

EXPLANATORY STATEMENT

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

Australian Radiation Protection and Nuclear Safety (Licence Charges) Amendment (2025 Measures No. 1) Regulations 2025

Purpose and operation

The *Australian Radiation Protection and Nuclear Safety (Licence Charges) Amendment (2025 Measures No. 1) Regulations 2025* (the Amendment Regulations) amends the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2018* (the Principal Regulations) to decrease certain annual licence charges and increase other annual licence charges. This will ensure the total annual licence charges recover the actual costs of regulatory activity on a basis that is fair to all licence holders and is consistent with the Australian Government Cost Recovery Policy for regulated activities.

Background

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 to allow for the recovery of the cost of providing regulatory services to existing licence holders.

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

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 ARPANS Act.

The purpose of the Amendment Regulations is to amend the Principal Regulations to decrease certain annual licence charges and increase other annual licence charges. This will

ensure the total annual licence charges recover the actual costs of regulatory activity on a basis that is fair to all licence holders and is consistent with the Australian Government Cost Recovery Policy for regulated activities.

Authority

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 Act.

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

Reliance on subsection 33(3) of the *Acts Interpretation Act 1901*

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Consultation

ARPANSA wrote to all licence holders about the amendments inviting feedback on the amendments in December 2024. All licence holders are Commonwealth entities, with the exception of the publicly listed Silex Systems Limited. Licence holders were overall supportive of the amendments with no negative feedback received by ARPANSA.

A preliminary assessment of the proposal to make the amendments contained in the instrument was conducted by the Office of Impact Analysis (OIA), based on information provided by ARPANSA for the purposes of determining whether an Impact Analysis (IA) would be required. OIA considered that the proposals were unlikely to have more than a minor regulatory impact on the businesses involved and advised that the preparation of an IA was not required (OIA reference numbers OIA24-08652).

Commencement

This instrument commences on 1 July 2025.

General

This instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

This instrument does not incorporate any document by reference.

Details of this instrument are set out in **Attachment A**.

This instrument is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in **Attachment B**.

Details of the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Amendment (2025 Measures No. 1) Regulations 2025*

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 (2025 Measures No. 1) Regulations 2025*.

Section 2 - Commencement

This section provides that the instrument commences on 1 July 2025.

Section 3 - Authority

This section provides that the instrument is 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 *Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2018* (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. This amendment increases the amounts of the annual licence charges listed in subsection 8(2) for certain kinds of prescribed radiation facilities 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	15,654	24,387
2.	Irradiator containing more than 10 ¹⁵ Bq of a controlled material	15,654	24,387

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	15,654	24,387
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	46,962	73,161

This amendment ensures the recovery of the actual costs of regulating prescribed radiation facilities not formerly used for weapons tests or radioactive ores of the kind set out in the Subsection 8(2) Table of the Licence Charges Regulations.

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

These items decrease the amounts of licence charges listed in the subsection 10(1) table for certain source licence holders and increase the amounts of the annual licence charges listed in the subsection 10(1) table for certain other source licence holders as follows:

Table Item	Name	Existing annual charge (\$)	New annual charge (\$)
1.	Australian National University	26,662	92,538
2.	Australian Nuclear Science and Technology Organisation	5,018,961	5,520,774
3.	Department of Defence	281,796	236,564

This amendment ensures the recovery of the actual costs of regulating certain facility licence holders set out in the subsection 10(1) Table of the Licence Charges Regulations.

Item [6] - section 12

This amendment decreases the amount of the annual licence charge for each controlled apparatus or controlled material held by a licence holder from \$718 to \$601.

This amendment ensures the recovery of the actual costs of regulating controlled apparatus and controlled material held by licence holders.

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

These items decrease the amounts of the annual licence charges listed in the subsection 13(1) table for certain source licence holders as follows:

Table Item	Name	Existing annual charge (\$)	New annual charge (\$)
1.	Australian Federal Police	38,275	9,170
2.	Australian National University	68,540	64,634
3.	Australian Nuclear Science and Technology Organisation	327,502	264,684
4.	Australian War Memorial	11,744	9,170
5.	Commonwealth Scientific and Industrial Research Organisation	454,902	434,876
6.	Department of Defence	139,941	80,710

These amendments ensure the recovery of the actual costs of regulating certain source licence holders set out in the subsection 13(1) Table of the Licence Charges Regulations.

Statement of Compatibility 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 (2025 Measures No. 1) Regulations 2025

This Disallowable 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 Disallowable Legislative Instrument

The legislative instrument amends the Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2018 to decrease certain annual licence charges and increase other annual licence charges so that the total annual licence charges received recover the actual regulatory costs incurred on a basis that is fair to all licence holders.

Human rights implications

ARPANSA has assessed whether this Disallowable Legislative Instrument is compatible with human rights, being the rights and freedoms recognised or declared by the international instruments listed in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* as they apply to Australia.

Having considered the likely impact of this Disallowable Legislative Instrument and the nature of the applicable rights and freedoms, ARPANSA has formed the view that the Determination does not engage any of those rights or freedoms.

Conclusion

This Disallowable Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

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