

NORTHERN TERRITORY OF AUSTRALIA

RADIATION PROTECTION ACT 2004

As in force at 1 May 2016

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 May 2016

RADIATION PROTECTION ACT 2004

An Act about the protection of people and the environment from harmful radiation, and for related purposes

Part 1 Preliminary

Division 1 Introduction

1 Short title

This Act may be cited as the *Radiation Protection Act 2004*.

2 Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

Division 2 Objects of Act

3 Objects

The objects of this Act are to:

- (a) ensure the health and safety of people by protecting them from harmful effects of radiation; and
- (b) protect the environment from harmful effects of radiation.

Division 3 Interpretation

4 Definitions

In this Act, unless the contrary intention appears:

accepted representations has the meaning in section 37(2).

approved form means a form approved under section 87.

approved radiation protection plan, for a radiation practice, means a radiation protection plan approved by the Chief Health Officer for the practice, and includes the plan as changed in accordance with conditions of the licence to which the practice relates.

authorised officer means a person holding office as an authorised officer under an appointment under section 48(1).

authority means a licence, certificate of registration or certificate of accreditation.

carry out, a radiation practice, means the actual performance of the practice by a natural person.

certificate of accreditation means a certificate of accreditation issued under section 27 authorising the holder to carry out work on a radiation source.

certificate of compliance, for a radiation source or radiation place, means a certificate of compliance issued under section 20 by the holder of a certificate of accreditation authorised to issue it for the source or place.

certificate of registration means a certificate of registration issued under section 27 for the registration of a radiation source or place where a radiation source is used or stored.

code of practice means a code of practice approved under section 55.

contravene includes fail to comply with.

dose, of radiation, means the measure of radiation received by a person or thing.

dose limit means the maximum dose of radiation a person may receive during a particular period.

enter, a place, includes to board the place.

environment means land, air, water, organisms and ecosystems, and includes:

- (a) the well-being of humans;
- (b) structures made or modified by humans;
- (c) the amenity values of an area; and

(d) economic, cultural and social conditions.

executive officer, of a body corporate, means a person who is concerned with, or takes part in, the management of the body corporate, (whether or not the person is a director or the person's position is given the name of executive officer), and includes a constituent member of a body corporate incorporated for a public purpose by a law of the Commonwealth or a State or Territory.

false or misleading includes false or misleading because of the omission of a statement.

guidelines means guidelines issued under section 54.

ionising radiation has the meaning in section 5(2).

licence means a licence issued under section 27 authorising the holder to manufacture, sell, acquire, possess, use, store, transport, dispose of or otherwise deal with a radiation source.

mining site, for Part 3A, see section 47A.

non-ionising radiation has the meaning in section 5(3).

occupier, of a place:

(a) means:

- (i) the person in occupation or control of the place; or
- (ii) if the place has different parts occupied or controlled by different persons – the person in occupation or control of the part concerned; and

(b) for Part 5 – includes a person who reasonably appears to be an occupier of the place.

operator, for Part 3A, see section 47A.

personal radiation exposure record, for Part 3A, see section 47A.

place includes vacant land, premises and a vehicle.

possess, for a radiation source, includes having the source under control in any place, whether or not another person has the custody of the source.

premises includes:

- (a) a building or structure;

- (b) a part of a building or structure; and
- (c) land on which a building or structure is situated.

radiation has the meaning in section 5(1).

radiation apparatus has the meaning in section 6(4).

radiation exposure information, for Part 3A, see section 47A.

radiation place means a place at which a radiation source is or is to be used to carry out a radiation practice.

radiation practice means an activity relating to a radiation source that may result, whether or not intentionally, in exposing a person, animal or thing to radiation.

radiation protection measures means measures for preventing or minimising health risks to any person arising from exposure to radiation from the carrying out of a radiation practice.

radiation protection plan means a plan containing the information prescribed by the Regulations for the radiation practice for which a licensee is authorised to possess a radiation source under the licence.

radiation source has the meaning in section 6(1) and (2).

radiation worker, for Part 3A, see section 47A.

radioactive material has the meaning in section 6(3).

reasonably believes means believes on grounds that are reasonable in the circumstances.

reasonably suspects means suspects on grounds that are reasonable in the circumstances.

Regulations means the Regulations made under this Act.

review notice, for a decision of the Chief Health Officer, means a written notice stating the following:

- (a) the decision;
- (b) the reasons for the decision;
- (c) the person given the notice may apply for a review of the decision to the Local Court within 28 days after receipt of the notice.

sealed source means radioactive material that is permanently sealed in a capsule, or closely bound and in a solid form, in a way that the sealing of the capsule or binding of the material is strong enough to maintain leak tightness under the conditions of use and wear for which the source is designed and for foreseeable mishaps.

sell includes:

- (a) auction, exchange or supply;
- (b) keep, expose, supply or receive for sale;
- (c) send or deliver for sale;
- (d) dispose of by hire or lease;
- (e) offer or attempt to sell; and
- (f) cause or permit to be sold.

show cause notice means a notice given under section 36.

this Act includes the Regulations and codes of practice.

treated person has the meaning in section 13(1).

unsealed source means a radiation source other than a sealed source.

use, for a radiation source, means actual use by a natural person of radiation emitted from the source, and includes, for a radiation source that is radioactive material, the administration to, or injection or implantation of the material into, a person or animal.

vehicle means anything used for carrying anything or any person by land, water or air.

work, on a radiation source, includes install, test, repair, service and decommission the source.

5 Radiation

- (1) Radiation is ionising radiation or non-ionising radiation.
- (2) Ionising radiation is electromagnetic or particulate radiation capable of producing ions directly or indirectly, but does not include electromagnetic radiation of a wavelength greater than 100 nanometres.
- (3) Non-ionising radiation is electromagnetic radiation of a wavelength greater than 100 nanometres.

6 Radiation source

- (1) A radiation source is:
 - (a) a thing that may emit ionising radiation; or
 - (b) a thing prescribed by the Regulations that may emit non-ionising radiation.
- (2) A radiation source can be radioactive material or a radiation apparatus.
- (3) Radioactive material is material that:
 - (a) spontaneously emits ionising radiation as a consequence of nuclear transformations; and
 - (b) has or exceeds the activity or activity concentration prescribed by the Regulations.
- (4) A radiation apparatus is an apparatus that:
 - (a) produces radiation when energised; or
 - (b) is, if assembled or repaired, capable of producing radiation when energised.

Division 4 Operation of Act

7 Act binds Crown

This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

8 Act does not apply to certain radioactive material

This Act does not apply to radioactive material prescribed by the Regulations if its radioactivity does not exceed the maximum amount prescribed for it in the Regulations.

9 Act does not apply to certain activities

- (1) Subject to subsection (2), section 11 and Part 3A, this Act does not apply to the following activities:
 - (a) a mining activity under the *Mining Management Act 2001* in relation to uranium ores or uranium oxide (U_3O_8);

- (b) the possession, package, storage or transport, under the *Radioactive Ores and Concentrates (Packaging and Transport) Act 1980*, of uranium ores or uranium oxide (U_3O_8).
- (2) Parts 4, 5, 6, 7 and 8 of this Act apply in relation to the activities mentioned in subsection (1) for the administration of section 11 and Part 3A.

