

## **EXPLANATORY STATEMENT**

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

### *Australian Radiation Protection and Nuclear Safety (Licence Charges) Act 1998*

### *Australian Radiation Protection and Nuclear Safety (Licence Charges) Amendment (2017 Measures No. 1) Regulations 2017*

The object of the *Australian Radiation Protection and Nuclear Safety Act 1998* (the ARPANS Act) is to protect the health and safety of people, and to protect the environment, from the harmful effects of radiation.

*Australian Radiation Protection and Nuclear Safety (Licence Charges) Act 1998* (the Licence Charges Act) is an Act to impose charges on licences issued under the ARPANS Act and for related purposes.

Section 6 of Licence Charges Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Licence Charges Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Licence Charges Act.

The *Australian Radiation Protection and Nuclear Safety (Licence Charges) Amendment (2017 Measures No. 1) Regulations 2017* (the regulations) amend the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2000* (Licence Charges Regulations) to:

- (1) increase to the annual licence charges prescribed in the Licence Charges Regulations by 2.3 per cent, in line with the Australian Bureau of Statistics (ABS) annualised Wage Price Index (excluding bonuses) for the public sector as at 30 September 2016.
- (2) update the publication details of an Australia/New Zealand Standard, which is incorporated by reference in the Licence Charges Regulations, and
- (3) make a minor amendment to correct an omission in the Licence Charges Regulations.

Under subsection 32(1) of the *Australian Radiation Protection and Nuclear Safety Act 1998* (ARPANS Act) the Chief Executive Officer (CEO) of ARPANSA may issue a facility licence to a controlled person to undertake certain actions, such as the construction or operation of or the decommissioning of a nuclear installation or a prescribed radiation facility. Subsection 33(1) provides that the CEO may issue a source licence to a controlled person authorising the controlled person to possess, control, use, operate or dispose of controlled apparatus or a controlled material. A 'controlled person' is a Commonwealth entity or a Commonwealth contractor. An example of controlled material is Technetium-99, which is commonly used in nuclear medicine and an example of a controlled apparatus is an X-ray machine.

The Licence Charges Act provides that the holder of a facility or source licence, at any time during a financial year, is liable to pay a charge for the licence for that year. The amounts of these annual licence charges are prescribed in the Licence Charges Regulations. The annual

licence charges have been indexed every year since 2010 using ABS wage and labour price indices to recover increased labour costs.

The regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The regulations commenced on 1 July 2017. The increases to the annual licence charges took effect on 1 July 2017.

Details of the regulations are set out in the Attachment below.

The regulations were brought forward concurrently with the *Australian Radiation Protection and Nuclear Safety Amendment (2017 Measures No. 1) Regulations 2017*.

The Licence Charges Act does not specify any condition that needs to be met before the power to make the regulations may be exercised.

*Consultation:*

No consultation was undertaken among licence holders (all of whom are Commonwealth entities) as the amendments are machinery in nature and are done annually to ensure the Licence Charges Regulations are up-to-date. The Office of Best Practice Regulation (OBPR) exempted ARPANSA from the need to prepare a regulatory impact statement for the amendments (OBPR ID: 21894). The OBPR agreed that the amendments are machinery in nature and are not likely to result in any change to regulatory costs.

Authority: Section 6 of the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Act 1998*

**ATTACHMENT****Details of the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Amendment (2017 Measures No. 1) Regulations 2017*****Section 1 – Name of regulation**

This section provides that the name of the regulations is the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Amendment (2017 Measures No. 1) Regulations 2017*.

**Section 2 – Commencement**

This section provides for the regulations to commence on 1 July 2017.

**Section 3 – Authority**

This section provides that the regulations are made under the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Act 1998*.

**Section 4 – Schedules(s)**

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

**Schedule 1—Amendments****Part 1—Amendments of charge amounts**

*Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2000*

**Item 1 Amendments of listed provisions—Schedule 1**

Clause 1 of Schedule 1 of the Licence Charges Regulations has a table that sets out the amounts of the annual licence charges that must be paid for facility licences that authorise specific activities that may be undertaken at or in relation to particular kinds of nuclear installations. The amendments increase the amounts of the annual licence charges listed in the table by 2.3 per cent as follows:

Table Item	Thing authorised to be done by licence	Charge (\$)
1.	Preparing a site for a controlled facility, being a nuclear reactor that is designed for research or production of nuclear materials for industrial or medical use (including critical and subcritical assemblies) and to have maximum thermal power of less than 1 megawatt	25 178 to 25,757

