

Nuclear Non‑Proliferation (Safeguards) Regulations 1987

Statutory Rules No. 75, 1987

made under the

Nuclear Non‑Proliferation (Safeguards) Act 1987

**Compilation No. 20**

**Compilation date:** 1 December 2015

**Includes amendments up to:** SLI No. 208, 2015

**Registered:** 23 December 2015

**About this compilation**

**This compilation**

This is a compilation of the *Nuclear Non-Proliferation (Safeguards) Regulations 1987* that shows the text of the law as amended and in force on 1 December 2015 (the ***compilation date***).

This compilation was prepared on 10 December 2015.

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

**Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on ComLaw (www.comlaw.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on ComLaw for the compiled law.

**Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

**Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on ComLaw for the compiled law.

**Self-repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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1 Name of regulations

 These regulations are the *Nuclear Non‑Proliferation (Safeguards) Regulations 1987*.

2 Interpretation

 In these regulations, unless the contrary intention appears:

***depleted uranium*** means uranium in which the abundance of the isotope uranium‑235 is less than that occurring in natural uranium.

***the Act*** means the *Nuclear Non‑Proliferation (Safeguards) Act 1987*.

2A Prescribed international agreements

 The international agreements specified in Schedule 1 are prescribed for the purposes of paragraph (b) of the definition of ***prescribed international agreement*** in subsection 4 (1) of the Act.

2AB Amendment to Physical Protection Convention

 (1) For paragraph 4 (3) (a) of the Act, the Amendment to the Convention on the Physical Protection of Nuclear Material as adopted in the Final Act of the Conference of the International Atomic Energy Agency dated 8 July 2005, has effect.

 (2) The Amendment comes into force 30 days after two thirds of all State Parties have deposited their instruments of ratification, acceptance or approval with the depositary, in accordance with Article 20 of the Physical Protection Convention.

2AC Amendments to Agreement between the Government of Australia and the Government of Japan for Cooperation in the Peaceful Uses of Nuclear Energy of 5 March 1982

 For paragraph 4 (3) (a) of the Act, the following amendments have effect:

 (a) Exchange of Notes dated 23 November 2006 constituting an Agreement between the Government of Australia and the Government of Japan to amend, by replacing the Delineated and Recorded Japanese Nuclear Fuel Cycle Program, the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy of 5 March 1982;

(b) Exchange of Notes dated 1 August 2000 constituting an Agreement between the Government of Australia and the Government of Japan to further amend the Exchange of Letters constituting an Agreement establishing an Implementing Arrangement pursuant to the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy of 5 March 1982;

(c) Exchange of Notes dated 10 September 1999 constituting an Agreement between the Government of Australia and the Government of Japan to further amend the Exchange of Letters constituting an Agreement establishing an Implementing Arrangement pursuant to the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy of 5 March 1982.

2B Supplementary Agency Agreements

 A Supplementary Agency Agreement mentioned in an item in Schedule 2 has effect, for the purposes of the Act, from the day mentioned in column 3 of the item.

3 Nuclear material to which Part II of the Act does not apply

 (1) For the purposes of paragraph 9 (c) of the Act, each of the following kinds of nuclear material is nuclear material of a kind to which Part II of the Act does not apply:

 (a) depleted uranium that is contained in:

 (i) counterweights installed in aircraft, other than Australian aircraft, in transit through Australia; or

 (ii) the keels of ships, other than Australian ships, in transit through Australia;

 (b) thorium that is incorporated in:

 (i) an incandescent gas mantle;

 (ii) an electric light bulb;

 (iii) an electronic component;

 (iv) a welding rod; or

 (v) a finished aircraft part;

 (c) source material that is incorporated in:

 (i) the glazing of a finished ceramic product; or

 (ii) an alloy in the form of a finished constructional product, being an alloy the source material component of which is not more than 4% by weight of uranium or thorium;

 (d) source material that is contained in:

 (i) a chemical mixture, compound or solution, or an alloy, in which the uranium or thorium content by weight is less than 0.05% of the weight of the mixture, compound, solution or alloy;

 (ii) a prescribed chemical mixture, compound or solution in a quantity not exceeding 10 kilograms element weight of uranium or thorium; or

 (iii) a prescribed alloy in a quantity not exceeding 10 kilograms element weight of uranium or thorium;

 (e) uranium ore concentrates extracted in Australia and containing not more than 10 kilograms element weight of uranium;

 (f) thorium concentrates extracted in Australia and containing not more than 10 kilograms element weight of thorium.

 (2) In this regulation, a reference to a prescribed chemical mixture, compound or solution shall be read as a reference to a chemical mixture, compound or solution that is not:

 (a) intended for use for the purposes of a nuclear activity;

 (b) of a composition and purity making it suitable for fuel fabrication or for isotopic enrichment; or

 (c) subject to the provisions of the Agency Agreement or a prescribed international agreement.