10 Exemption from application of Act

- (1) The Chief Health Officer may, by notice in the *Gazette*, exempt a person, radiation source or place from this Act or a provision of this Act.
- (2) The exemption must not be one that could reasonably be expected to pose any, or a more than negligible, threat to the health or safety of persons or threat of harm to the environment.
- (3) The exemption may be given on conditions stated in the notice.
- (4) A person must not contravene a condition of the exemption.

Maximum penalty: If the offender is a natural person –
500 penalty units.

If the offender is a body corporate –
2 500 penalty units.

Part 2 Requirements for radiation sources and related matters

Division 1 General duty relating to radiation sources

11 Duty to ensure harm does not result from radiation source

- (1) A person who manufactures, possesses, uses, stores, transports, disposes of or otherwise deals with a radiation source must take all measures that are reasonable and practicable to ensure the manufacture, possession, use, storage, transport, disposal or other dealing does not result in harm to the health or safety of persons or the environment caused by radiation emitted from the source.

Maximum penalty: If the offender is a natural person –
500 penalty units.

If the offender is a body corporate –
2 500 penalty units.

- (2) Subsection (1) applies to the manufacture, possession, use, storage, transport, disposal or other dealing with a radiation source for carrying out the activities mentioned in section 9.
- (3) Subsection (1) has effect subject to section 13.

Division 2 Licences for dealing with radiation sources

Subdivision 1 Requirement for licence

12 Licence for radiation source

- (1) A person must not manufacture, sell, acquire, possess, use, store, transport, dispose of or otherwise deal with a radiation source other than in accordance with a licence authorising the person to do so.

Maximum penalty: If the offender is a natural person –
1 000 penalty units.

If the offender is a body corporate –
5 000 penalty units.

- (2) For subsection (1), a person is not in possession of radiation material merely because the person, or an animal kept by the person, has been injected with the material, or the material has been administered to or implanted in the person or animal, as part of a diagnostic or therapeutic procedure.

Subdivision 2 Duties of licensees and other persons acting under licences

13 Duty of person carrying out diagnostic or therapeutic procedure

- (1) This section applies if, under a licence, a person uses a radiation source to carry out a diagnostic or therapeutic procedure involving the irradiation of a person (the ***treated person***).
- (2) The person must ensure the treated person does not receive a dose of radiation from the carrying out of the procedure in an amount or a way that does not comply with the request for the diagnostic procedure or prescription for the therapeutic procedure.

Maximum penalty: 1 000 penalty units.

- (3) In addition, if another person involved in carrying out the procedure (other than the treated person) receives a dose of radiation in carrying out the procedure, the person carrying out the procedure must ensure the dose received by the other person is not higher than the dose limit prescribed by the Regulations.

Maximum penalty: 1 000 penalty units.

14 Duty of other persons carrying out radiation practice

- (1) This section applies if, under a licence, the licensee possesses a radiation source for a radiation practice.
- (2) A person who uses the radiation source in carrying out the radiation practice must not cause another person to receive a dose that is higher than the dose limit prescribed by the Regulations.

Maximum penalty: 1 000 penalty units.

- (3) Subsection (2) does not apply if the other person receives the dose while:
- (a) being a treated person; or
 - (b) involved in carrying out a diagnostic or therapeutic procedure involving the irradiation of a person.

15 Duty of licensee to give notification of dangerous event

- (1) This section applies if, under a licence, the licensee possesses a radiation source for a radiation practice and any of the following events (a **dangerous event**) happens:
- (a) the source is, or appears to have been, lost or stolen;
 - (b) there is a radiation incident in relation to the source for which there are no remediation procedures stated in the licensee's approved radiation protection plan for the practice being carried out with the source at the time;
 - (c) equipment that uses, measures or controls radiation emitted from the source malfunctions with the result or likely result that:
 - (i) there is or will be an unintended emission of the radiation; or
 - (ii) a person is or will be unintentionally exposed to the radiation.

- (2) The licensee must give the Chief Health Officer notice, as required under subsections (3) and (4), of the dangerous event unless the licensee has a reasonable excuse.

Maximum penalty: If the offender is a natural person –
1 000 penalty units.

If the offender is a body corporate –
5 000 penalty units.

- (3) The notice must:
- (a) be given immediately, orally or in writing; and
 - (b) state enough particulars to identify the source and, if known, its location.
- (4) If the notice is given orally, the licensee must give the Chief Health Officer a written notice confirming the oral notice within 7 days after the dangerous event happens.
- (5) In this section:

radiation incident means an incident adversely affecting, or likely to adversely affect, the health or safety of any person because of the emission of radiation.

remediation procedures, for a radiation incident, means procedures designed to minimise the radiation hazard arising from the incident.

Division 3 Registration of radiation sources and places where radiation sources are used or stored

16 Registration of radiation source

The owner of a radiation source must hold a certificate of registration for the source.

Maximum penalty: If the offender is a natural person –
1 000 penalty units.

If the offender is a body corporate –
5 000 penalty units.

17 Registration of place where radiation source used or stored

The occupier of a place where a radiation source is used or stored must hold a certificate of registration for the place.

Maximum penalty: If the offender is a natural person –
1 000 penalty units.

If the offender is a body corporate –
5 000 penalty units.

Division 4 Accreditations for radiation sources and radiation places

18 Accreditation to carry out work on radiation source

A person must not carry out any work on a radiation source unless the person is the holder of a certificate of accreditation authorising the person to do so.

Maximum penalty: 1 000 penalty units.

19 Accreditation to issue certificate of compliance

- (1) A person must not issue a certificate of compliance for a radiation source unless the person is the holder of a certificate of accreditation authorising the person to carry out work on the source.

Maximum penalty: If the offender is a natural person –
1 000 penalty units.

If the offender is a body corporate –
5 000 penalty units.

- (2) A person must not issue a certificate of compliance for a radiation place unless the person is the holder of a certificate of accreditation authorising the person to carry out work on the radiation source that is or is to be used to carry out a radiation practice at the place.

Maximum penalty: If the offender is a natural person –
1 000 penalty units.

If the offender is a body corporate –
5 000 penalty units.

Division 5 Certificates of compliance for radiation sources and radiation places

20 Issue of certificate of compliance

- (1) The holder of a certificate of accreditation may issue a certificate of compliance for:
 - (a) a radiation source used or to be used to carry out a radiation practice; or
 - (b) a radiation place.
- (2) A certificate of compliance must be in the approved form.
- (3) However, the holder must not issue a certificate of compliance for a radiation source or radiation place unless the holder is satisfied:
 - (a) for a radiation source that is a sealed source – the capsule sealing it or, if it is closely bound and in a solid form, the way in which it is bound, complies with the applicable code of practice;
 - (b) for a radiation source that is an unsealed source – the doses from the source comply with the applicable code of practice; or
 - (c) for a radiation place – the place complies with the applicable code of practice.

