



New South Wales

Radiation Control Amendment Act 2002 No 52

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Radiation Control Amendment Act 2002 No 52

Act No 52, 2002

An Act to amend the *Radiation Control Act 1990* with respect to the objects of the Act, the functions of the Radiation Advisory Council and the Environment Protection Authority and the adoption of documents forming part of the *National Directory for Radiation Protection*; and for other purposes. [Assented to 4 July 2002]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Radiation Control Amendment Act 2002*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Radiation Control Act 1990 No 13

The *Radiation Control Act 1990* is amended as set out in Schedule 1.

4 Amendment of Radiation Control Regulation 1993

The *Radiation Control Regulation 1993* is amended as set out in Schedule 2.

Schedule 1 Amendment of Radiation Control Act 1990

(Section 3)

[1] Section 3

Omit the section. Insert instead:

3 Object of Act

The object of this Act is to secure the protection of persons and the environment from exposure to harmful ionising and non-ionising radiation to the maximum extent that is reasonably practicable, taking into account social and economic factors and recognising the need for the use of radiation for beneficial purposes.

[2] Section 4 Definitions

Omit the definition of *environment* from section 4 (1). Insert instead:

environment means components of the earth, including:

- (a) land, air and water, and
 - (b) any layer of the atmosphere, and
 - (c) any organic or inorganic matter and any living organism, and
 - (d) human-made or modified structures and areas,
- and includes interacting natural ecosystems that include components referred to in paragraphs (a)–(c).

[3] Section 4 (1)

Insert in alphabetical order:

National Directory means the national guidance documents titled “National Directory for Radiation Protection” approved by the Health Ministers for the States, Territories and Commonwealth from time to time.

[4] Section 6 Restrictions on possession, use and sale etc of radioactive substances and certain radiation apparatus

Omit “or temporary licence” from section 6 (2), (3) and (6) wherever occurring.

[5] Section 6 (4)

Omit “ or a temporary licence but only if the Council recommends that the licence or temporary licence be granted”.

[6] Section 6 (5)

Omit the subsection. Insert instead:

- (5) The Authority is not to grant a licence authorising a person to use anything to which this section applies unless it is satisfied:
- (a) that the applicant is a natural person and is a fit and proper person to hold the licence, and
 - (b) that the applicant has appropriate knowledge of the principles and practices of radiation safety and protection applicable to the activities proposed to be carried on by the applicant pursuant to the licence, and
 - (c) that the applicant meets any relevant requirements for licensing for use of the substance or apparatus set out in a document forming part of the National Directory and adopted by the Authority under section 37.

[7] Section 6 (6)

Omit “on the recommendation of the Council”.

[8] Section 7 Responsibilities of owners of sealed radioactive sources and certain radiation apparatus

Omit “or a temporary licence” from section 7 (3).

[9] Section 7 (4)

Omit “, but only if the Council recommends that the Authority do so”.

[10] Section 7 (5)

Omit the subsection. Insert instead:

- (5) The Authority is not to register a sealed radioactive source or radiation apparatus under this section unless the Authority is satisfied that it complies with:
 - (a) any applicable requirements of the regulations, and
 - (b) any relevant requirements set out in a document forming part of the National Directory and adopted by the Authority under section 37.

[11] Section 7 (6)

Omit “on the recommendation of the Council”.

[12] Section 8 Responsibilities of occupier of premises on which unsealed radioactive source is kept or used

Omit “or temporary licence” from section 8 (2).

[13] Section 8 (3)

Omit “, but only if the Council recommends that the Authority do so”.

[14] Section 8 (4)

Omit the subsection. Insert instead:

- (4) The Authority is not to register premises under this section unless the Authority is satisfied that the premises comply with:
 - (a) any applicable provisions of the regulations, and
 - (b) any relevant requirements set out in a document forming part of the National Directory and adopted by the Authority under section 37.

[15] Section 8 (5)

Omit “on the recommendation of the Council”.

[16] Section 8 (6)

Omit “, if the Council so recommends,”.

