

Australian Radiation Protection and Nuclear Safety Amendment Regulations 2000 (No. 2) 2000 No. 330

EXPLANATORY STATEMENT

STATUTORY RULES 2000 No. 330

Issued by the Authority of the Parliamentary Secretary to the Minister for Health and Aged Care

Australian Radiation Protection and Nuclear Safety Act 1998

Australian Radiation Protection and Nuclear Safety Amendment Regulations 2000 (No. 2)

Subsection 85(1) of the *Australian Radiation Protection and Nuclear Safety Act 1998* ('the Act') provides that the Governor-General may make regulations prescribing, among other things, matters required or permitted by the Act and matters necessary or convenient for carrying out or giving effect to the Act. In particular, Paragraph 85(2)(a) provides that the Governor-General may make regulations requiring, among other things, specified standards to be observed, practices and procedures to be followed and measures to be taken by controlled persons in relation to activities relating to controlled facilities, and in relation to dealings with controlled apparatus or controlled material.

Controlled persons are Commonwealth departments and agencies, their employees and contractors, and people on any place prescribed under the Act. Controlled facilities are nuclear installations defined by the Act, such as nuclear research reactors and nuclear fuel stores, and radiation facilities prescribed under the Act.

Paragraph 15(1)(a) of the Act requires the Chief Executive Officer of the Australian Radiation Protection and Nuclear Safety Agency to promote uniformity of radiation protection and nuclear safety policy and practices across jurisdictions of the Commonwealth, the State and the Territories.

Pursuant to subsection 9(1) of the *Environment Protection (Nuclear Codes) Act 1978* ('the EP(NC) Act'), the Governor-General has approved by order the following codes of practice:

- * Code of Practice on the Management of Radioactive Wastes from the Mining and Milling of Radioactive Ores (1982);
- * Code of Practice on Radiation Protection in the Mining and Milling of Radioactive Ores (1987); and
- * Code of Practice for the Safe Transport of Radioactive Substances 1990.

Item 5 of Schedule 1 to the *Australian Radiation Protection and Nuclear Safety (Consequential Amendments) Act 1998* commenced on 5 February 2001. Item 5 repealed the whole of the EP(NC) Act.

The purpose of the Regulations is to prescribe those codes previously approved under the EP(NC) Act to ensure that they continue in operation after repeal of the EP(NC) Act. The Regulations also make some minor technical and consequential amendments to the principal regulations, the Australian Radiation Protection and Nuclear Safety Regulations 1999.

Previously, controlled persons subject to Commonwealth jurisdiction who hold a source or facility licence granted under the Act were obliged to observe the Code of Practice for the Safe Transport of Radioactive Substances 1990. Persons subject to Commonwealth jurisdiction were not other-wise obliged to observe either of the other two codes listed above. The Regulations

require controlled persons to observe all three of the above codes. At present, it is estimated that this affects the Director of National Parks (in respect of certain conduct the Director of National Parks is undertaking or will undertake in parts of the Kakadu National Park) and any other controlled person that undertakes mining or mills of radioactive substances.

Details of the Regulations are in the Attachment.

The Regulations commenced on 5 February 2001.

ATTACHMENT

Regulation 1 of the regulations states that the title of the regulations is the Australian Radiation Protection and Nuclear Safety Amendment Regulations 2000 (No. 2).

Regulation 2 of the regulations states that regulations commence on 5 February 2001.

Regulation 3 of the regulations states that Schedule 1 to the regulations amends the Australian Radiation Protection and Nuclear Safety Regulations 1999.

Schedule 1

Item 1 corrects a minor drafting error in subregulation 36(1) by omitting 'If a Committee revises a nuclear code mentioned in subregulation (2), the revision must be:' and inserting 'If a Committee prepares a draft publication for the amendment of a code of practice mentioned in subregulation (2), the draft publication must be:'. The amendment is necessary as the Radiation Health Committee ('RHC') does not have the function of revising codes of practice under the Act. Pursuant to paragraphs 23(1)(c) of the Act, the Committee has the function of, amongst other things, preparing draft publications for the amendment of codes of practice relating to radiation protection.

Item 2 omits subregulation 36(2) and inserts a new subregulation that sets out the codes of practice referred to in subregulation 36(1) in a manner consistent with those terms as defined in the Dictionary to the Regulations.

Item 3 omits the heading to Part 5 and regulations 56 and 57 of the Regulations and inserts new headings for Divisions 5.1 and 5.2 of Part 5 and new regulations 56 and 57.

* Division 5.1 comprises of new regulation 56 that states that Part 5 does not apply where it would require a licence holder or a person covered by a licence to take action that would constitute unlawful discrimination under the *Sex Discrimination Act 1984* unless the licence holder or person covered by the licence is exempted, under section 44 of that Act, from its operation. This Regulation replaces Regulation 57 and extends its application to include a person covered by a licence'.

* Division 5.2 comprises of new regulation 57 and existing regulations 58,59,60,61 and 62 of the Regulations. Division 5.2 prescribes the code of practice to be followed by relevant facility licence holders in relation to ionising radiation dose limits. The new regulation 57 prescribes, pursuant to paragraph 85(2)(a) of the Act, the practices and procedures set out in the remainder of the Division as those to be followed in relation to dose limits by controlled persons in relation to activities relating to controlled facilities, and in relation to dealings with controlled apparatus or controlled material.

Item 4 inserts a heading for new Division 5.3 of Part 5 and regulation 62A. Division 5.3 comprises of regulation 62A. Subregulation 62A(1) prescribes, pursuant to paragraph 85(2)(a) of the Act, the practices and procedures described in the codes of practice mentioned in subregulation (2) as those to be followed, to the extent that they are relevant, by controlled persons in relation to activities relating to controlled facilities, and in relation to dealings with controlled apparatus or controlled material. The new subregulation 62A(2) defines the codes of practice as being:

* Code of Practice on the Management of Radioactive Wastes from the Mining and Milling of Radioactive Ores (1982),.

* Code of Practice on Radiation Protection in the Mining and Milling of Radioactive Ores (1987); and

* Code of Practice for the Safe Transport of Radioactive Substances 1990.

Item 5 inserts the following definitions in the Dictionary to the Regulations for the purposes of new subregulations 36(2) and 62A(2):

* **'Code of Practice on Radiation Protection in the Mining and Milling of Radioactive Ores'** means the document of that title published in 1987, as approved under subsection 9(1) of the Environment Protection (Nuclear Codes) Act 1978, and as in force on 18 March 1999.'; and

* **'Code of Practice on the Management of Radioactive Wastes from the Mining and Milling of Radioactive Ores'** means the document of that title published in 1982, as approved under subsection 9(1) of the Environment Protection (Nuclear Codes) Act 1978, and as in force on 18 March 1999.'