 (3) In this regulation, a reference to a prescribed alloy shall be read as a reference to an alloy that is not:

 (a) intended for use for the purposes of a nuclear activity;

 (b) of a composition and purity making it suitable for fuel fabrication or for isotopic enrichment; or

 (c) subject to the provisions of the Agency Agreement or a prescribed international agreement.

4 Notification of grant, variation or revocation of permit or authority

 (1) For the purposes of subsection 20 (2) of the Act, the following particulars are prescribed in relation to the grant of a permit or authority:

 (a) the name and address of the person to whom the permit or authority is granted;

 (b) the number of the permit or authority;

 (c) the nature of the permit or authority;

 (d) the date of grant of the permit or authority;

 (e) the period for which the permit or authority is to have effect.

 (2) For the purposes of subsection 20 (2) of the Act, the following particulars are prescribed in relation to the variation of a permit or authority:

 (a) the name and address of the person to whom the permit or authority was granted;

 (b) the number of the permit or authority;

 (c) the nature of the permit or authority;

 (d) the day on which the permit or authority as originally granted took effect;

 (e) the day on which the variation took effect.

 (3) For the purposes of subsection 20 (2) of the Act, the following particulars are prescribed in relation to the revocation of a permit or authority:

 (a) the name and address of the person to whom the permit or authority was granted;

 (b) the number of the permit or authority;

 (c) the nature of the permit or authority;

 (d) the day on which the permit or authority as originally granted took effect;

 (e) the day on which any variation of the permit or authority took effect;

 (f) the day on which the revocation of the permit or authority took effect.

4A Possession of nuclear material by carriers

 (1) For the purposes of subsection 24 (1) of the Act, the following kinds of nuclear material are prescribed:

 (a) source material, other than source material consisting of or containing:

 (i) 1000 or more kilograms element weight of depleted uranium;

 (ii) 500 or more kilograms element weight of natural uranium; or

 (iii) 1000 or more kilograms element weight of thorium;

 (b) special fissionable material in a quantity not exceeding one gram isotope weight of plutonium—239, uranium—233 and uranium—235.

 (2) For the purposes of subsection 24 (1) of the Act, the following kinds of associated items are prescribed:

 (a) deuterium or heavy water in a quantity not exceeding 200 kilograms weight of deuterium atoms;

 (b) nuclear grade graphite in a quantity not exceeding 30 tonnes.

 (3) In this regulation:

***heavy water*** means a deuterium compound in which the ratio of deuterium to hydrogen exceeds the ratio 1 to 5000.

***nuclear grade graphite*** means graphite having a purity level better than 5 parts per million boron equivalent and a density of more than 1.5 grams per cubic centimetre.

5 Information in relation to design for construction or modification of nuclear facility

 For the purposes of paragraph 29 (2) (b) of the Act, the prescribed period is 60 days.

6 Charge payable by producers of uranium ore concentrates

 For paragraph 69A (2) (b) of the Act, the amount of charge payable in a financial year by a person referred to in subsection 69A (1) of the Act is the lesser of:

 (a) 14.1775 cents per kilogram of uranium in the uranium ore concentrates produced by the person in the previous financial year; and

 (b) $500,000.

7 Application of amendments made by the *Nuclear Non‑Proliferation (Safeguards) Amendment Regulation 2015 (No. 1)*

 The amendment of these Regulations made by item 1 of Schedule 1 to the *Nuclear Non‑Proliferation (Safeguards) Amendment Regulation 2015 (No. 1)* applies in relation to charge payable on 1 December in the 2015‑16 financial year and later financial years.

Schedule 1—Prescribed international agreements

(regulation 2A)

