1) This section applies if—
- (a) a registration is in force in relation to a radiation source that is a regulated radiation source; and
  - (b) the radiation source becomes a prohibited radiation source.
- (2) The registration of the radiation source is automatically cancelled.
- (3) The chief health officer must give written notice to the person who was the registered owner within 7 days after the day the registration is cancelled.

## **Division 3.3A Radiation register**

### **33A Radiation register**

- (1) The chief health officer must keep a register of the following:
- (a) a licence issued under section 17;
  - (b) a radiation source registered under section 26;
  - (c) anything else prescribed by regulation.
- (2) The register must include the following information:
- (a) for a licence—
    - (i) the full name of the licensee; and
    - (ii) the unique identifying number for the licence; and
    - (iii) the dealings authorised by the licence; and

- (iv) the term of the licence; and
  - (v) any conditions on the licence; and
  - (vi) any disciplinary action taken against the licensee; and
  - (vii) any other information prescribed by regulation;
- (b) for registration of a regulated radiation source—
- (i) the serial number or other unique identifying number for the radiation source; and
  - (ii) the kind of radiation source; and
  - (iii) the term of the registration; and
  - (iv) any conditions on the registration; and
  - (v) any disciplinary action taken against the registered owner; and
  - (vi) any other information prescribed by regulation.
- (3) The register may include any other information that the chief health officer considers appropriate.
- (4) The chief health officer may make the information mentioned in subsection (2) (a) and (b) available for public inspection if satisfied it is in the public interest for the information to be publicly available.
- (5) The chief health officer may correct a mistake, error or omission in the register.

## **Division 3.3B      Radiation management plan**

### **33B      Meaning of *radiation management plan***

In this Act:

***radiation management plan***, for a regulated radiation source, means a plan about how to safely deal with a radiation source.

**33C Radiation management plan**

A radiation management plan for a regulated radiation source must—

- (a) include the following information:
  - (i) the proposed dealings with the radiation source;
  - (ii) the proposed location of the radiation source, including how and where it will be stored;
  - (iii) the potential hazards associated with the radiation source;
  - (iv) security measures that will be in place to prevent unauthorised dealings with, or access to, the radiation source;
  - (v) the proposed safety measures for dealing with the radiation source, including how the radiation source will be transported or disposed of;
  - (vi) details of each radiation safety officer for the plan, including each radiation safety officer's qualifications in accordance with section 33E;
  - (vii) any other information prescribed by regulation; and
- (b) provide details about how the plan will ensure that dealings with the radiation source—
  - (i) will protect the health and safety of people, property and the environment; and
  - (ii) comply with the safety duties under division 3.1.

**33D Meaning of *radiation safety officer***

In this Act:

*radiation safety officer*, for a radiation management plan, means a person who, in giving effect to the plan, does the following in relation to a radiation source mentioned in the plan:

- (a) identifies ways of minimising the potential associated hazards;
- (b) provides or arranges training for radiation safety and handling;
- (c) monitors safety and security measures;
- (d) anything else prescribed by regulation.

**33E Qualifications of radiation safety officer**

- (1) The chief health officer may determine a qualification required for a radiation safety officer under this Act.
- (2) A determination may apply, adopt or incorporate a law of another jurisdiction or an instrument as in force from time to time.
- (3) A determination is a notifiable instrument.

**Division 3.3C Improvement notices and prohibition notices****33F Improvement notices**

- (1) This section applies if an authorised person believes on reasonable grounds that—
  - (a) a licensee or a registered owner of a regulated radiation source—
    - (i) is contravening a provision of this Act; or
    - (ii) has contravened a provision of this Act; and
  - (b) the contravention relates to a dealing with a regulated radiation source.

- (2) The authorised person may, by written notice (an *improvement notice*), require the licensee or registered owner to—
  - (a) remedy the contravention; or
  - (b) prevent a likely contravention from occurring; or
  - (c) remedy the cause of the contravention or likely contravention.
- (3) The chief health officer may, by written notice, require the registered owner to amend the registered owner’s radiation management plan if the chief health officer is satisfied—
  - (a) the subject of the improvement notice relates to a matter under the radiation management plan; and
  - (b) the plan does not adequately address the matter.