21 Testing of radiation source

- (1) This section applies if, under a condition of an authority, the holder is required to have a radiation source to which the authority relates tested for compliance with the applicable code of practice.
- (2) The holder must ensure the test is carried out at the times required by the condition by the holder of a certificate of accreditation authorised to carry out work on the radiation source.

22 Inspection of radiation place

- (1) This section applies if, under a condition of an authority, the holder is required to have a radiation place to which the authority relates inspected for compliance with the applicable code of practice.
- (2) The holder must ensure the inspection is carried out at the times required by the condition by the holder of a certificate of accreditation authorised to carry out work on the radiation source used to carry out a radiation practice at the place.

23 Result of test or inspection to be given to Chief Health Officer

Within one month after receiving the result of a test or inspection under section 21 or 22, the holder of the authority must give the Chief Health Officer a copy of the certificate of compliance or other result of the test or inspection.

Maximum penalty: If the offender is a natural person –
20 penalty units.

If the offender is a body corporate –
100 penalty units.

Division 6 Banned radiation sources

24 Possession, use or supply of banned radiation source

A person must not possess, use or supply a radiation source that is prescribed by the Regulations to be a banned radiation source.

Maximum penalty: If the offender is a natural person –
1 000 penalty units.

If the offender is a body corporate –
5 000 penalty units.

Part 3 Licensing, registration and accreditation

Division 1 Applications for, and issue of, authorities

25 Application

- (1) An application for an authority must be:
 - (a) made to the Chief Health Officer in the approved form;
 - (b) accompanied by sufficient documents and information to enable the Chief Health Officer to decide the application, including the documents and information stated in the approved form; and
 - (c) accompanied by the fee prescribed by the Regulations.
- (2) Without limiting subsection (1)(b), the application must be accompanied by the following:
 - (a) for an application for a licence or certificate of registration – a certificate of compliance for the radiation source or radiation place to which the authority relates;

- (b) for an application for a licence to possess a radiation source to carry out a radiation practice – the proposed radiation protection plan for the radiation practice.

26 Consideration of application

- (1) The Chief Health Officer may, by written notice, require the applicant to give the Chief Health Officer further documents or information within the reasonable period stated in the notice.
- (2) The Chief Health Officer must consider the application having regard to applicable guidelines.
- (3) The Chief Health Officer must either grant, or refuse to grant, the application.
- (4) The Chief Health Officer may grant the application only if:
 - (a) the Chief Health Officer is satisfied the applicant is a suitable person to hold the authority having regard to criteria prescribed by the Regulations; and
 - (b) for an application for a licence or certificate of registration – a certificate of compliance is provided for the radiation source or radiation place to which the authority relates.

27 Decision on application

- (1) If the Chief Health Officer grants the application, the Chief Health Officer must immediately issue the authority applied for to the applicant.
- (2) The Chief Health Officer may issue the authority subject to the reasonable conditions stated in it.
- (3) Without limiting subsection (2), conditions may be imposed about the following:
 - (a) compliance with a stated code of practice applicable to the holder's activities under the authority;
 - (b) radiation monitoring to be carried out by the holder;
 - (c) testing the radiation source, or inspection of the radiation place, to which the authority relates;

- (d) for a licence to possess a radiation source to carry out a radiation practice:
 - (i) radiation protection measures to be taken by the holder under an approved radiation protection plan applicable to the radiation practice; or
 - (ii) changing the holder's approved radiation protection plan.
- (4) If the Chief Health Officer refuses to grant the application or issues the authority subject to stated conditions, the Chief Health Officer must immediately give the applicant a review notice for the decision.

28 Approval of radiation protection plan

If the Chief Health Officer issues a licence to possess a radiation source, the Chief Health Officer is taken to have approved the radiation protection plan identified in the licence.

29 Duration

- (1) A licence remains in force for the period, not longer than 3 years, stated in it.
- (2) A certificate of registration of a radiation source or place remains in force until:
 - (a) if the holder of the certificate is a natural person – the person dies; or
 - (b) if the holder of the certificate is a body corporate – the body corporate ceases to exist.
- (3) A certificate of accreditation remains in force for the period, not longer than 3 years, stated in it.

Division 2 Renewal of licences and certificates of accreditation

30 Application

- (1) A licensee or holder of a certificate of accreditation may apply for the renewal of the licensee's licence or holder's certificate of accreditation.
- (2) Division 1 applies (with the necessary changes) to the application as if it were an application for a licence or certificate of accreditation.

31 Authority continues until application decided

If the application is made before the authority ends, the authority continues in force until the application is decided.

Division 3 Variation of conditions of authorities

32 Variation of conditions of authority – Chief Health Officer's initiative

- (1) The Chief Health Officer may decide to vary the conditions of an authority if the Chief Health Officer is satisfied it is necessary to protect persons or the environment from the harmful effects of radiation emitted from the radiation source to which the authority relates.
- (2) Before deciding to vary the conditions, the Chief Health Officer must:
 - (a) give written notice to the holder of the authority:
 - (i) of the particulars of the proposed variation; and
 - (ii) that the holder may make written submissions to the Chief Health Officer about the proposed variation within a reasonable period of at least 21 days stated in the notice; and
 - (b) have regard to written submissions made to the Chief Health Officer by the holder before the stated day.
- (3) If the Chief Health Officer varies the conditions of the authority, the Chief Health Officer must immediately give the holder a review notice for the decision.
- (4) The variation of conditions takes effect when the review notice is given to the holder and does not depend on the authority being amended to record the variation or a replacement authority being issued.
- (5) The power of the Chief Health Officer under subsection (1) includes the power to omit or substitute some or all of the conditions and the addition of further conditions.

33 Variation of conditions of authority – application by holder

- (1) The holder of an authority may apply to the Chief Health Officer for the variation of conditions of the authority.

- (2) The application must be:
 - (a) in the approved form;
 - (b) accompanied by sufficient documents and information to enable the Chief Health Officer to decide the application, including the documents and information stated in the approved form; and
 - (c) accompanied by the fee prescribed by the Regulations.
- (3) The Chief Health Officer may, by written notice, require the applicant to give the Chief Health Officer further documents or information within the reasonable period stated in the notice.
- (4) The Chief Health Officer must consider the application having regard to applicable guidelines.
- (5) The Chief Health Officer must either grant, or refuse to grant, the application.
- (6) If the Chief Health Officer grants the application, the Chief Health Officer must immediately give the holder notice of the decision.
- (7) The variation of conditions takes effect when the notice is given to the holder and does not depend on the authority being amended to record the variation or a replacement authority being issued.
- (8) If the Chief Health Officer refuses to grant the application, the Chief Health Officer must immediately give the applicant a review notice for the decision.

34 Recording variation of conditions

- (1) This section applies if the holder of an authority receives a review notice under section 32(3) or a notice under section 33(6).
- (2) The holder must return the authority to the Chief Health Officer within 14 days after receiving the notice unless the holder has a reasonable excuse.

