

## **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) Regulations 2018*

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.

The *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) Regulations 2018* (the regulations) remake the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2000* (Licence Charges Regulations). No change to the substantive meaning or operation of the provisions of the Licence Charges Regulations is made, however, various changes are made to:

- (1) remake the instrument in accordance with current Office of Parliamentary Counsel drafting principles;
- (2) make language and formatting changes to reflect contextual changes and align with current drafting practices, such as referring to ‘sections’ rather than ‘regulations’
- (3) repeal redundant provisions, such as those that relate to dates which have passed and now have no effect;
- (4) renumber the Regulations; and
- (5) improve clarity and readability.

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

The regulations commenced on the day after being registered on the Federal Register of Legislation.

Details of the regulations are set out in [Attachment A](#). A Finding Table comparing the numbering of the old Regulations with the new Regulations is at [Attachment B](#). A Statement of Compatibility with Human Rights is at [Attachment C](#).

The regulations were brought forward concurrently with the *Australian Radiation Protection and Nuclear Safety Regulations 2018* and the *Australian Radiation Protection and Nuclear Safety (Repeal and Consequential Amendments) Regulations 2018*.

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 proposed amendments are considered machinery in nature and no substantive amendment is proposed.

Prior to the making of the Regulations and in accordance with the Office of Best Practice Regulation's Guidance Note on sunseting instruments, ARPANSA self-assessed that the Licence Charges Regulations were operating effectively and efficiently. The Office of Best Practice Regulation (OBPR) exempted ARPANSA from the need to prepare a regulatory impact statement for the amendments (OBPR ID: 22587).

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

**ATTACHMENT A****Details of the proposed *Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2018***

This Attachment sets out further details of the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2018* (the ‘Regulations’). A finding table to assist in identifying which provision in the Regulations corresponds to a provision in the remade regulations that has been rewritten is at Attachment B.

Changes of a minor or machinery nature, such as the increased use of headings and references to ‘section’ rather than ‘regulation’ in accordance with modern drafting practices, are generally not specifically identified in this Attachment. Where the proposed Regulations makes changes that require further explanation, these are identified and explained in this Attachment.

**Part 1—Preliminary****Section 1 – Name**

This section provides that the name of the instrument is the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2018*.

**Section 2 – Commencement**

This section provides for the regulations to commence on the day after being registered on the Federal Register of Legislation.

**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**

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.

**Section 5 – Definitions**

This section contains defined terms used in the Regulations. One no longer required definition has been removed from this section.

**Part 2—Annual charge for facility licences****Section 6 - Charge for a financial year for a facility licence**

This section provides that Part 2 prescribes the amount of the annual charge for a facility licence.

## **Section 7 - Facility licences for nuclear installations**

This section 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 table has been moved from Clause 1 of Schedule 1 of the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2000* into the body of the Regulations to improve readability of the instrument as a whole.

## **Section 8 - Facility licences for prescribed radiation facilities**

This section has two tables that set out the annual licence charges for particular kinds of prescribed radiation facilities. The tables have been moved from Clauses 1 and 2 of Schedule 2 of the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2000* into the body of the Regulations to improve readability of the instrument as a whole.

## **Section 9 - Facility licences for prescribed legacy sites**

This section has a table that sets out the annual licence charges for facility licences for certain activities in relation to prescribed legacy sites. The table has been moved from Clause 1 of Schedule 2A of the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2000* into the body of the Regulations to improve readability of the instrument as a whole.

## **Section 10 - Annual charge for all facility licences held in certain names**

This section has a table that sets out the annual licence charges for all facility licences held by specified licence holders. The table has been moved from Clause 1 of Schedule 2B of the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2000* into the body of the Regulations to improve readability of the instrument as a whole.

## **Part 3—Annual charge for source licences**

### **Section 11 - Introduction**

This section provides that Part 3 prescribes the amount of the charge for a financial year for a source licence authorising persons to deal with one or more controlled apparatus or controlled materials in Group 1, Group 2 or Group 3.

### **Section 12 - Annual charge for source licence**

This section 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 table has been moved from Clause 2 of Schedule 3 of the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2000* into the body of the Regulations to improve readability of the instrument as a whole.

### **Section 13 - Annual charge for all source licences held in certain names**

This section has a table that sets out the annual licence charges for all source licences to deal with particular kinds of controlled apparatus or controlled material three held by specified licence holders. The table has been moved from Clause 3 of Schedule 3 of the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2000* into the body of the Regulations to improve readability of the instrument as a whole.

### **Schedule 1—Repeals**

This schedule repeals the whole of the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2000*.

**FINDING TABLE**

As a result of some of the changes described above, it became necessary to renumber provisions of the proposed Regulations. This Explanatory Statement includes a finding table to assist in identifying which provision in the Regulation corresponds to a provision in the remade regulations that has been rewritten or consolidated, and vice versa.

*Finding table*

<i>Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2000</i>	<i>Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2018</i>
1	1
2	2
3	3
3A	4
3B	5
3C	6
4	7
5	8
5A	9
5B	10
6	11
6A	12
7	13

**ATTACHMENT C****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) Regulations 2018**

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

**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.

**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.

**Senator the Hon. Bridget McKenzie, Minister for Regional Services, Sport, Local Government and Decentralisation**