[17] Section 9 Accreditation of radiation experts

Omit “but only if the Council recommends that the person be accredited” from section 9 (2).

[18] Section 9 (3)

Omit the subsection. Insert instead:

- (3) The Authority is not to accredit a person unless satisfied:
- (a) that the person has the expertise necessary to properly carry out the activities authorised by the accreditation, and
 - (b) that the person meets the requirements for accreditation as a consulting radiation expert set out in a document forming part of the National Directory and adopted by the Authority under section 37.

[19] Section 9 (4)

Omit “on the recommendation of the Council”.

[20] Section 9A

Insert after section 9:

9A Authority may seek advice from Council

The Authority may seek, and take into consideration, the advice of the Council before making any of the following decisions:

- (a) a decision under section 6 about an application for a licence,
- (b) a decision under section 7 about an application to register a sealed radioactive source or radiation apparatus in the owner’s name,
- (c) a decision under section 8 about an application to register premises in the occupier’s name,
- (d) a decision under section 8 about exempting premises from the operation of that section,
- (e) a decision under section 9 about an application to accredit a person as a consulting radiation expert,

- (f) a decision under section 10A about an application to vary a licence or accreditation.

[21] Section 10 Conditions of licences etc

Omit “, but only on the recommendation of the Council” from section 10 (2).

[22] Section 10A

Insert after section 10:

10A Variation of licences and accreditations

- (1) The Authority may, by notice in writing to the holder of a licence or an accreditation, vary the licence or accreditation in accordance with this section.
- (2) A variation may be made only on application in the approved form, and on payment of the prescribed fee, by the holder of the licence or accreditation concerned.
- (3) A licence may be varied so as to authorise the possession, use or sale of a substance or apparatus to which section 6 applies, being a substance or apparatus that the licensee is not authorised, at the time of the application, to possess, use or sell.
- (4) An accreditation may be varied so as to authorise the holder of the accreditation to carry on a specified activity prescribed for the purposes of section 9, being an activity that the holder is not authorised, at the time of the application, to carry on.
- (5) The Authority is not to:
 - (a) vary a licence to use a substance or apparatus to which section 6 applies—unless the Authority is satisfied:
 - (i) that the licensee has appropriate knowledge of the principles and practices of radiation safety and protection applicable to the activities proposed to be carried on by the licensee in pursuance of the licence as so varied, and
 - (ii) that the licensee meets the requirements referred to in section 6 (5) (a) and (c), or

- (b) vary an accreditation—unless the Authority is satisfied:
 - (i) that the holder of the accreditation has the expertise necessary to properly carry on the activities to be authorised by the accreditation as so varied, and
 - (ii) that the holder of the accreditation meets the requirements for accreditation as a consulting radiation expert set out in a document forming part of the National Directory and adopted by the Authority under section 37.
- (6) A notice under this section is to impose such conditions (if any) in connection with the variation concerned as the Authority may determine.
- (7) Despite subsection (2), the Authority may, at the request of the holder of a licence or accreditation, vary the licence or accreditation so as to revoke an authorisation conferred by the licence or accreditation and revoke any condition imposed in connection with the authorisation so revoked.
- (8) This section does not affect the operation of section 10.

[23] Section 11 Term and renewal of licences, registrations and accreditations

Insert “or varied” after “renewed” in section 11 (1).

[24] Section 11 (2)

Insert “or varied” after “renewed”.

[25] Section 11 (4)

Omit “(other than a temporary licence)”.

[26] Section 14 Appeals

Omit section 14 (1) (c). Insert instead:

- (c) to refuse to vary a licence or accreditation, or
- (d) to suspend or cancel a licence, registration or accreditation.

[27] Section 18 Notices to take action

Omit “the Council” from section 18 (2) (c), (4) and (5) wherever occurring. Insert instead “the Authority”.

[28] Section 18 (3)

Omit the subsection. Insert instead:

- (3) The Authority must, as soon as practicable after the authorised officer issues the notice, advise the Council about the notice.

[29] Section 29 Radiation Advisory Council

Omit “14” from section 29 (2). Insert instead “16”.