Maximum penalty:	If the offender is a natural person – 20 penalty units.
	If the offender is a body corporate – 100 penalty units.

- (3) On receiving the authority, the Chief Health Officer must:
- (a) amend the authority to give effect to the variation and return the authority to the holder; or
 - (b) if the Chief Health Officer is satisfied it is not practicable to amend the authority – issue a replacement authority incorporating the variation and send it to the holder.

Division 4 Suspension and cancellation of authorities

35 Grounds for suspending or cancelling authority

Each of the following is a ground for suspending or cancelling an authority:

- (a) the holder of the authority has not complied with a condition of the authority;
- (b) the holder has been found guilty of an offence against this Act;
- (c) the holder has contravened a provision of this Act, a contravention of which is not an offence against this Act;
- (d) the authority was issued or renewed because of a materially false or misleading representation;
- (e) becomes aware of information that, if it had been known by the Chief Health Officer when the application for the authority or its renewal was granted, the Chief Health Officer would have refused the application;
- (f) for a licence or certificate of registration – it is necessary to protect persons or the environment from the harmful effects of radiation emitted from the radiation source to which the authority relates;
- (g) for a licence or accreditation – the holder is not, or is no longer, a suitable person to hold the authority.

36 Show cause notice

- (1) If the Chief Health Officer believes a ground exists to suspend or cancel an authority, the Chief Health Officer must give the holder of the authority written notice under this section.
- (2) The notice must state the following:
 - (a) the action (the ***proposed action***) the Chief Health Officer proposes taking under this Division;

- (b) the grounds for the proposed action;
 - (c) an outline of the facts and circumstances forming the basis for the grounds;
 - (d) if the proposed action is suspension of the authority – the proposed suspension period;
 - (e) an invitation to the holder to show cause within a stated period why the proposed action should not be taken.
- (3) For subsection (2)(e), the period must not be less than 28 days after the notice is given to the holder.

37 Representations about show cause notices

- (1) The holder of the authority may make written representations about the show cause notice to the Chief Health Officer in the period stated in the notice.
- (2) The Chief Health Officer must consider all written representations made under subsection (1) (the ***accepted representations***).

38 Ending show cause process without further action

If, after considering the accepted representations for the show cause notice, the Chief Health Officer no longer believes a ground exists to suspend or cancel the authority the Chief Health Officer:

- (a) must not take any further action about the show cause notice; and
- (b) must give written notice to the holder of the authority that no further action is to be taken about the show cause notice.

39 Suspension or cancellation

- (1) This section applies if:
 - (a) after considering the accepted representations for the show cause notice, the Chief Health Officer:
 - (i) still believes a ground exists to suspend or cancel the authority; and
 - (ii) believes suspension or cancellation of the authority is warranted; or
 - (b) there are no accepted representations for the show cause notice.

- (2) The Chief Health Officer may:
 - (a) if the proposed action stated in the show cause notice was to suspend the authority for a stated period – suspend the authority for not longer than the stated period; or
 - (b) if the proposed action stated in the show cause notice was to cancel the authority – either cancel the authority or suspend it for a period.
- (3) The Chief Health Officer must immediately give a review notice for the decision to the holder of the authority.
- (4) The decision takes effect on:
 - (a) the day the review notice is given to the holder; or
 - (b) if a later day of effect is stated in the review notice – the later day.

40 Return of cancelled authority to Chief Health Officer

If the Chief Health Officer has cancelled an authority and given a review notice for the decision to the holder of the authority, the holder must return the authority to the Chief Health Officer within 14 days after receiving the review notice unless the holder has a reasonable excuse.

Maximum penalty: If the offender is a natural person –
20 penalty units.

If the offender is a body corporate –
100 penalty units.

41 Immediate suspension of authority pending formal cancellation procedure

- (1) This section applies if the Chief Health Officer is satisfied:
 - (a) a ground exists to cancel a licence or certificate of registration;
and
 - (b) it is necessary, to protect persons or the environment from the harmful effects of radiation emitted from the radiation source to which the authority relates, to immediately suspend the authority until the formal cancellation procedure is completed.
- (2) This section also applies if the Chief Health Officer is satisfied:
 - (a) a ground exists to cancel a certificate of accreditation; and

- (b) it is necessary, to protect persons or the environment from the harmful effects of radiation, to immediately suspend the authority of the holder of the certificate to carry out work on radiation sources or to issue certificates of compliance for radiation sources or radiation places until the formal cancellation procedure is completed.
- (3) The Chief Health Officer may immediately suspend the authority.
- (4) The Chief Health Officer must immediately give a review notice for the decision to the holder of the authority.
- (5) The suspension takes effect immediately the review notice for the decision is given to the holder.
- (6) If, within 14 days after the Chief Health Officer suspends the authority, the Chief Health Officer gives the holder a show cause notice, the suspension lasts until the first of the following occurs:
 - (a) the Chief Health Officer cancels the suspension;
 - (b) a decision to cancel the authority takes effect;
 - (c) a decision is made not to cancel the authority.
- (7) If a show cause notice is not given to the holder within the period mentioned in subsection (6), the suspension lapses at the end of the period unless the Chief Health Officer has already cancelled the suspension.

Division 5 Miscellaneous provisions

42 Surrender of authority

- (1) The holder of an authority may surrender the authority by written notice given to the Chief Health Officer.
- (2) The surrender takes effect on:
 - (a) the day the notice is given to the Chief Health Officer; or
 - (b) if a later day of effect is stated in the notice – the later day.

- (3) The holder must return the authority to the Chief Health Officer within 14 days after the day the surrender takes effect unless the holder has a reasonable excuse.

Maximum penalty: If the offender is a natural person –
20 penalty units.

If the offender is a body corporate –
100 penalty units.

43 Replacement of authority

- (1) The holder of an authority may apply to the Chief Health Officer for the replacement of the instrument if it has been lost, stolen or destroyed.
- (2) The Chief Health Officer must consider the application and either grant or refuse to grant the application.
- (3) If the Chief Health Officer grants the application, the Chief Health Officer must immediately issue a replacement authority to the applicant.
- (4) If the Chief Health Officer refuses to grant the application, the Chief Health Officer must immediately give the applicant a review notice for the decision.

44 Failure to decide application

- (1) Subject to subsections (2) and (3), if the Chief Health Officer fails to decide an application under Division 1, 2 or 3 within 90 days after its receipt, the failure is taken to be a decision by the Chief Health Officer to refuse to grant the application.
- (2) Subsection (3) applies if the Chief Health Officer has, by notice given under section 26(1) or 33(3), required the applicant to give the Chief Health Officer further documents or information within the period stated in the notice.
- (3) The Chief Health Officer is taken to have refused to grant the application if the Chief Health Officer does not decide the application within 90 days after the end of the period stated in the notice.

45 Contravention of condition

The holder of an authority must not contravene a condition of the authority.

