

## **EXPLANATORY STATEMENT**

Issued by the authority of the Attorney-General

*Nuclear Terrorism Legislation Amendment Act 2012*

### Proclamation

The *Nuclear Terrorism Legislation Amendment Act 2012* (the Act) amended the *Nuclear Non-Proliferation (Safeguards) Act 1987* (the NNPS Act) to give effect to certain obligations Australia has as a party to the Convention. This is achieved by Part 1 of Schedule 1 to the Act, which adds new offences to the NNPS Act for conduct relating to radioactive material, Convention devices, and nuclear facilities.

Item 2 of the table in subsection 2(1) of the Act provides that Part 1 of Schedule 1 to the Act commences on a day to be fixed by Proclamation. Item 2 also provides that a Proclamation must not specify a day that occurs before the day the International Convention for the Suppression of Acts of Nuclear Terrorism, done at New York on 13 April 2005 (the Convention), comes into force for Australia. The commencement of Part 1 of Schedule 1 of the Act was delayed as it creates criminal offences that implement the Convention and which could not commence operation until the Convention had entered into force for Australia.

The Act received the Royal Assent on 6 March 2012. Australia deposited an instrument of ratification on 16 March 2012, and the Convention entered into force for Australia on 15 April 2012.

Part 1 of Schedule 1 to the Act adds new offences to the NNPS Act for conduct relating to radioactive material, Convention devices, and nuclear facilities.

Item 3 of the table in subsection 2(1) of the Act provides that the provisions in Part 2 of Schedule 1 to the Act commence at the same time as the provisions covered by Item 2. Item 3 also provides that, if item 33 of Schedule 2 to the *Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Act 2011* (the Extradition Amendment Act) commences at or before that time, the provisions do not commence at all. The Extradition Amendment Act received the Royal Assent on 20 March 2012 and item 33 of Schedule 2 of that Act will commence on 20 September 2012.

Part 2 of Schedule 1 amends the Extradition Act to ensure a person accused of one of the offences inserted into the NNPS Act by Part 1 of Schedule 1 to the Act cannot avoid extradition on the basis of a claim that the offence is a political offence. Commencement of these provisions was delayed as they could not commence operation until the criminal offences in Part 1 of Schedule 1 to the Act commenced operation.

Sections 1 to 3 of the Act, which provide the short title, commencement and Schedules to the Act, commenced on the date the Act received the Royal Assent. Schedule 2 to the Act, which makes consequential amendments to the NNPS Act, also commenced on the day the Act received the Royal Assent.

The purpose of the Proclamation is to fix 20 April 2012 as the day on which Part 1 of Schedule 1 to the Act commences.

The Proclamation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.