[30] Section 29 (2)

Omit section 29 (2) (l). Insert instead:

- (l) radiation oncologist, and

[31] Section 29 (2) (n), (o) and (p)

Omit section 29 (2) (n). Insert instead:

- (n) an officer of the WorkCover Authority, and
- (o) a person with expertise in naturally occurring radioactivity, and
- (p) a person chosen by the Minister for such reasons as the Minister thinks fit.

[32] Section 30 Functions of the Council

Omit section 30 (1) (d). Insert instead:

- (d) the granting of exemptions authorised by the regulations for periods exceeding 60 days, and

[33] Section 30 (2A) and (2B)

Insert after section 30 (2):

- (2A) The Council may at any time, and must on the request of the Authority, provide advice to the Authority about licences, registrations and accreditations under Part 2.
- (2B) The advice provided to the Authority may be general or specific as the circumstances require.

[34] Section 37

Insert after section 36:

37 Adoption of documents forming part of National Directory

- (1) The Authority may, by notice published in the Gazette, adopt a document (including for example a standard, guidance note or code of practice) forming part of the National Directory and may, in the same way, revoke or vary such an adoption.
- (2) The Authority is to cause a document adopted under this section to be available for public inspection free of charge at the Authority's offices during normal office hours.

[35] Section 39 Exemptions

Omit section 39 (2). Insert instead:

- (2) The Minister may grant an exemption authorised by the regulations for such period as is determined by the Minister.
- (3) Before granting an exemption authorised by the regulations for a period exceeding 60 days, the Minister must seek, and take into consideration, the advice of the Council about the proposed exemption.

[36] Section 39B

Insert after section 39A:

39B Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

- (2) The Minister must seek, and take into consideration, the advice of the Council when undertaking the review.
- (3) The review is to be undertaken as soon as practicable after the period of 10 years from the date of commencement of Schedule 1 [36] to the *Radiation Control Amendment Act 2002*.
- (4) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 10 years.

[37] Section 40 Regulations

Insert after section 40 (4):

- (5) The regulations may provide for the waiver of the whole or such part of the fees as the Authority may in a particular case think proper.
- (6) The regulations may adopt any document (including for example a standard, guidance note or code of practice) as in force from time to time.

[38] Schedule 1 Provisions relating to members and procedure of Council

Omit clause 5 (1) (g). Insert instead:

- (g) becomes a mentally incapacitated person, or

[39] Schedule 1, Clause 9

Omit “8”. Insert instead “9”.

[40] Schedule 2 Savings and transitional provisions

Insert “*Radiation Control Amendment Act 2002*” at the end of clause 1 (1).

[41] Schedule 2, Part 4

Insert after Part 3:

**Part 3 Provisions consequent on the enactment of
Radiation Control Amendment Act 2002**

5 Applications for licences, registration and accreditation

An application under Part 2 for a licence, registration or accreditation made, and not decided, before the commencement of Schedule 1 [41] to the *Radiation Control Amendment Act 2002* is to be dealt with as if it had been made after the commencement of that item.

Schedule 2 Amendment of Radiation Control Regulation 1993

(Section 4)

[1] Clause 6 Safe dose limits to be taken into account by Authority

Omit “recommendation under the Act, the Council”.

Insert instead “a decision under the Act, the Authority”.

[2] Clause 12 Fees

Omit “(other than a temporary licence)” from the Table to the clause.

[3] Clause 12

Omit the matter relating to “Temporary licence under section 6 of the Act” from the Table to the clause.

[4] Clause 12

Insert at the end of the Table to the clause:

Variation of licence under section 10A of the Act \$83

Variation of accreditation under section 10A of the Act \$91

[5] Clause 12A

Insert after clause 12:

12A Waiver of fees

If the Authority thinks proper, the Authority may determine that the fee for the variation of a licence or accreditation required to be paid under this Regulation be waived wholly or in part.

[Second reading speech made in—

Legislative Council on 12 June 2002

Legislative Assembly on 26 June 2002]

BY AUTHORITY