Maximum penalty: If the offender is a natural person –
1 000 penalty units.

If the offender is a body corporate –
5 000 penalty units.

46 Transfer of authority prohibited

An authority cannot be transferred.

47 Holder of authority to give notice of prescribed change

The holder of an authority must, within 14 days after a change in any of the particulars contained in the authority happens, give written notice to the Chief Health Officer of the change.

Maximum penalty: If the offender is a natural person –
20 penalty units.

If the offender is a body corporate –
100 penalty units.

Part 3A Monitoring and recording of personal radiation exposure on mining sites**47A Definitions**

In this Part:

mining site means a mining site, as defined in section 4 of the *Mining Management Act 2001*, that is prescribed by the Regulations.

operator, for a mining site, see section 4 of the *Mining Management Act 2001*.

personal radiation exposure record means a record kept under section 47C.

radiation exposure information means any of the following:

- (a) information contained in a personal radiation exposure record;
- (b) the results of monitoring conducted under section 47B;

- (c) information in relation to a person's exposure to radiation obtained by monitoring conducted by an operator before the commencement of this Part.

radiation worker means a worker, as defined in section 4 of the *Mining Management Act 2001*, who is in a class of workers prescribed by the Regulations to be radiation workers.

47B Monitoring of exposure to radiation

The operator for a mining site must conduct monitoring or testing in relation to exposure to radiation for each radiation worker who works on the mining site as required by the Regulations.

Maximum penalty: If the offender is a natural person –
200 penalty units.

If the offender is a body corporate –
1 000 penalty units.

47C Operator to keep personal radiation exposure records for radiation workers

- (1) The operator for a mining site must maintain an up-to-date personal radiation exposure record for each radiation worker who works on the mining site.

Maximum penalty: If the offender is a natural person –
100 penalty units.

If the offender is a body corporate –
500 penalty units.

- (2) The personal radiation exposure record for a radiation worker must:

- (a) include the information prescribed by the Regulations; and
(b) be kept in the form and manner prescribed by the Regulations.

- (3) The operator must keep a personal radiation exposure record for the period prescribed by the Regulations.

Maximum penalty: If the offender is a natural person –
100 penalty units.

If the offender is a body corporate –
500 penalty units.

47D Reporting

(1) The operator for a mining site must give information relating to this Part as prescribed by the Regulations to the following persons:

- (a) the CEO of ARPANSA within the meaning of the *Australian Radiation Protection and Nuclear Safety Act 1998* (Cth);
- (b) the Chief Health Officer.

Maximum penalty: If the offender is a natural person –
100 penalty units.

If the offender is a body corporate –
500 penalty units.

(2) For subsection (1), information relating to this Part includes radiation exposure information.

47E Persons on mining site to facilitate compliance by operator

A person on a mining site must comply, so far as the person is reasonably able, with any reasonable instruction given by the operator for the mining site for the purpose of enabling the operator to comply with this Part.

Maximum penalty: If the offender is a natural person –
20 penalty units.

If the offender is a body corporate –
100 penalty units.

47F Access to records and information for radiation workers

(1) The operator for a mining site must give a person access to, or a copy of, radiation exposure information about the person on request.

Maximum penalty: If the offender is a natural person –
100 penalty units.

If the offender is a body corporate –
500 penalty units.

- (2) The operator for a mining site must give information about the operation and effect of this Part to radiation workers and other persons as required by the Regulations.

Maximum penalty: If the offender is a natural person –
100 penalty units.

If the offender is a body corporate –
500 penalty units.

47G Confidentiality

- (1) A person who has access to radiation exposure information must not directly or indirectly disclose that information to another person.

Maximum penalty: If the offender is a natural person –
500 penalty units.

If the offender is a body corporate –
2 500 penalty units.

- (2) Subsection (1) does not apply to a person disclosing the information:

(a) with the consent of the person to whom the information relates; or

(b) for the administration of this Act; or

(c) for legal proceedings arising out of the operation of this Act; or

(d) in a statistical form that does not identify any person to whom the information relates; or

(e) in accordance with the Minister's authorisation under subsection (3); or

(f) as otherwise authorised or required by law.

- (3) The Minister may, in writing, authorise the disclosure of radiation exposure information to a stated person for a stated purpose if, before disclosing the information, the Minister takes reasonable steps to protect the privacy of persons to whom the information relates.

- (4) For subsection (3), a stated person may be:

(a) a named person; or

(b) a person holding or occupying a stated office, position or designation; or

- (c) the person from time to time holding or occupying a stated office, position or designation.

Part 4 Administration

Division 1 Authorised officers

48 Appointment

- (1) The Chief Health Officer may appoint an employee within the meaning of the *Public Sector Employment and Management Act 1993* to be an authorised officer.
- (2) However, an appointment under subsection (1) may be made only if the Chief Health Officer is satisfied the employee has the necessary expertise or experience to be an authorised officer.

49 Appointment conditions and limit on powers

- (1) An authorised officer holds office on the conditions stated in the officer's instrument of appointment.
- (2) The powers of an authorised officer may be limited under the Regulations.

50 Identity cards

- (1) The Chief Health Officer must issue an identity card to each authorised officer.
- (2) The identity card must:
- (a) state the officer's name;
 - (b) contain a recent photograph of the officer; and
 - (c) be signed by the officer.
- (3) This section does not prevent the issue of a single identity card to a person for this and another Act.

51 Production of identity card

An authorised officer exercising a power or performing a function under this Act in relation to a person must, if asked by the person, produce the officer's identity card for the person's inspection.

52 Return of identity card

A person who ceases to be an authorised officer must return the person's identity card to the Chief Health Officer within 21 days after ceasing to be an authorised officer unless the person has a reasonable excuse.

Maximum penalty: 20 penalty units.

Division 2 Other matters of administration

53 Delegation

- (1) The Chief Health Officer may delegate in writing to a person any of the Chief Health Officer's powers or functions under this Act.
- (2) However, the Chief Health Officer may delegate a power or function only to a person the Chief Health Officer is satisfied has the appropriate qualifications or experience to exercise the power or perform the function.

54 Guidelines

- (1) The Chief Health Officer may issue guidelines under this section about administrative matters for this Act.
- (2) Without limiting subsection (1), guidelines may be issued about the following:
 - (a) the type of information to be included in or accompany an application for an authority;
 - (b) assessing an application for an authority.
- (3) Guidelines may apply, adopt or incorporate (wholly or partly and with or without modification) a document as in force at a particular time.
- (4) The Chief Health Officer must publish notice in the *Gazette* of the issue of guidelines.
- (5) The notice must state where copies of issued guidelines may be inspected during normal business hours.
- (6) The Chief Health Officer must ensure copies of issued guidelines are available for inspection, free of charge, at the place stated in the notice.

