

[Act 2002 No 52]



New South Wales

# Radiation Control Amendment Bill 2002

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

### Overview of Bill

The object of this Bill is to amend the *Radiation Control Act 1990*:

- (a) to change the object of the Act to state clearly that the Act applies to both ionising and non-ionising radiation and to provide consistency with the objects provisions of radiation safety legislation applying in other States, and
  - (b) to enable documents forming part of the *National Directory for Radiation Protection* to be adopted and given statutory effect in New South Wales, as a way to progress national uniformity in radiation protection legislation, and
  - (c) to amend provisions in relation to the Radiation Advisory Council, in particular by increasing its membership and changing its functions to include providing advice to the Environment Protection Authority, and
  - (d) to remove the requirement that the Environment Protection Authority may grant licences, registrations and accreditations only on, and in accordance with, recommendations of the Council, and
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- (e) to replace the definition of *environment* to achieve consistency with the *Protection of the Environment Operations Act 1997*, and
- (f) to provide for the Act to be reviewed as soon as practicable after 10 years from the commencement of Schedule 1 [36] to this Bill.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments to the *Radiation Control Act 1990* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the amendments to the *Radiation Control Regulation 1993* set out in Schedule 2.

## Schedule 1 Amendment of Radiation Control Act 1990

**Schedule 1 [1]** replaces the object of the principal Act in section 3 to clarify that the Act applies to both ionising and non-ionising radiation and provide consistency with similar legislation in other States.

**Schedule 1 [2]** replaces the definition of *environment* in the section 4 (1) of the principal Act to achieve consistency with the more contemporary definition in the *Protection of the Environment Operations Act 1997*.

**Schedule 1 [4], [5], [8], [12] and [25]** amend provisions of the principal Act to omit references to temporary licences. The Environmental Protection Authority (the *Authority*) is no longer to have the authority under section 6 of the principal Act to grant temporary licences.

**Schedule 1 [5], [6], [7], [9]–[11], [13]–[17], [19] and [21]** amend provisions of the principal Act providing for the granting of licences, registration of radioactive sources and certain apparatus and premises, and accreditation of persons. Currently the principal Act provides that the Authority may grant a licence, registration or accreditation only on the recommendation of the Radiation Advisory Council. The amendments remove those requirements. **Schedule 1 [32] and [33]** amend section 30 to make consequential amendments to the functions of the Council and **Schedule 1 [35]** makes a consequential amendment to section 39 which provides for exemptions from the operation of the principal Act.

**Schedule 1 [20]** inserts proposed section 9A into the principal Act. Proposed section 9A provides that the Environment Protection Authority may seek, and take into consideration, the Radiation Advisory Council's advice before making a decision under sections 6–9 or 10A about the granting of a licence, registration or accreditation, or the variation of a licence or accreditation.

**Schedule 1 [22]** inserts proposed section 10A into the principal Act. Proposed section 10A provides for the variation of licences and accreditations by the Authority. A licence or an accreditation may be varied only on the application of the holder of the licence or accreditation and only if the Authority is satisfied of certain matters relating to the knowledge or expertise of the holder of the licence or accreditation.

**Schedule 1 [23] and [24]** amend section 11 of the principal Act, which deals with the terms of licences, registrations and accreditations, to insert references to varied licences and accreditations.

**Schedule 1 [26]** amends section 14 of the principal Act to create a right of appeal to the District Court for a person refused a variation of a licence or accreditation.

**Schedule 1 [27]** replaces references to the Council in section 18 with references to the Authority. As a result of the amendments, the Authority and not the Council hears submissions on notices.

**Schedule 1 [28]** amends section 18 of the principal Act to provide that as soon as practicable after an authorised officer issues a notice to a person in respect of non-compliance with the Act or a licence or registration, or in respect of unnecessary exposure to or contamination by radiation, the Authority must advise the Council about the notice.

**Schedule 1 [29]** amends section 29 of the principal Act to increase the membership of the Radiation Advisory Council from 14 to 16 members. **Schedule 1 [31]** amends the principal Act to provide that the 2 additional members are to consist of an officer of the WorkCover Authority and a person with expertise in naturally occurring radioactivity. **Schedule 1 [30]** updates a reference to the membership of the Council by replacing the requirement for a member of the Council to be a radiotherapist with a requirement for one of the members of the Council to be a radiation oncologist. **Schedule 1 [39]** makes a consequential amendment to clause 9 of Schedule 1 to increase the number of members required to form a quorum at a meeting of the Council. **Schedule 1 [38]** updates the terminology used in clause 5 of Schedule 1.

**Schedule 1 [34]** inserts proposed section 37 into the principal Act. Proposed section 37 provides for the adoption by the Environment Protection Authority of documents forming part of the *National Directory for Radiation Protection*.

**Schedule 1 [3]** inserts a definition of *National Directory* into section 4 (1) of the principal Act. **Schedule 1 [6]** amends section 6 (5) of the principal Act to provide that the Environment Protection Authority may grant a licence to use certain substances or apparatus to a person only if the person meets the requirements set out in any relevant document forming part of the National Directory and adopted by the Authority under section 37. **Schedule 1 [18]** amends section 9 (3) of the principal Act to provide that the Authority may accredit a person only if the person has the expertise necessary to properly carry out the activities authorised by the accreditation and 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.

**Schedule 1 [36]** inserts proposed section 39B into the principal Act. Proposed section 39B provides that the Minister is to review the Act 10 years after its commencement and table a report on the outcome of the review in Parliament.

**Schedule 1 [37]** amends the general regulation-making power in section 40 of the principal Act to allow for the regulations:

- (a) to provide for the waiver of fees, and
- (b) to adopt documents, including codes of practice and guidance documents, as in force from time to time.

**Schedule 1 [40]** amends clause 1 of Schedule 2 to the principal Act to allow for the making of savings and transitional regulations consequent on the enactment of the proposed Act.

**Schedule 1 [41]** inserts proposed Part 3 into Schedule 2 to the principal Act. Proposed Part 3 contains transitional arrangements for applications made under Part 2 of the principal Act and not decided before the commencement of the proposed item.

## **Schedule 2   Amendment of Radiation Control Regulation 1993**

**Schedule 2 [1]–[4]** amend certain provisions of the Regulation to make changes consequential on the amendment of the Act by this Bill.

**Schedule 2 [5]** inserts proposed clause 12A. The proposed clause provides that the Environmental Protection Authority may, if it considers it proper, waive the fee for variation of a licence or an accreditation. The fee may be waived wholly or in part.