

EXPLANATORY STATEMENT

Subject - *Australian Radiation Protection and Nuclear Safety (Licence Charges) Act 1998*

Australian Radiation Protection and Nuclear Safety (Licence Charges) Amendment (2023 Measures No. 1) Regulations 2023

The instrument supports the Australian Radiation Protection and Nuclear Safety Agency in the recovery of the increased costs of regulating holders of licences.

The *Australian Radiation Protection and Nuclear Safety Act 1998* (the ARPANS Act) established the Chief Executive Officer (CEO) of the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) as a Statutory Office to provide regulatory services for Commonwealth entities that deal with radiation equipment and material or undertake certain activities in relation to radiation facilities and nuclear installations. The CEO of ARPANSA issues licences to Commonwealth entities to ensure that such operations can be undertaken safely, minimising the risk of harm to people or to the environment from the operations.

The *Australian Radiation Protection and Nuclear Safety (Licence Charges) Act 1998* (the Licence Charges Act) provides for annual charges to be levied on holders of licences issued under the ARPANS Act.

Under sections 4 and 5 of the Licence Charges Act, holders of licences issued by the CEO of ARPANSA must pay an annual licence charge, which the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2018* (the Principal Regulations) prescribe.

Section 6 of the Licence Charges Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed; or necessary or convenient to be prescribed for carrying out or giving effect to the Licence Charges Act.

The Principal Regulations prescribe the annual licence charges levied on holders of licences under the Act.

The purpose of *Australian Radiation Protection and Nuclear Safety (Licence Charges) Amendment (2023 Measures No. 1) Regulations 2023* (the Regulations) is to amend the Principal Regulations to give effect to an annual three per cent increase in charges for licences under the ARPANS Act, from 1 July 2023.

The Regulations ensure the CEO of ARPANSA is able to recover the actual cost of regulating holders of licences issued under the ARPANS Act, as part of ARPANSA's commitment to full cost-recovery of ARPANSA's regulatory services. Recovery of the costs of providing regulatory services to existing licence holders is achieved through annual charges levied against existing licence holders under the authority of the Licence Charges Act. The annual indexation amount of three per cent is based on the increase in the actual increase in costs of wages of three per cent for financial year 2023-2024. The annual increase of three per cent in charges for licences is achieved by giving effect to the Regulations.

All licence holders have been consulted about the amendments. All licence holders are Commonwealth entities, with the exception of the publicly listed Silex Systems Limited.

ARPANSA wrote to licence holders about the amendments inviting feedback on the amendments over the consultation period of 31 October 2022 to 16 December 2022. No negative feedback was received by ARPANSA. Licence holders were overall supportive of the amendments.

The Act specifies no conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence on 1 July 2023.

Details of the Regulations are set out in the [Attachment](#).

Authority: Section 6 of the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Act 1998*

Details of the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Amendment (2023 Measures No. 1) Regulations 2023*

Section 1 - Name of Regulations

This section provides that the title of the Regulations is the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Amendment (2023 Measures No. 1) Regulations 2023*.

Section 2 - Commencement

This section provides for the Regulations to commence on 1 July 2023.

Section 3 - Authority

This section provides that the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Amendment (2023 Measures No. 1) Regulations 2023* are made under the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Act 1998*.

Section 4 - Schedule(s)

This section provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 - Amendments

Items [1] and [2] - subsection 8(2)

Subsection 8(2) of the Licence Charges Regulations has a table which sets out the annual charges for prescribed radiation facilities not formerly used for weapons tests or radioactive ores. These items increase the amounts of the annual licence charges listed in the subsection 8(2) table by three per cent as follows:

Table Item	Kind of prescribed radiation facility	Existing annual charge (\$)	New annual charge (\$)
1.	Particle accelerator that: (a) has, or is capable of having, a beam energy greater than 1 MeV; or (b) can produce neutrons	12,955	13,343
2.	Irradiator containing more than 10 ¹⁵ Bq of a controlled material	12,955	13,343

Table Item	Kind of prescribed radiation facility	Existing annual charge (\$)	New annual charge (\$)
3.	Irradiator: (a) containing more than 10^{13} Bq of a controlled material; and (b) either: (i) not including shielding as an integral part of its construction; or (ii) including as an integral part of its construction shielding that does not prevent a person from being exposed to the source or does not shield a source during the operation of the irradiator	12,955	13,343
4.	Facility for the production, processing, use, storage, management or disposal of: (a) unsealed sources for which the result of the activity value division steps is greater than 10^6 ; or (b) sealed sources for which the result of the activity value division steps is greater than 10^9	38,865	40,030

Items [3], [4] and [5] – subsection 10(1)

These items increase the amounts of the annual licence charges listed in the subsection 10(1) table for certain facility licence holders by three per cent as follows:

Table Item	Name	Existing annual charge (\$)	New annual charge (\$)
1.	Australian National University	22,857	23,542
2.	Australian Nuclear Science and Technology Organisation	3,680,859	3,791,284
3.	Department of Defence	160,190	164,995

Item [6] - section 12

This amendment increases the amount of the annual licence charge for each controlled apparatus or controlled material held by the licence holder by three per cent from \$595 to \$612.

Items [7], [8], [9], [10], [11], [12] and [13] - subsection 13(1)

These items increase the amounts of the annual licence charges listed in the subsection 13(1) table for certain source licence holders by three per cent as follows:

Table	Name	Existing annual	New annual
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Item		charge (\$)	charge (\$)
1.	Australian Federal Police	73,526	75,731
2.	Australian National University	125,828	129,602
3.	Australian Nuclear Science and Technology Organisation	223,428	230,130
4.	Australian War Memorial	16,223	16,709
5.	Commonwealth Scientific and Industrial Research Organisation	415,283	427,741
6.	Department of Defence	408,122	420,365
7.	National Measurement Institute	23,187	23,882

Statement of Compliance with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Australian Radiation Protection and Nuclear Safety (Licence Charges) Amendment (2023 Measures No. 1) Regulations 2023

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

The legislative instrument amends the Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2018 to give effect to an annual three per cent increase in charges for licences under the Act, from 1 July 2023, to ensure full cost recovery of regulatory services provided to those licence holders.

Human Rights Implications

The amendments are compatible with the right to an adequate standard of living and the right to the enjoyment of the highest attainable standard of physical and mental health as contained in article 11(1) and article 12(1) of the International Covenant on Economic, Social and Cultural Rights.

The amendments give effect to an annual three per cent increase in charges payable by Commonwealth entities to the Australian Radiation Protection and Nuclear Safety Agency for licences issued under the *Australian Radiation Protection and Nuclear Safety Act 1998*.

Conclusion

This legislative instrument is compatible with human rights as it promotes the human right to an adequate standard of living and the highest attainable standard of physical and mental health.

The Hon. Ged Kearney
Assistant Minister for Health and Aged Care
Parliamentary Secretary to the Minister for Health and Aged Care