| Column 1Item | Column 2Title of Agreement | Column 3Date signed on behalf of Australia |
| --- | --- | --- |
| 1 | Exchanges of Notes constituting Agreements between Australia and the United States concerning the application of the Agreement concerning Peaceful Uses of Nuclear Energy of 5 July 1979 | 2 August 1985 |
| 2 | Agreement between the Government of Australia and the Government of the Swiss Confederation concerning the Peaceful Uses of Nuclear Energy | 28 January 1986 |
| 3 | Agreement on the Privileges and Immunities of the International Atomic Energy Agency | 9 May 1986 |
| 4 | South Pacific Nuclear Free Zone Treaty | 11 December 1986 |
| 5 | Agreement between the Government of Australia and the Government of the Arab Republic of Egypt concerning Cooperation in the Peaceful Uses of Nuclear Energy and the Transfer of Nuclear Material between Australia and the Arab Republic of Egypt | 18 February 1988 |
| 6 | Exchange of Notes constituting an Agreement between Australia and the United States concerning Australian Ores containing Uranium or Thorium (monazite and xenotime) | 13 December 1989 |
| 7 | Exchange of Notes between Australia and Singapore constituting an Agreement concerning Cooperation in the Physical Protection of Nuclear Material | 15 December 1989 |
| 9 | Exchange of Notes constituting an Agreement between Australia and Japan to amend the Exchange of Letters constituting an Agreement establishing an Implementing Arrangement pursuant to the Agreement for Co‑operation in the Peaceful Uses of Nuclear Energy of 5 March 1982 | 27 July 1990 |
| 10 | Exchange of Notes constituting an Agreement between Australia and Sweden concerning Arrangements applying to Certain (Nuclear) Transfers between Sweden and Third Countries | 15 January 1991 |
| 11 | Exchange of Notes constituting an Agreement between Australia and the United States to bring International Obligation Exchanges under the Coverage of the Agreement concerning Peaceful Uses of Nuclear Energy, and Agreed Minute, of 5 July 1979 | 16 December 1991 |
| 12 | Agreement between the Government of Australia and the Government of the United Mexican States concerning cooperation in Peaceful Uses of Nuclear Energy and the Transfer of Nuclear Material  | 28 February 1992 |
| 13 | Exchange of Notes constituting an Agreement between Australia and Canada to amend, and to provide for International Obligation Exchanges under, the Agreement concerning the Peaceful Uses of Nuclear Energy of 9 March 1981 | 10 April 1995 |
| 14 | Agreement between the Government of Australia and the Government of New Zealand concerning the Transfer of Uranium | 14 September 1999 |
| 15 | Agreement for Cooperation between Australia and the United States of America concerning Technology for the Separation of Isotopes of Uranium by Laser Excitation, Agreed Minute, and Exchange of Notes | 28 October 1999 |
| 16 | Agreement between the Government of Australia and the Government of the Czech Republic on co‑operation in Peaceful Uses of Nuclear Energy and the Transfer of Nuclear Material | 27 July 2001 |
| 17 | Exchange of notes constituting an agreement between Australia and the United States of America Concerning Cooperation on the Application of Non‑Proliferation Assurances on Retransfer to Taiwan | 31 July 2001 |
| 18 | Agreement between the Government of Australia and the Government of the Republic of Hungary on Co‑operation in Peaceful Uses of Nuclear Energy and the Transfer of Nuclear Material | 8 August 2001 |
| 19 | Agreement between Australia and the Argentine Republic concerning Cooperation in the Peaceful Uses of Nuclear Energy  | 8 August 2001 |
| 20 | Agreement between the Government of Australia and the Government of the People’s Republic of China on the Transfer of Nuclear Material  | 3 April 2006 |
| 21 | Agreement between the Government of Australia and the Government of the People’s Republic of China for Cooperation in the Peaceful Uses of Nuclear Energy  | 3 April 2006 |
| 22 | Agreement between the Government of Australia and the Government of the Russian Federation on Cooperation in the Use of Nuclear Energy for Peaceful Purposes | 7 September 2007 |
| 23 | Agreement between the Government of Australia and the Government of the United States of America concerning Peaceful Uses of Nuclear Energy | 4 May 2010 |
| 24 | Agreement between the Government of Australia and the European Atomic Energy Community (Euratom) for Co‑operation in the Peaceful Uses of Nuclear Energy | 5 September 2011 |

Schedule 2—Supplementary Agency Agreements

(regulation 2B)

|  |  |  |
| --- | --- | --- |
| Column 1Item | Column 2Title of Agreement | Column 3Date of effect for Australia  |
| 1 | Protocol Additional to the Agreement between Australia and the International Atomic Energy Agency for the application of safeguards in connection with the Treaty on the Non‑Proliferation of Nuclear Weapons, signed on behalf of Australia on 23 September 1997 | 10 December 1997 |

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Endnotes about misdescribed amendments and other matters are included in a compilation only as necessary.

**Abbreviation key—Endnote 2**

The abbreviation key sets out abbreviations that may be used in the endnotes.

**Legislation history and amendment history—Endnotes 3 and 4**

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

**Misdescribed amendments**

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

|  |  |
| --- | --- |
| A = Act | o = order(s) |
| ad = added or inserted | Ord = Ordinance |
| am = amended | orig = original |
| amdt = amendment | par = paragraph(s)/subparagraph(s) |
| c = clause(s) |  /sub‑subparagraph(s) |
| C[x] = Compilation No. x | pres = present |
| Ch = Chapter(s) | prev = previous |
| def = definition(s) | (prev…) = previously |
| Dict = Dictionary | Pt = Part(s) |
| disallowed = disallowed by Parliament | r = regulation(s)/rule(s) |
| Div = Division(s) | Reg = Regulation/Regulations |
| exp = expires/expired or ceases/ceased to have | reloc = relocated |
|  effect | renum = renumbered |
| F = Federal Register of Legislative Instruments | rep = repealed |
| gaz = gazette | rs = repealed and substituted |
| LI = Legislative Instrument | s = section(s)/subsection(s) |
| LIA = *Legislative Instruments Act 2003* | Sch = Schedule(s) |
| (md) = misdescribed amendment can be given | Sdiv = Subdivision(s) |
|  effect | SLI = Select Legislative Instrument |
| (md not incorp) = misdescribed amendment | SR = Statutory Rules |
|  cannot be given effect | Sub‑Ch = Sub‑Chapter(s) |
| mod = modified/modification | SubPt = Subpart(s) |
| No. = Number(s) | underlining = whole or part not |
|  |  commenced or to be commenced |