### **33G Contents of improvement notices**

- (1) An improvement notice—
  - (a) must state—
    - (i) that it is an improvement notice under this Act; and
    - (ii) the provision of this Act to which it relates; and
    - (iii) details of the contravention; and
    - (iv) the period for compliance with the notice (the *compliance period*); and
  - (b) may state particular action to be taken by the licensee or registered owner to ensure compliance with the provision of this Act to which the notice relates.
- (2) An authorised person may extend the compliance period—
  - (a) on the authorised person’s own initiative; or
  - (b) if the licensee or registered owner asks the authorised person, in writing, for more time to comply with the notice.

**33H Prohibition notices**

- (1) This section applies if—
  - (a) a licensee or registered owner of a regulated radiation source has failed to comply with an improvement notice within the compliance period in relation to the notice; or
  - (b) an authorised person believes on reasonable grounds that—
    - (i) a licensee or a registered owner of a regulated radiation source—
      - (A) is contravening a safety duty; or
      - (B) has contravened a safety duty, and the contravention is likely to continue or repeat; and
    - (ii) the contravention poses a serious or immediate risk to—
      - (A) the health or safety of people; or
      - (B) property; or
      - (C) the environment.
- (2) The authorised person may prohibit, by oral or written notice (a *prohibition notice*), the licensee or registered owner doing any of the following:
  - (a) dealing with a stated regulated radiation source or stated kind of regulated radiation source;
  - (b) for a registered owner of a regulated radiation source—allowing another person to deal with the regulated radiation source;
  - (c) anything else in relation to a regulated radiation source.

- (3) If the prohibition notice is given orally, the authorised person must—
- (a) make a written record of the notice as soon as practicable, but not later than 1 business day after the day the notice is given; and
  - (b) give a copy of the written record to the licensee or registered owner as soon as practicable.

### **331 Contents of prohibition notices**

A prohibition notice—

- (a) must state—
  - (i) that it is a prohibition notice under this Act; and
  - (ii) if the prohibition notice is in relation to a failure to comply with an improvement notice—details of the failure to comply; and
  - (iii) if the prohibition notice is in relation to a failure to comply with a safety duty—the safety duty and details of the failure to comply; and
  - (iv) the thing that the licensee or registered owner is prohibited from doing; and
- (b) may state—
  - (i) particular action to be taken by the licensee or registered owner to ensure compliance with the improvement notice or safety duty to which the notice relates; and
  - (ii) that the notice remains in effect until the licensee or registered owner is given a clearance notice.

**33J Clearance notices**

- (1) This section applies if an authorised person—
  - (a) gave a prohibition notice to a licensee or registered owner of a regulated radiation source; and
  - (b) is satisfied on reasonable grounds that—
    - (i) if the prohibition notice was in relation to a failure to comply with an improvement notice—the licensee or registered owner has complied with the improvement notice; or
    - (ii) if the prohibition notice was in relation to a failure to comply with a safety duty—the licensee or registered owner has complied with the safety duty.
- (2) The authorised person must give the licensee or registered owner written notice (a *clearance notice*) that the prohibition notice has ended and when the notice ends.

**33K Contravention of improvement notice and prohibition notice**

- (1) A person commits an offence if the person—
  - (a) is a licensee or a registered owner of a regulated radiation source; and
  - (b) is given an improvement notice; and
  - (c) fails to comply with the improvement notice.Maximum penalty: 100 penalty units.
- (2) A person commits an offence if the person—
  - (a) is a licensee or a registered owner of a regulated radiation source; and

- (b) is given a prohibition notice; and
- (c) fails to comply with the prohibition notice.

Maximum penalty: 400 penalty units.

