

## EXPLANATORY STATEMENT

### *Australian Radiation Protection and Nuclear Safety Act 1998*

#### *Australian Radiation Protection and Nuclear Safety Amendment (2025 Measures No. 1) Regulations 2025*

### **Purpose and operation**

The *Australian Radiation Protection and Nuclear Safety Amendment (2025 Measures No. 1) Regulations 2025* (the Amendment Regulations) amends the *Australian Radiation Protection and Nuclear Safety Regulations 2018* (the Principal Regulations) to give effect to an annual four per cent increase in fees for applications for licences under the *Australian Radiation Protection and Nuclear Safety Act 1998* (the ARPANS Act). This ensures the total annual licence charges recover the actual costs of regulatory activity on a basis that is fair to all licence holders and reflects ARPANSA's commitment to full cost-recovery of ARPANSA's regulatory services.

### **Background**

The ARPANS Act has been established to protect the health and safety of people, and the environment, from the harmful effects of radiation. 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.

Subsection 85(1) of the ARPANS 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 Principal Regulations prescribe the fees for licence applications.

The purpose of the Amendment Regulations is to amend the Principal Regulations to give effect to an annual four per cent increase in fees for applications for licences under the ARPANS Act, from 1 July 2025.

Recovery of the costs of processing applications for licences is achieved through fees prescribed under the authority of the ARPANS Act. The annual indexation amount of four per cent is based on the increase in the actual costs of wages for the financial year 2025-2026. The Regulations increase application fees by 4 percent to cover the actual cost for the processing of applications for licence.

## **Authority**

Subsection 85(1) of the ARPANS 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 ARPANS 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 OIA24-08653).

## **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 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 Amendment (2025 Measures No. 1) Regulations 2025*.

**Section 2 - Commencement**

This section provides for the Regulations to commence on 1 July 2025.

**Section 3 - Authority**

This section provides that the *Australian Radiation Protection and Nuclear Safety Amendment (2025 Measures No. 1) Regulations 2025* is made under the *Australian Radiation Protection and Nuclear Safety Act 1998*.

**Section 4 - Schedule(s)**

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

**Schedule 1 - Amendments**

**Items [1], [2], [3], [4] and [5] - Section 49**

These items increase the amount of the application fees listed in the section 49 table by four per cent as follows:

Table Item	Application	Existing Fee (\$)	New Fee (\$)
1.	Application for a facility licence, except an application covered by item 2	11,031	11,472
2.	Application for a facility licence, if the application relates to a controlled facility that is a particle accelerator described in paragraph 13(1)(a) of this instrument	12,258	12,748
3.	Application for a source licence, if the application relates only to controlled apparatus or controlled material in Group 1	867	901

Table Item	Application	Existing Fee (\$)	New Fee (\$)
4.	Application for a source licence, if the application relates only to controlled apparatus or controlled material in: (a) Group 2; or (b) both Groups 1 and 2	2,561	2,663
5.	Application for a source licence, if the application relates to controlled apparatus or controlled material in: (a) Group 3; or (b) Group 3, and either or both Groups 1 and 2	9,583	9,966

This amendment ensures the recovery of the actual costs of processing certain applications set out in section 49 of the *Australian Radiation Protection and Nuclear Safety Regulations 2018*.

#### **Item [6] – Paragraph 50(2)(a)**

This item repeals the existing paragraph and substitute a four percent increase to the amount for each hour, or part of an hour, spent in assessing a licence application from \$183 to \$190. This item also increases the amount credited to the applicant in determining the assessment fee from \$11,031 to \$11,472. The amount credited to the applicant in paragraph 50(2)(a) ensures that an applicant does not pay more than the value of the service provided in assessing an application by taking into account the nominal application fee covered by section 49 of the Regulations already paid by the applicant.

This amendment is required to ensure the recovery of the actual costs of processing certain applications set out in section 50 of the *Australian Radiation Protection and Nuclear Safety Regulations 2018*.

#### **Item [7] – In the appropriate position in Part 8**

This amendment amends Part 8 of the Regulations to add a new heading for *Division 6 - Australian Radiation Protection and Nuclear Safety Amendment (2025 Measures No. 1) Regulations 2025*.

The amendment adds a new section 101 (heading) for *Fees*.

This amendment adds a new subsection 101(1) to the Regulations and makes those amendments of section 49 made by the amending instrument, as referred to in items 1 to 5 above, apply in relation to applications made after the commencement date.

This amendment adds a new subsection 101(2) to the Regulations and makes those amendments of section 50 made by the amending instrument, as referred to in item 6 above, apply in relation to applications made after the commencement date.

This amendment adds a new subsection 101(3) to the Regulations and would provide that despite the amendments of section 50 by the amending instrument, as referred to in item 6 above, the existing section 50 continues to apply, in relation to applications made before the commencement time, as if those amendments had not been made; and the fee for each hour, or part of an hour, spent after the commencement time in assessing the application were \$190.

## 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 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 Regulations 2018 to give effect to an annual four per cent increase in fees for applications for licences under the *Australian Radiation Protection and Nuclear Safety Act 1998*, from 1 July 2025, and make other minor machinery amendments.

#### **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**