

Nuclear Non-Proliferation (Safeguards) Amendment Regulations 2002 (No. 2) 2002 No. 252

EXPLANATORY STATEMENT

Statutory Rules 2002 No. 252

Issued by the Authority of the Minister for Foreign Affairs

Nuclear Non-Proliferation (Safeguards) Act 1987

Nuclear Non-Proliferation (Safeguards) Amendment Regulations 2002 (No. 2)

The *Nuclear Non-Proliferation (Safeguards) Act 1987* (the Act) gives effect to certain of Australia's obligations under international agreements relating to the peaceful use of nuclear material and facilities, including the Safeguards Agreement between Australia and the International Atomic Energy Agency (IAEA) pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), and various bilateral safeguards agreements.

Section 74 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, 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.

Section 3 of the *Nuclear Safeguards (Producers of Uranium Ore Concentrates) Charge Act 1993* imposes a charge on producers of uranium ore concentrates due on 1 December each year. The Act specifies the amount of this charge payable by these producers. The amount, charged per kilogram of uranium produced by each producer, is prescribed in the regulations each year.

The amount calculated to be due, for each person paying the charge, on 1 December 2002 is 6.7944 cents per kilogram of uranium in the uranium ore concentrates produced by the person in the previous financial year, taking account of the level of production for 2001-2002 relative to the Australian Safeguards and Non-Proliferation Office's operating costs. The Act sets a maximum limit of \$500,000 on the charge.

The Regulations prescribe the amount of charge payable by a producer of uranium ore concentrates as the lesser of 6.7944 cents per kilogram of uranium in the uranium ore concentrates produced by the producer in the previous financial year or \$500,000.

The Regulations also amend the Principal Regulations to provide that depleted uranium in nonnuclear use is covered by Part II of the Act, which relates to control of nuclear material and associated items.

Paragraph 9 (c) of the Act provides that regulations may specify nuclear materials to which Part II of the Act does not apply. In 1990 the control of depleted uranium in non-nuclear use was deregulated, as it was determined that control of this material was not required to meet Australia's commitments under 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 Weapon* (the Agency Agreement).

Since then, the international safeguards system has been strengthened and the IAEA now requires additional nuclear material tracking. In particular, new reporting requirements arise from the Protocol Additional to the Agency Agreement (effective 10 December 1997), including with respect to depleted uranium in non-nuclear use. This necessitates the reapplication of Part

II of the Act to such material. To address this, Regulation 3 of the Nuclear Non-Proliferation (Safeguards) Regulations are amended to omit items (1) (g) (i) and (1) (g) (ii).

Details of the Regulations are attached.

The Regulations commence on gazettal.

ATTACHMENT

DETAILS OF AMENDMENTS TO THE NUCLEAR NON-PROLIFERATION (SAFEGUARDS) REGULATIONS 2002 (THE REGULATIONS)

Regulation 1 provides that these amendment regulations should be known as the *Nuclear NonProliferation (Safeguards) Amendment Regulations 2002 (No. 2)*.

Regulation 2 provides that the Regulations commence on gazettal.

Regulation 3 provides that Schedule 1 amends the *Nuclear Non-Proliferation (Safeguards) Regulations 1987* ("the principal regulations").

Schedule 1

Item [1] provides that Paragraph 3(1)(f) of the principal regulations be amended such that it becomes the last point in Paragraph 3(1).

Item [2] provides that Paragraph 3(1)(g) of the principal regulations be omitted.

Item [3] provides that in Paragraph 6(a) of the principal regulations 5.7433 be omitted and 6.7944 be inserted.