**10 Return of amended, suspended or cancelled licences  
Section 40 (1) (a)**

*substitute*

- (a) the licensee's license is—
  - (i) amended under section 22 (Amendment of licence by chief health officer); or
  - (ii) amended under section 23 (Amendment of licence on application); or
  - (iii) cancelled under section 24 (Automatic cancellation of licence); or
  - (iv) amended, suspended or cancelled under this division; and

**11 Disposal etc of prohibited radiation source  
Section 45 (2)**

*after*

may

*insert*

do

**12 New section 46A**

*in division 3.7, insert*

**46A Emergency exemption**

- (1) The Minister may exempt a person orally or in writing from a requirement under this Act for a continuous period not longer than 12 months.
- (2) An exemption under this section may only be made if the Minister is satisfied on reasonable grounds that the exemption is necessary to minimise a serious or immediate risk to—
  - (a) the health or safety of people; or
  - (b) property; or
  - (c) the environment.
- (3) If an exemption is made orally, the Minister must, as soon as practicable—
  - (a) make a written record of the exemption not later than 1 business day after the day the Minister makes the exemption; and
  - (b) give a copy of the exemption to the person.

**13 New section 60A**

*insert*

**60A Dealing with unregistered radiation source**

- (1) A person commits an offence if—
  - (a) the person owns a regulated radiation source; and
  - (b) the regulated radiation source is not registered under section 26; and
  - (c) another person deals with the unregistered radiation source; and

- (d) the dealing by the other person is not authorised under the other person's licence in relation to the unregistered radiation source.

Maximum penalty: 100 penalty units.

- (2) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant took reasonable steps to prevent the unregistered radiation source from being dealt with by a person not authorised under a licence to deal with the radiation source.

*Note* The defendant has a legal burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 59).

## **14 New section 62A**

*insert*

### **62A Failure to notify chief health officer of disposal of radiation source**

- (1) A person commits an offence if—
- (a) the person owns a regulated radiation source; and
  - (b) the regulated radiation source is disposed of; and
  - (c) the person does not tell the chief health officer, in writing, about the disposal within 14 days after the day the radiation source is disposed of.

Maximum penalty: 50 penalty units.

- (2) Strict liability applies to subsection (1) (c).

(3) In this section:

*dispose*, of a regulated radiation source, includes—

- (a) sell the radiation source; or
- (b) transfer the radiation source; or
- (c) make the radiation source permanently inoperable.

**15 Failure to notify council of dangerous event  
Section 63 (2) (c)**

*omit*

council the information it

*substitute*

chief health officer the information the chief health officer

**16 Criminal liability of executive officers  
Section 64 (6), definition of *executive officer***

*omit*

**17 Part 5**

*substitute*

## **Part 5 Radiation advisory committee**

**65 Establishment of advisory committee**

The Radiation Advisory Committee is established.

**66 Advisory committee—functions**

The advisory committee has the following functions:

- (a) advising the chief health officer on radiation safety and matters relating to radiation;

- (b) developing codes of practice or standards in consultation with the chief health officer regarding the safe use and handling of radiation and radiation sources;
- (c) if required by the Minister, director-general or chief health officer—investigating and reporting on any matter relevant to the administration of this Act;
- (d) reviewing applications for a licence to deal with a regulated radiation source referred to the committee by the chief health officer;
- (e) any other function—
  - (i) given to it under this Act or another territory law; or
  - (ii) prescribed by regulation.

## **67 Advisory committee—membership**

- (1) The advisory committee is made up of at least 4 members appointed by the director-general.

*Note* For laws about appointments, see the [Legislation Act](#), pt 19.3.

- (2) The advisory committee must include—
- (a) a member of the public; and
  - (b) a person who is a doctor registered under the [Health Practitioner Regulation National Law \(ACT\)](#) in the specialist area of radiology; and
  - (c) a person with expert knowledge of the physical properties or biological effects of radiation; and
  - (d) a person who, in the director-general’s opinion, has qualifications or experience relevant to assisting the committee to carry out its functions.

- (3) An appointment must be for a term not longer than 3 years.
- (4) The committee's functions under this Act are not affected only because of a vacancy in the committee's membership.