Table Item	Thing authorised to be done by licence	Charge (\$)
2.	Constructing a controlled facility, being a nuclear reactor that is designed for research or production of nuclear materials for industrial or medical use (including critical and subcritical assemblies) and to have maximum thermal power of less than 1 megawatt	62 952 to 64,399
3.	Possessing or controlling a controlled facility, being a nuclear reactor for research or production of nuclear materials for industrial or medical use (including critical and subcritical assemblies) and with maximum thermal power of less than 1 megawatt	25 178 to 25,757
4.	Operating a controlled facility, being a nuclear reactor for research or production of nuclear materials for industrial or medical use (including critical and subcritical assemblies) with maximum thermal power of less than 1 megawatt	125 906 to 128, 801
5.	De-commissioning, disposing of or abandoning a controlled facility, being a nuclear reactor that was used for research or production of nuclear materials for industrial or medical use (including critical and subcritical assemblies) and had maximum thermal power of less than 1 megawatt	62 952 to 64,399
6.	Preparing a site for a controlled facility, being a nuclear reactor that is designed for research or production of nuclear materials for industrial or medical use (including critical and subcritical assemblies) and to have maximum thermal power of 1 megawatt or more	50 362 to 51,520
7.	Constructing a controlled facility, being a nuclear reactor that is designed for research or production of nuclear materials for industrial or medical use (including critical and subcritical assemblies) and to have maximum thermal power of 1 megawatt or more	125 906 to 128,801
8.	Possessing or controlling a controlled facility, being a nuclear reactor for research or production of nuclear materials for industrial or medical use (including critical and subcritical assemblies) and with maximum thermal power of 1 megawatt or more	125 906 to 128,801
9.	Operating a controlled facility, being a nuclear reactor for research or production of nuclear materials for industrial or medical use (including critical and subcritical assemblies and with maximum thermal power of 1 megawatt or more	969 470 to 991,767
10.	De-commissioning, disposing of or abandoning a controlled facility, being a nuclear reactor that was used for research or production of nuclear materials for industrial or medical use (including critical and subcritical assemblies); and had maximum thermal power of 1 megawatt or more	251 811 to 257,602
11.	Preparing a site for a controlled facility, being a plant for preparing or storing fuel for use in a nuclear reactor of a kind mentioned in any of items 1 to 9 above	12 589 to 12,878
12.	Constructing a controlled facility, being a plant for preparing or storing fuel for use in a nuclear reactor of a kind mentioned in any of items 1 to 9 above	25 178 to 25,757

Table Item	Thing authorised to be done by licence	Charge (\$)
13.	Possessing or controlling a controlled facility, being a plant for preparing or storing fuel for use in a nuclear reactor of a kind mentioned in any of items 1 to 9 above	12 589 to 12,878
14.	Operating a controlled facility, being a plant for preparing or storing fuel for use in a nuclear reactor of a kind mentioned in any of items 1 to 9 above	62 952 to 64,399
15.	De-commissioning, disposing of or abandoning a controlled facility, being a plant that was used for preparing or storing fuel for use in a nuclear reactor of a kind mentioned in any of items 1 to 9 above	25 178 to 25,757
16.	Preparing a site for a controlled facility, being a nuclear waste storage or disposal facility that is designed to contain waste with an activity that is more than the relevant activity level prescribed by regulation 8 of the ARPANS Regulations	12 589 to 12,878
17.	Constructing a controlled facility, being: a nuclear waste storage or disposal facility that is designed to contain waste with an activity that is more than the relevant activity level prescribed by regulation 8 of the ARPANS Regulations	25 178 to 25,757
18.	Possessing or controlling a controlled facility, being: a nuclear waste storage or disposal facility with an activity that is more than the relevant activity level prescribed by regulation 8 of the ARPANS Regulations	12 589 to 12,878
19.	Operating a controlled facility, being a nuclear waste storage or disposal facility with an activity that is more than the relevant activity level prescribed by regulation 8 of the ARPANS Regulations	62 952 to 64,399
20.	De-commissioning, disposing of or abandoning a controlled facility, being a nuclear waste storage or disposal facility that formerly contained waste with an activity that is more than the relevant activity level prescribed by regulation 8 of the ARPANS Regulations.	25 178 to 25,757
21.	Preparing a site for a controlled facility, being a facility to produce radioisotopes, containing a mixture of controlled materials, with an activity that is more than the activity level prescribed by regulation 11 of the ARPANS Regulations	25 178 to 25,757
22.	Constructing a controlled facility, being a facility to produce radioisotopes, containing a mixture of controlled materials, with an activity that is more than the activity level prescribed by regulation 11 of the ARPANS Regulations	62 952 to 64,399
23.	Possessing or controlling a controlled facility, being a facility to produce radioisotopes, containing a mixture of controlled materials, with an activity that is more than the activity level prescribed by regulation 11 of the ARPANS Regulations	25 178 to 25,757
24.	Operating a controlled facility, being a facility to produce radioisotopes, containing a mixture of controlled materials, with an activity that is more than the activity level prescribed by regulation 11 of the ARPANS Regulations	100 724 to 103,040