55 Codes of practice

- (1) The Chief Health Officer may, by notice in the *Gazette*, approve an instrument as in force at a particular time or from time to time as a code of practice relating to any of the following:
 - (a) the manufacturing, selling, acquiring, possessing, using, storing, transporting, disposing of or otherwise dealing with a radiation source;
 - (b) standards of compliance for:
 - (i) a radiation source for carrying out a radiation practice; or
 - (ii) a radiation place.
- (2) The notice must state where copies of the code of practice may be inspected during normal business hours.
- (3) The Chief Health Officer must ensure copies of the code of practice are available for inspection, free of charge, at the place stated in the notice.
- (4) A contravention of a code of practice does not of itself constitute an offence against this Act.

56 Protection from liability

- (1) This section applies to a person who is or has been:
 - (a) the Chief Health Officer;
 - (b) an authorised officer; or
 - (c) a person assisting an authorised officer under Part 5.
- (2) The person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act.
- (3) Subsection (2) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.

57 Confidentiality

- (1) This section applies to a person who is or has been:
 - (a) the Chief Health Officer;
 - (b) an authorised officer;

- (c) a person assisting an authorised officer under Part 5; or
 - (d) another person involved in the administration this Act.
- (2) The person must not directly or indirectly do any of the following:
- (a) make a record of, or disclose to another person, information acquired by the person because of the person's involvement in the administration of this Act;
 - (b) give another person, or permit another person to have access to, a document given to the person for the administration of this Act.

Maximum penalty: 500 penalty units.

- (3) However, subsection (2) does not apply:
- (a) to the extent it is necessary for the person to do the thing for this Act; or
 - (b) if the person is authorised or required by law to do the thing.

Part 5 Enforcement

Division 1 Preliminary

58 When thing connected with offence

For this Part, a thing is connected with an offence if:

- (a) the offence has been committed in relation to the thing;
- (b) the thing will afford evidence of the commission of the offence;
or
- (c) the thing was used, is being used or is intended to be used for the purpose of committing the offence.

Division 2 Powers of authorised officers to enter places

59 Entry of place – general

- (1) For the administration or enforcement of this Act, an authorised officer may enter:
- (a) a place (other than residential premises) at any reasonable time; or

(b) any place at any time with the consent of the occupier of the place.

(2) An authorised officer who enters a place under subsection (1) must not remain on the place if, asked by the occupier of the place, the officer does not produce the officer's identity card.

60 Consent to entry

(1) An authorised officer seeking the consent of an occupier of a place to the officer's entry into or onto the place must:

(a) show the officer's identity card to the occupier;

(b) give the occupier the reasons why entry is sought; and

(c) inform the occupier that the occupier may refuse to give consent.

(2) If an authorised officer obtains consent from the occupier to enter the place, the officer must ask the occupier to sign a notice of consent in the approved form.

(3) If:

(a) it is material in proceedings for a court to be satisfied the occupier consented to entry under this Division; and

(b) a notice of consent is not produced in evidence,

the court may presume, in the absence of evidence to the contrary, the occupier did not give consent.

61 Entry of place – search warrant

(1) An authorised officer may apply to a Local Court Judge, by information on oath, for a search warrant for a place if the officer reasonably believes an offence against this Act is about to be, is being or has been committed in or on the place.

(2) The Local Court Judge may issue a search warrant only if satisfied about the matters set out in the information.

(3) The warrant authorises the officer named in the warrant and any other person assisting the officer, with force if necessary, to enter the place and to exercise an authorised officer's powers under this Part.

(4) The warrant must state:

(a) the purpose for which it is issued;

- (b) the nature of the offence or contravention for which the entry is authorised;
 - (c) the hours during which entry to the place is authorised or state that the entry is authorised at any time of the day or night; and
 - (d) the date, within 30 days after the warrant's issue, the warrant ceases to have effect.
- (5) The authorised officer executing the warrant must, if asked by the occupier of the place or another person on the place, produce the warrant for the person's inspection.

62 Entry of place – emergency

- (1) This section applies if an authorised officer is reasonably satisfied:
- (a) there is a radiation source on a place; and
 - (b) it is necessary to exercise powers under this Part:
 - (i) to avoid or minimise an imminent risk of death or serious illness of, or serious injury to, any person from radiation emitted from the source; or
 - (ii) to avoid imminent serious harm to the environment from the source.
- (2) The officer may enter the place without a warrant or the consent of the occupier of the place.
- (3) An authorised officer who enters a place under subsection (2) must not remain on the place if, asked by the occupier of the place, the officer does not produce the officer's identity card.

63 Additional powers for entry of vehicle

For entering a vehicle under this Division, an authorised officer may require a person:

- (a) to stop, move or not to move the vehicle; or
- (b) to bring the vehicle to a stated place and remain in control of the vehicle until the officer permits the vehicle to depart.

Division 3 Powers of authorised officers on entry of places

64 Powers on entry of place

- (1) An authorised officer who enters a place under Division 2 may do any of the following:
- (a) inspect or examine the place or anything found in or on the place;
 - (b) break open and search fixtures and fittings, furniture and furnishings or boxes, packages and other containers found in or on the place;
 - (c) take measurements of, or conduct tests in relation to, the place or anything found in or on the place;
 - (d) take photographs, films or audio, video or other recordings of the place or anything found in or on the place;
 - (e) take and remove from the place samples for analysis of anything found in or on the place;
 - (f) if the place is a vehicle – subject to section 65, seize it;
 - (g) subject to section 65, seize anything found in or on the place;
 - (h) take copies of or extracts from documents found in or on the place;
 - (i) require a person in or on the place to:
 - (i) answer questions or provide information;
 - (ii) make available documents kept on the place; or
 - (iii) give the officer reasonable help to exercise powers under this section;
 - (j) direct a person apparently in charge of a machine or other equipment found in or on the place not to operate the machine or other equipment:
 - (i) until stated repairs have been made; or
 - (ii) until the machine or other equipment meets stated requirements;

- (k) direct the occupier of the place to do the following until the period stated in the direction or an extension of that period (neither period exceeding 14 days) has expired:
 - (i) to stop using a thing found in or on the place and to store it in a stated way;
 - (ii) to use a thing found in or on the place in a stated way and in no other way;
 - (l) direct the occupier of the place not to remove a stated thing found in or on the place for the period (not exceeding 14 days) stated in the direction;
 - (m) destroy or render harmless, or direct the occupier of the place to destroy or render harmless, a thing found in or on the place that poses, or is likely to pose, a threat to the health or safety of persons or a threat of harm to the environment.
- (2) After taking a sample under subsection (1)(e) or seizing a thing under subsection (1)(f) or (g), the officer must give a receipt for the sample or thing to:
- (a) the occupier of the place; or
 - (b) the person who the officer reasonably believes was in possession of the sample or thing immediately before it was taken or seized.
- (3) A requirement or direction under subsection (1) must be given by written notice.
- (4) However, if the officer has entered the place under section 62, the requirement or direction may be given orally but the officer must as soon as practicable confirm the requirement or direction by written notice given to the person.
- (5) When making the requirement or giving the direction, the officer must inform the person that it is an offence not to comply with the requirement or direction unless the person has a reasonable excuse.