**68 Advisory committee—ending members' appointments**

The director-general may end the appointment of an advisory committee member—

- (a) for misbehaviour; or
- (b) for physical or mental incapacity, if the incapacity affects the exercise of the member's functions; or
- (c) if the member—
  - (i) becomes bankrupt or personally insolvent; or
  - (ii) is absent, other than on leave approved by the director-general, from 3 consecutive meetings of the advisory committee; or
  - (iii) contravenes section 71 (Advisory committee—disclosure of members' interests) without reasonable excuse; or
  - (iv) contravenes section 115 (Communication or use of protected information); or
  - (v) commits, in Australia or elsewhere, an offence punishable by imprisonment for at least 1 year; or
  - (vi) contravenes any other territory law that, in the director-general's opinion, affects the member's suitability to be a member; or
- (d) if the director-general is satisfied that the member's ability to function as a member is affected by an interest disclosed under section 71.

**69 Advisory committee—procedures**

- (1) The director-general may, on the director-general's own initiative or in consultation with the advisory committee, determine the procedures for the committee.
- (2) A determination under subsection (1) is a notifiable instrument.
- (3) If the director-general has not made a determination about the committee's procedures, the committee may decide its own procedures in relation to anything for which a procedure is not provided under this Act.

**70 Advisory committee—quorum at meetings**

Business may be carried on at a meeting of the advisory committee only if at least 2 appointed members are present.

**71 Advisory committee—disclosure of member interests**

- (1) An advisory committee member who has a relevant interest in an issue being considered, or about to be considered, by the committee must, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the committee.
- (2) The disclosure must be recorded in the advisory committee's minutes and, unless the committee otherwise decides, the member must not—
  - (a) be present when the committee considers the issue; or
  - (b) take part in a decision of the committee on the issue.
- (3) If, because of subsection (2), only 1 member may be present and consider the issue, the committee must not make a decision on the issue.

(4) In this section:

*relevant interest*, in an issue, means—

- (a) a direct or indirect financial interest in the issue; or
- (b) a direct or indirect interest of any other kind if the interest could conflict with the proper exercise of the advisory committee member's functions in relation to the committee's consideration of the issue.

## **72 Advisory committee—reporting of disclosed interests to Minister**

(1) Within 3 months after the disclosure of a relevant interest under section 71 (1), a member nominated by the committee must report to the Minister in writing about—

- (a) the disclosure; and
- (b) the nature of the interest disclosed; and
- (c) any decision by the committee under section 71 (2).

(2) The nominated committee member must give the Minister, by 31 July each year, a statement that sets out the information given to the Minister in any report under subsection (1) that relates to disclosures made during the previous financial year.

(3) The Minister must give a copy of the statement to the relevant Assembly committee within 31 days after the day the Minister receives the statement.

(4) In this section:

*relevant Assembly committee* means a standing committee of the Legislative Assembly nominated, in writing, by the Speaker for subsection (3).

**73 Advisory committee—radiation protection reports**

- (1) This section applies if any of the following ask the advisory committee, in writing, for advice on a radiation protection issue:
  - (a) the Minister;
  - (b) the director-general;
  - (c) the chief health officer.
- (2) The committee must investigate and provide a written report on the issue, including a recommendation if appropriate, within—
  - (a) a period, stated in the request, that is not less than 7 days; or
  - (b) if a longer period is stated in the request—the longer period.
- (3) However, if the committee reasonably needs more time to provide the report—
  - (a) the committee may make a written request to the person who asked for the advice for more time to provide the report; and
  - (b) the person may extend the period for the committee to provide the report.

**18 Section 115**

*substitute*

**115 Communication or use of protected information**

- (1) A person commits an offence if—
  - (a) the person uses protected information; and
  - (b) the use of the information is not a protected use; and
  - (c) the person is reckless about whether the use is protected use.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person commits an offence if—
- (a) the person uses protected information; and
  - (b) the use of the information is not a protected use; and
  - (c) the person intends to use the protected information to—
    - (i) endanger the health or safety of another person; or
    - (ii) damage property or the environment.