Table Item	Thing authorised to be done by licence	Charge (\$)
25.	De-commissioning, disposing of, or abandoning a controlled facility, being a facility that formerly produced radioisotopes, containing a mixture of controlled materials, with an activity that was more than the activity level prescribed by regulation 11 of the ARPANS Regulations	62 952 to 64,399

### Item 2 Amendments of listed provisions—Part 1 of Schedule 2

Clause 1 of Schedule 2 to the Licence Charges Regulations has a table that sets out the annual licence charges for particular kinds of prescribed radiation facilities. The amendments increase the annual licence charges listed in the table by 2.3 per cent as follows:

Table Item	Kind of prescribed radiation facility	Charge (\$)
1.	Particle accelerator with a beam energy of more than 1 mega electron volt (MeV)	12 949 to 13,246
2.	Particle accelerator capable of producing neutrons	12 949 to 13,246
3.	Irradiator containing more than $10^{15}$ becquerel (Bq) of a controlled material	12 949 to 13,246
4.	Irradiator containing more than $10^{13}$ Bq of a controlled material but not including shielding as an integral part of its construction	12 949 to 13,246
5.	Irradiator containing more than $10^{13}$ Bq of a controlled material and including shielding as an integral part of its construction, but the shielding does not prevent a person from being exposed to the source	12 949 to 13,246
6.	Irradiator containing more than $10^{13}$ Bq of a controlled material and including shielding as an integral part of its construction, and with a source that is not inside the shielding during the operation of the irradiator	12 949 to 13,246
7.	Facility for the production, processing, use, storage, management or disposal of: (a) unsealed sources for which the result worked out using the steps mentioned in subregulation 6(2) is greater than $10^6$ ; or (b) sealed sources for which the result worked out using the steps mentioned in subregulation 6(2) is greater than $10^9$	25 900 to 26,495

### Item 3 Amendments of listed provisions—Part 2 of Schedule 2

Clause 2 of Schedule 2 to the Licence Charges Regulations has a table that sets out the annual licence charges for facility licences for certain activities in relation to prescribed radiation facilities. The amendments increase the annual licence charges in the table by 2.3 per cent as follows:

Table Item	Thing authorised to be done by licence	Charge (\$)
1.	De-commissioning a controlled facility, being a prescribed radiation facility that was formerly used as a nuclear or atomic weapon test site	43 166 to 44,158
2.	Disposing of or abandoning a controlled facility, being a prescribed radiation facility that was formerly used as a nuclear or atomic weapon test site	28 777 to 29,438

Table Item	Thing authorised to be done by licence	Charge (\$)
3.	De-commissioning a controlled facility, being a prescribed radiation facility that was formerly used for the mining, processing, use, storage, management or disposal of radioactive ores	43 166 to 44,158
4.	Disposing of or abandoning a controlled facility, being a prescribed radiation facility that was formerly used for the mining, processing, use, storage, management or disposal of radioactive ores	28 777 to 29,438

#### Item 4 Amendments of listed provisions—Schedule 2A

Clause 1 of Schedule 2A to the Licence Charges Regulations has a table that sets out the annual licence charges for facility licences for prescribed legacy sites. The amendments increase the annual licence charges in the table by 2.3 per cent as follows:

Table Item	Thing authorised to be done by licence	Charge (\$)
1.	Possess or control a controlled facility that is a prescribed legacy site	14 010 to 14,332
2.	Remediate a controlled facility that is a prescribed legacy site	210 163 to 214,996
3.	Abandon a controlled facility that is a prescribed legacy site	28 021 to 28,665

#### Item 5 Amendments of listed provisions—Schedule 2B

Clause 1 of Schedule 2B to the Licence Charges Regulations has a table that sets out the annual licence charges for facility licences for designated licence holders. The amendments increase the annual licence charges in the table by 2.3 per cent as follows:

Table Item	Designated licence holder	Charge (\$)
1.	Australian Nuclear Science and Technology Organisation	2 267 954 to 2,320,116
2.	Department of Defence	276 051 to 282,400

#### Item 6 Amendments of listed provisions—Part 2 of Schedule 3

Clause 2 of Schedule 3 has a table that sets out the annual licence charges for source licences to deal with particular kinds of controlled apparatus or controlled material. For this purpose, controlled material and controlled apparatus have been divided into three groups, namely Group 1, Group 2 and Group 3, in ascending order of risk to people and the environment. The amendments increase the licence charges in the table by 2.3 per cent as follows:

Table Item	Number of controlled apparatus or controlled materials in the same location that persons are authorised to deal with under the licence	Charge (\$)
1	For less than 4 controlled apparatus or controlled materials from:	
	Group 1	1 182 to 1,209
	Group 2	4 730 to 4,838

Table Item	Number of controlled apparatus or controlled materials in the same location that persons are authorised to deal with under the licence	Charge (\$)
	Group 3	14 188 to 14,514
2	For more than 3, but less than 11, controlled apparatus or controlled materials from:	
	Group 1	3 071 to 3,141
	Group 2	9 458 to 9,675
	Group 3	28 372 to 29,024
3	For 11 or more controlled apparatus or controlled materials from:	
	Group 1	5 912 to 6,047
	Group 2	17 778 to 18,186
	Group 3	52 016 to 53,212

#### Item 7 Amendments of listed provisions—Part 3 of Schedule 3

Clause 3 of Schedule 3 has a table that sets out the annual licence charges for three particular licence holders. The amendments increase the licence charges listed in the table by 2.3 per cent as follows:

Table Item	Licence holders	Charge (\$)
1	Department of Defence	381 463 to 390,236
2	Australian Nuclear Science and Technology Organisation	159 632 to 163,303
3	Commonwealth Scientific and Industrial Research Organisation	296 512 to 303,331

## **Part 2—Other amendments**

### *Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2000*

#### Item 8 Clause 1 of Schedule 3 (table item 23)

Table item 23 refers to an Australian/New Zealand Standard on laser products that was published in 2011. The amendment updates the reference to the most recent version of the Standard that was published in 2014 and adds information on the name of the publishers of the Standard, namely Standards Australia and Standards New Zealand, which is in line with current drafting conventions of the Office of Parliamentary Counsel.. This Standard may be obtained from SAI Global ([www.saiglobal.com](http://www.saiglobal.com)).



Item 9 Clause 1 of Schedule 3 (at the end of the cell at table item 24, column headed “Controlled apparatus or controlled material”)

Table item 24 refers to an Australian/New Zealand Standard on optical fibre communication system. The amendment updates the reference by adding information on the name of the publishers of the Standard, namely Standards Australia and Standards New Zealand, which is in line with current drafting conventions of the Office of Parliamentary Counsel. This Standard may be obtained from SAI Global ([www.saiglobal.com](http://www.saiglobal.com)).

Item 10 Clause 1 of Schedule 3 (at the end of the cell at table item 32, column headed “Controlled apparatus or controlled material”)

Table item 32 refers to ‘unsealed sources used for tracer studies’. The amendment adds the words ‘in the environment’ after ‘tracer studies’ to distinguish table item 32 from table items 30 and 31, which apply only to unsealed sources used for tracer studies within a laboratory or any premises.

## **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 (Licence Charges) Amendment (2017 Measures No. 1) Regulations 2017**

This 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 legislative instrument**

The Regulations amend the Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2000 (Licence Charges Regulations) to increase annual licence charges by 2.3 per cent and to make other minor amendments.

#### **Human Rights Implications**

The amendments are compatible with the right to an adequate standard of living and the right to the enjoyment of the highest attainable standard of physical and mental health as contained in article 11(1) and article 12(1) of the International Covenant on Economic, Social and Cultural Rights.

The amendments increase the annual licence charges paid by Commonwealth entities to the Australian Radiation Protection and Nuclear Safety Agency for licences to deal with radiation apparatus or radioactive sources or to engage in activities in relation to radiation facilities and nuclear installations.

Other amendments are minor or machinery in nature, namely, amendments to update the publication details of an Australia/New Zealand Standard, which is incorporated by reference in the Licence Charges Regulations and an amendment to correct an omission.

#### **Conclusion**

This Instrument is compatible with human rights as it promotes the human right to an adequate standard of living and the highest attainable standard of physical and mental health.

**The Hon. David Gillespie, Assistant Minister for Health  
Parliamentary Secretary to the Minister for Health**