- (6) The person must comply with the requirement or direction unless the person has a reasonable excuse.

Maximum penalty for an offence against subsection (6): If the offender is a natural person – 500 penalty units.

If the offender is a body corporate –
2 500 penalty units.

65 Seizure of things

- (1) An authorised officer may seize a thing under section 64(1)(f) or (g) only if the officer reasonably believes the thing:
- (a) is connected with an offence against this Act and the seizure is necessary to prevent the thing from being:
 - (i) concealed, lost, damaged or destroyed; or
 - (ii) used to commit the offence;
 - (b) is connected with an offence against this Act and the seizure is necessary to conduct tests for adducing evidence for a prosecution for the offence; or
 - (c) poses a threat to the health or safety of persons or a threat of harm to the environment.
- (2) After seizing the thing, the officer may:
- (a) take, or direct another person to take, the thing to the place stated by the officer; or
 - (b) give the directions about the handling and storage of the thing the officer considers appropriate.
- (3) A person must not, without the written consent of the Chief Health Officer:
- (a) interfere with or dispose of the seized thing; or
 - (b) remove the seized thing from the place in or on which it was seized or to which it was taken by or under the direction of the officer.

Maximum penalty: If the offender is a natural person –
100 penalty units.

If the offender is a body corporate –
500 penalty units.

66 Retention of things seized

- (1) The following provisions apply in relation to a thing seized because it is connected with an offence against this Act:
 - (a) it must be held by the authorised officer for adducing evidence for a prosecution for an offence against this Act unless the Chief Health Officer authorises its release to its owner or the person who had possession of it immediately before its seizure;
 - (b) if a prosecution for an offence against this Act is started within 12 months after the seizure and the defendant is found guilty, the court may order that it be forfeited to the Territory;
 - (c) the officer must release it to its owner or the person who had possession of it immediately before its seizure if:
 - (i) a prosecution for an offence against this Act is not started within 12 months after the seizure; or
 - (ii) on a prosecution being started within that period, the defendant is not found guilty or the court does not make an order under paragraph (b).
- (2) If a radiation source is forfeited to the Territory under subsection (1)(b), the Territory does not contravene a provision of this Act merely because of its possession of the source.
- (3) The following provisions apply in relation to a thing that is seized because it poses a threat to the health or safety of persons or a threat of harm to the environment:
 - (a) the authorised officer must take steps to destroy, bury or otherwise render the thing harmless;
 - (b) once it has been rendered harmless, unless it has been destroyed or buried, the officer must release it to its owner or the person who had possession of it immediately before its seizure.

67 Authorised officer may use help and force in exercising powers

An authorised officer may exercise a power under this Part with the help, and using the force, that is reasonable in the circumstances.

Division 4 Other powers of authorised officers

68 Power to require name and address

- (1) This section applies if an authorised officer:
 - (a) finds a person committing an offence against this Act;
 - (b) finds a person in circumstances that lead the officer to reasonably suspect the person has just committed an offence against this Act; or
 - (c) has information that leads the officer to reasonably suspect a person has just committed an offence against this Act.
- (2) The officer may require the person to state the person's name and address.
- (3) When making the requirement, the officer must inform the person that it is an offence not to comply with the requirement unless the person has a reasonable excuse.
- (4) The officer may require the person to give evidence of the correctness of the person's name or address if the officer reasonably suspects the name or address given is false.
- (5) The person must comply with the officer's requirement under subsection (2) or (4) unless the person has a reasonable excuse.

Maximum penalty: 100 penalty units.

69 Power to require information from certain persons

- (1) If an authorised officer reasonably suspects:
 - (a) an offence against this Act has been committed; and
 - (b) a person may be able to give information about the offence.
- (2) The officer may require the person to give information about the suspected offence.
- (3) When making the requirement, the officer must inform the person it is an offence to fail to give the information unless the person has a reasonable excuse.

- (b) omit from a statement made to the Chief Health Officer or an authorised officer anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

- (2) It is enough for a complaint against a person for an offence against subsection (1)(a) to state the statement was, without specifying which, **false or misleading** to the person's knowledge.

72 Obstruction etc of authorised officer

- (1) A person must not, without reasonable excuse, obstruct an authorised officer in the exercise of an authorised officer's powers under this Part.

Maximum penalty: If the offender is a natural person –
100 penalty units or imprisonment for 6 months.

 If the offender is a body corporate –
500 penalty units.

- (2) In this section:

obstruct includes hinder and resist.

73 Impersonation of authorised officer

A person must not pretend to be an authorised officer.

Maximum penalty: 400 penalty units or imprisonment for 6 months.

74 Acquisition on just terms

If, but for this section, property is acquired under this Part other than on just terms:

- (a) the person from whom the property is acquired is entitled to receive just compensation for the acquisition; and
- (b) a court of competent jurisdiction may determine the amount of the compensation or make the orders necessary to ensure the compensation is on just terms.

Part 6 Reviews**75 Application for review**

- (1) A person who is given, or entitled to be given, a review notice for a decision of the Chief Health Officer may apply to the Local Court for a review of the decision.
- (2) The application must:
 - (a) be made within 28 days after:
 - (i) if the person receives a review notice for the decision – the day the person receives the notice; or
 - (ii) if subparagraph (i) does not apply – the day the person becomes aware of the decision; and
 - (b) state fully the grounds on which it is made.

76 Review by Local Court

- (1) On receipt of the application, the Local Court must review the merits of the decision.
- (2) The review must be by way of hearing de novo.

77 Operation and implementation of decision

- (1) The application does not affect the operation or implementation of the decision.
- (2) However, the Local Court may make an order staying or otherwise affecting the operation or implementation of so much of the decision as the Court considers appropriate to effectively hear and decide the application.
- (3) The order:
 - (a) is subject to any conditions stated in it; and
 - (b) has effect:
 - (i) for the period stated in it; or
 - (ii) if no period is stated in it – until the Court has decided the application.

78 Decision on review

- (1) On reviewing the decision, the Local Court must make an order:
 - (a) confirming the decision;
 - (b) varying the decision; or
 - (c) setting the decision aside and substituting its own decision.
- (2) If the Court makes an order under subsection (1)(b) or (c), the varied or substituted decision is, for this Act (other than this Part), taken to be the Chief Health Officer's decision.

Part 7 Legal proceedings

Division 1 Evidentiary provisions

79 Application of Division

This Division applies to a proceeding under this Act.

80 Signatures

A signature purporting to be the signature of the Chief Health Officer or an authorised officer is evidence of the signature it purports to be.

81 Evidentiary certificates

- (1) A certificate purporting to be signed by the Chief Health Officer stating any of the following matters is evidence of the matter:
 - (a) on a day a person was the Chief Health Officer or an authorised officer;
 - (b) a document is an authority or notice issued or given under this Act;
 - (c) on a day or during a period a person was or was not the holder of an authority;
 - (d) on a day or during a period an authority:
 - (i) was or was not in force; or
 - (ii) was or was not subject to a condition;
 - (e) on a day an authority was suspended or cancelled;

- (f) on a day a person was given a notice under this Act.
- (2) In subsection (1), a reference to a person or thing is a reference to a person or thing stated in the certificate.