Maximum penalty: 1 000 penalty units, imprisonment for 3 years or both.

- (3) In this section, use of protected information is a *protected use* if the information is used—
- (a) in accordance with this Act or another territory law; or
  - (b) in relation to the exercise of a function under this Act or another territory law; or
  - (c) with the consent of the person to whom the information relates, or from whom the information was obtained; or
  - (d) for the purposes of legal proceedings arising out of the administration or enforcement of this Act; or
  - (e) by disclosing the information to an entity under a territory law or the law of another jurisdiction that has functions relating to radiation health or safety.

**Examples—entity having functions relating to radiation health or safety**

- 1 a national board under the *Health Practitioner Regulation National Law (ACT)*
- 2 the veterinary practitioners board
- 3 the Chief Executive Medicare
- 4 the environment protection authority
- 5 the work health and safety commissioner

(4) In this section:

*protected information* means information disclosed to, or obtained by, a person because of the exercise of a function under this Act.

**19 Evidentiary certificates**  
**Section 119**

*omit*

chair of the council

*substitute*

chief health officer

**20 Approved forms**  
**Section 121**

*omit*

**21 Regulation-making power**  
**Section 122 (3)**

*omit*

10 penalty units

*substitute*

20 penalty units

**22**      **New part 11***insert***Part 11**                      **Transitional—Radiation  
Protection Amendment Act 2022****133**      **Definitions—pt 11**

In this part:

*commencement day* means the day the *Radiation Protection Amendment Act 2022*, section 3 commences.

*pre-amendment Act* means this Act, as in force immediately before the commencement day.

*radiation council* means the Radiation Council established under the pre-amendment Act, section 65.

**134**      **Radiation council members**

- (1) The appointment of a person as a member of the radiation council under the pre-amendment Act, section 68 (Council members), that is in force immediately before the commencement day is, on the commencement day, taken to be an appointment of the person as a member of the advisory committee under section 67 (Advisory committee—membership) and continues in force until the end of the term of the appointment under the pre-amendment Act unless ended earlier.
- (2) The appointment of a person as chair or deputy chair of the radiation council under the pre-amendment Act, section 70, that is in force immediately before the commencement day is, on the commencement day, taken to be an appointment of the person as chairperson or deputy chairperson of the advisory committee under the terms of reference (if any) and continues in force until the end of the term of the appointment under the pre-amendment Act unless ended earlier.

**135 Radiation council—functions**

- (1) This section applies if, immediately before the commencement day—
  - (a) the radiation council did not carry out or complete a function required under a provision of the pre-amendment Act or any other territory law; or
  - (b) a person did not carry out or complete a function, in relation to the radiation council, required under a provision of the pre-amendment Act or any other territory law.
- (2) The provision of the pre-amendment Act or other territory law, as in force immediately before the commencement day, continues to apply to the carrying out or completion of the function, and the following is taken to be the radiation council for the provision and any matter relating to the performance of the function:
  - (a) for a function under the pre-amendment Act, divisions 5.3 and 5.4—the advisory committee;
  - (b) for any other function—the chief health officer.

**136 Radiation council disclosures and reporting of interests**

- (1) A disclosure of an interest to the radiation council under the pre-amendment Act, section 77 (Disclosure of interests by council members) is, on the commencement day, taken to be a disclosure of an interest to the advisory committee under section 71.
- (2) A requirement to report information or give a statement under the pre-amendment Act, section 78 (Reporting of disclosed interests to Minister) that has not been done before the commencement day is, on the commencement day, taken to be a requirement to report the information or give the statement under section 72.

**137 Transitional regulations**

A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Radiation Protection Amendment Act 2022*.

**138 Expiry—pt 11**

This part expires 12 months after the commencement day.

