**EXPLANATORY STATEMENT**

**Select Legislative Instrument 2012 No. 292**

Issued by the Authority of the Minister for Foreign Affairs

Subject: *Nuclear Non-Proliferation (Safeguards) Act 1987*

 *Nuclear Non-Proliferation (Safeguards) Amendment Regulation 2012 (No. 1)*

The *Nuclear Non-Proliferation (Safeguards) Act 1987* (the Safeguards Act) gives effect to certain obligations that Australia has under international agreements on the peaceful use of nuclear material and facilities, including all of Australia’s bilateral nuclear cooperation agreements, as well as the *Treaty on the Non-Proliferation of Nuclear Weapons,* the *Convention on the Physical Protection of Nuclear Material* (Physical Protection Convention), and Australia’s agreements with the International Atomic Energy Agency.

Section 74 of the Safeguards Act provides that the Governor-General may make regulations, not inconsistent with the Safeguards Act, prescribing matters required or permitted by the Safeguards Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Safeguards Act. In addition, section 70 of the Safeguards Act provides that powers, duties, functions or discretions under the Safeguards Act are to be exercised in accordance with specified international agreements identified in the Safeguards Act, or prescribed in regulations.

The regulations currently list relevant agreements for the purposes of the Safeguards Act. The purpose of the Regulation is to update the list of such international agreements. The amendments would amend the *Nuclear Non-Proliferation (Safeguards) Regulations 1987* by adding the following agreements to the list of prescribed international agreements:

* The *Agreement between the Government of Australia and the Government of the Russian Federation on Cooperation in the Use of Nuclear Energy for Peaceful Purposes,* which entered into force on 11 November 2010.
* The *Agreement between the Government of Australia and the Government of the United States of America concerning Peaceful Uses of Nuclear Energy,* which entered into force on 22 December 2010.
* The *Agreement between the Government of Australia and the European Atomic Energy Community (EURATOM) for Co-operation in the Peaceful Uses of Nuclear Energy,* which entered into force on 1 January 2012.

The 1990 *Agreement between the Government of Australia and the Government of the Union of Soviet Socialist Republics Concerning the Peaceful Uses of Nuclear Energy,* which was terminated upon the entry into force of the 2010 nuclear cooperation agreement with the Russian Federation, will be omitted in the Regulation.

Details of the Regulation are set out in the Attachment.

The Safeguards Act specifies no conditions that need to be satisfied before the power to make the Regulation may be exercised.

The Regulation would be a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulation would commence on the day after it is registered in the Federal Register of Legislative Instruments.

**Authority:** Section 74 for the *Nuclear Non-Proliferation (Safeguards) Act 1987*

**Attachment**

**Details of the *Nuclear Non-Proliferation (Safeguards) Amendment Regulation 2012 (No. 1)***

Regulation 1 – Name of Regulation

This Regulation is the *Nuclear Non-Proliferation (Safeguards) Amendment Regulation 2012 (No. 1).*

Regulation 2 – Commencement

This Regulation commences on the day after it is registered.

Regulation 3 – Amendment of *Nuclear Non-Proliferation (Safeguards) Regulations 1987*

This Regulation provides that the *Nuclear Non-Proliferation (Safeguards) Regulations 1987* (the Principal Regulation) is amended as set out in Schedule 1.

Schedule 1 – Amendments

**Item [1] – Schedule 1, item 8**

This item would amend Schedule 1 to the Principal Regulation by omitting Australia’s 1990 nuclear agreement with the Union of Soviet Socialist Republics concerning Peaceful Uses of Nuclear Energy.

**Item [2] – Schedule 1, after item 21**

This item would amend Schedule 1 to the Principal Regulation by inserting three new items after item 21. The purpose is to add, in accordance with section 4 of the Act, the following as *prescribed international agreements:*

1. 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)
2. Agreement between the Government of Australia and the Government of the United States of America concerning Peaceful Uses of Nuclear Energy (4 May 2010)
3. 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 2012)