Endnote 3—Legislation history

| Number and year | FRLI registration or gazettal | Commencement | Application, saving and transitional provisions |
| --- | --- | --- | --- |
| 1987 No. 75 | 13 May 1987 | 13 May 1987 |  |
| 1987 No. 258 | 6 Nov 1987 | 6 Nov 1987 | — |
| 1987 No. 260 | 6 Nov 1987 | 31 Mar 1988 (*see Gazette* 1988, No. S68) | — |
| 1990 No. 298 | 21 Sept 1990 | 21 Sept 1990 | — |
| 1994 No. 178 | 16 June 1994 | 1 Nov 1993 | — |
| 1997 No. 351 | 15 Dec 1997 | 15 Dec 1997 | — |
| 1998 No. 173 | 30 June 1998 | 30 June 1998 | — |
| 1998 No. 318 | 1 Dec 1998 | 1 Dec 1998 | — |
| 1999 No. 278 | 26 Nov 1999 | 26 Nov 1999 | — |
| 2000 No. 22 | 15 Mar 2000 | 15 Mar 2000 | — |
| 2000 No. 69 | 12 May 2000 | 12 May 2000 | — |
| 2000 No. 305 | 16 Nov 2000 | 16 Nov 2000 | — |
| 2001 No. 311 | 15 Oct 2001 | 15 Oct 2001 | — |
| 2002 No. 227 | 26 Sept 2002 | 26 Sept 2002 | — |
| 2002 No. 252 | 31 Oct 2002 | 31 Oct 2002 | — |
| 2003 No. 267 | 28 Oct 2003 | 28 Oct 2003 | — |
| 2004 No. 323 | 25 Nov 2004 | 25 Nov 2004 | — |
| 2005 No. 270 | 24 Nov 2005 (*see* F2005L03693) | 25 Nov 2005 | — |
| 2006 No. 284 | 2 Nov 2006 (*see* F2006L03560) | 3 Nov 2006 | — |
| 2007 No. 97 | 30 Apr 2007 (*see* F2007L01119) | 1 May 2007 | — |
| 2009 No. 338 | 26 Nov 2009 (*see* F2009L04342) | 27 Nov 2009 | — |
| 2010 No. 276 | 18 Nov 2010 (*see* F2010L03016) | 19 Nov 2010 | — |
| 2011 No. 211 | 25 Nov 2011 (F2011L02446) | 26 Nov 2011 | — |
| 2012 No. 292 | 20 Dec 2012 (F2012L02423) | 21 Dec 2012 | — |
| No 208, 2015 | 30 Nov 2015 (F2015L01870) | 1 Dec 2015 (s 2(1) item 1) | — |

Endnote 4—Amendment history

| Provision affected | How affected |
| --- | --- |
| r 1  | rs. 1998 No. 318 |
| r 2A  | ad. 1990 No. 298 |
|  | am. 1997 No. 351 |
| r 2AB  | ad. 2007 No. 97 |
| r 2AC  | ad. 2007 No. 97 |
| r 2B  | ad. 1997 No. 351 |
| r 3  | am. 1987 No. 258; 1990 No. 298; 1997 No. 351; 2002 No. 252; 2003 No. 267 |
| r 4A  | ad. 1987 No. 260 |
| r 6  | ad. 1994 No. 178 |
|  | rs. 1998 No. 318 |
|  | am. 1999 No. 278; 2000 No. 305; 2001 No. 311; 2002 No. 252; 2003 No. 267; 2004 No. 323, 2005 No. 270; 2006 No. 284; 2009 No. 338; 2010 No. 276; 2011 No. 211; No 208, 2015 |
| r 7  | ad No 208, 2015 |
| Heading to Schedule  | rep. 1997 No. 351 |
| Schedule  | ad. 1990 No. 298 |
| **Schedule 1** |  |
| Heading to Schedule 1  | ad. 1997 No. 351 |
| Schedule 1  | am. 1997 No. 351 |
|  | rs. 1998 No. 173 |
|  | am. 2000 Nos. 22 and 69; 2002 No. 227; 2007 No. 97; 2012 No. 292 |
| **Schedule 2** |  |
| Schedule 2  | ad. 1997 No. 351 |