*Note* A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

**23 Schedule 1**

*substitute*

**Schedule 1 Reviewable decisions**

(see pt 7)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	17 (1) (b)	refuse to issue licence	applicant for licence
2	19 (a)	impose condition on licence	licensee
3	22 (1)	amend licence	licensee
4	23 (5) (b)	refuse to amend licence	applicant for amendment
5	25 (4)	require applicant to amend radiation management plan	applicant for registration
6	26 (1) (b)	refuse to register regulated radiation source	applicant for registration

column 1 item	column 2 section	column 3 decision	column 4 entity
7	28 (1) (a)	impose condition on registration of regulated radiation source	registered owner
8	31 (1)	amend registration	registered owner
9	32 (5) (b)	refuse to amend registration	applicant for amendment
10	33F (3)	require registered owner to amend radiation management plan	registered owner
11	36	take disciplinary action	licensee

## 24 Dictionary, note 2

*insert*

- business day
- chief health officer
- health practitioner
- work health and safety commissioner

## 25 Dictionary, new definitions

*insert*

***advisory committee*** means the Radiation Advisory Committee established under section 65.

***clearance notice***—see section 33J (2).

***compliance period***, for an improvement notice—see section 33G (1) (iv).

*corresponding law* means a law of the Commonwealth or a State corresponding, or substantially corresponding, to this Act.

*Note* *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

## 26 Dictionary, definition of *council*

*omit*

## 27 Dictionary, definition of *disciplinary action*

*substitute*

*disciplinary action*—

- (a) taken against a licensee—see section 35 (1); and
- (b) taken against a registered owner—see section 35 (2).

## 28 Dictionary, new definitions

*insert*

*executive officer*, of a corporation, means a person, by whatever name called and whether or not the person is a director of the corporation, who is concerned with, or takes part in, the corporation's management.

*improvement notice*—see section 33F (2).

*influential person*, for a corporation, means—

- (a) an executive officer of the corporation; or
- (b) a person who may exercise a relevant power in relation to the corporation; or
- (c) a related corporation; or
- (d) an executive officer of a related corporation.

*prohibition notice*—see section 33H (2).

*radiation management plan*, for a regulated radiation source—see section 33B.

*radiation safety officer*, for a radiation management plan—see section 33D.

*related corporation* means a related body corporate under the [Corporations Act](#).

*relevant power*, for a corporation, means a power to—

- (a) take part in a directorial, managerial or executive decision for the corporation; or
- (b) elect or appoint a person as an executive officer in the corporation; or
- (c) significantly influence the conduct of the corporation.

## **29 Further amendments, mentions of *council***

*omit*

council

*substitute*

chief health officer

*in*

- sections 34 to 37
- sections 40 and 41
- sections 43 and 45
- section 63
- section 64 (6), definition of *relevant offence*, paragraph (j)

## Part 3 Radiation Protection Regulation 2007

### 30 Exemptions for certain radiation apparatus—Act, s 123 New section 9 (2) and (3)

*insert*

- (2) A radiation source that is an unsealed radiation source is exempt from the following sections of the [Act](#):
- (a) section 25 (Application for registration of radiation source);
  - (b) section 60 (Owning unregistered radiation source);
  - (c) section 60A (Dealing with unregistered radiation source).
- (3) In this section:

***unsealed radiation source*** means radioactive material that is not permanently sealed in a container or closely bonded and in a solid form.

## Schedule 1 Public Health Act 1997— Consequential amendments

(see s 3)

### [1.1] New section 9 (1) (b) (iv)

*before the note, insert*

(iv) the *Radiation Protection Act 2006*;

### [1.2] New section 11 (e)

*before the note, insert*

(e) the *Radiation Protection Act 2006*.

---

## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 24 March 2022.

**2 Notification**

Notified under the [Legislation Act](#) on 10 August 2022.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legisreslation.act.gov.au](http://www.legisreslation.act.gov.au).

---

I certify that the above is a true copy of the Radiation Protection Amendment Bill 2022, which was passed by the Legislative Assembly on 2 August 2022.

Clerk of the Legislative Assembly

© Australian Capital Territory 2022