Division 2 Criminal liability

82 Conduct of representatives

- (1) If, in a proceeding for an offence against this Act, it is necessary to establish a person's state of mind in relation to particular conduct, it is sufficient to show:
- (a) the conduct was engaged in by a representative of the person, within the scope of the representative's actual or apparent authority; and
- (b) the representative had that state of mind.
- (2) For a proceeding for an offence against this Act, conduct engaged in on behalf of a person by a representative within the scope of the representative's actual or apparent authority is taken to have been engaged in also by the person.
- (3) However, a natural person is not liable to be punished by imprisonment for an offence against this Act if the person would not have been found guilty of the offence if subsection (1) or (2) had not been enacted.
- (4) In this section:

engaging in conduct includes failing or refusing to engage in conduct.

representative means:

- (a) of a body corporate – an executive officer, employee or agent of the body corporate; or
- (b) of a natural person – an employee or agent of the person.

state of mind of a person includes:

- (a) the knowledge, intention, opinion, belief or purpose of the person; and
- (b) the person's reasons for the intention, opinion, belief or purpose.

83 Liability of executive officers of body corporate

- (1) If a body corporate commits an offence against this Act, each of the executive officers of the body corporate is taken to have committed the same offence.
- (2) However, it is a defence for an executive officer to establish:
 - (a) the body corporate would not have been found guilty of the offence because it would have been able to establish a defence;
 - (b) the defendant did not know, and could not reasonably have been expected to know, that the offence was to be or was being committed; or
 - (c) the defendant exercised due diligence to prevent the commission of the offence.
- (3) A proceeding for an offence against this Act may be brought against an executive officer of a body corporate whether or not a proceeding for the offence is brought against the body corporate.
- (4) A person is not liable to be punished by imprisonment for an offence against this Act if the person would not have been found guilty of the offence if subsection (1) had not been enacted.

Division 3 Proceedings generally

84 Time for making complaint

A complaint for an offence against this Act may be made within 12 months after the Agency administering this Act became aware of the commission of the offence.

85 Additional court orders

- (1) This section applies if a court finds a person guilty of an offence against this Act that resulted in loss of or damage to another person's property or harm to the environment.
- (2) In addition to the penalty that may otherwise be imposed for the offence, the court may:
 - (a) order the person to pay to the other person the amount decided by the court as compensation for the loss of or damage to the other person's property or for costs reasonably incurred by the other person in taking action to mitigate or prevent the loss or damage; or

- (b) order the person to pay to the Territory the amount decided by the court to be the reasonable costs and expenses incurred by the Territory in taking action to remedy or mitigate the harm to the environment or to prevent further harm to the environment.
- (3) In addition, the court may make another order the court considers necessary or convenient for the enforcement of an order under subsection (2).

Part 8 Miscellaneous provisions

86 Register

- (1) The Chief Health Officer must keep a register of the following:
 - (a) authorities;
 - (b) exemptions given under section 10;
 - (c) guidelines;
 - (d) codes of practice.
- (2) The register may be in any form, including an electronic form.
- (3) The register of authorities must contain the following particulars:
 - (a) the name and contact details of the holder of the authority;
 - (b) the type of authority.
- (4) The Chief Health Officer must:
 - (a) make the register available for inspection by members of the public during normal business hours; and
 - (b) on written application by a member of the public and payment of the fee prescribed by the Regulations – give the member of the public a copy of an entry in or extract from the register.

87 Approved forms

The Chief Health Officer may approve forms for use under this Act.

88 Service of documents

- (1) A document that is required or permitted under this Act to be given to a person (other than a body corporate) may be given by:
 - (a) delivering it to the person personally;

- (b) sending it by prepaid post to the person's last known place of business or residence or last known postal address;
 - (c) sending it by fax to the person's last known fax number;
 - (d) sending it by email to the person's last known email address;
or
 - (e) leaving it at the person's last known place of business or residence with another person who appears to be at least 16 years old and living or employed there.
- (2) A document that is required or permitted under this Act to be given to a body corporate may be given by:
- (a) delivering it to an executive officer of the body personally;
 - (b) sending it by prepaid post to any of the body's registered offices;
 - (c) sending it by fax to the body's last known fax number;
 - (d) sending it by email to the body's last known email address; or
 - (e) leaving it at any of the body's registered offices or other places of business with a person who appears to be at least 16 years old and employed there.
- (3) A document is taken to be given to a person on:
- (a) if it is sent by prepaid post under subsection (1)(b) or (2)(b) – the date the document would have been delivered in the ordinary course of post;
 - (b) if it is sent by fax or email under subsection (1)(c) or (1)(d) or (2)(c) or (2)(d) – the date the fax or email is sent;
 - (c) if it is left with a person under subsection (1)(e) or (2)(e) – the date it is left with the person; or
 - (d) if the person is a body corporate and it is delivered to an executive officer of the body under subsection (2)(a) – the date it is delivered to the officer.

89 Regulations

- (1) The Administrator may make regulations under this Act.
- (2) The Regulations may provide for any of the following:
 - (a) the disposal of radiation sources;

- (b) radiation protection measures;
 - (c) radiation monitoring required to be carried out by persons;
 - (d) the records to be kept and returns to be made by persons and the inspection of the records;
 - (e) the application, adoption or incorporation (wholly or partly and with or without modification) of a document as in force at a particular time or from time to time;
 - (f) fees payable, and the refund (wholly or partly) of fees paid, under this Act;
 - (g) the establishment of a body to advise the Chief Health Officer on matters relating to the administration of this Act and the business and conduct of meetings of the body, including:
 - (i) the times and places of meetings;
 - (ii) the quorum for meetings;
 - (iii) the presiding member at meetings; and
 - (iv) the disclosure of a member's interest before meetings;
 - (h) the designation of an offence against the Regulations as a regulatory offence;
 - (i) penalties for offences against the Regulations not exceeding 100 penalty units for a natural person and 500 penalty units for a body corporate;
 - (j) the payment of a prescribed amount instead of a penalty that may otherwise be imposed for an offence against this Act, the service of a notice for payment of the amount on a person alleged to have committed the offence and the particulars to be included in the notice.
- (3) The Regulations may provide for the review of a decision made under the Regulations and, for that purpose, the Regulations may confer jurisdiction on the Local Court.
- (4) The Regulations may:
- (a) make different provision in relation to:
 - (i) different persons or matters; or
 - (ii) different classes of persons or matters; or

Part 9	Repeals, transitional provisions, consequential amendments and other provisions
Division 3	Transitional provisions for repealed Radiation Safety Control Act

(b) apply differently by reference to stated exceptions or factors.

90 Review of Act

The Minister must conduct a review of the operation of this Act before the 10th anniversary of the commencement of this Act and afterwards at intervals of not more than 10 years.

Part 9 Repeals, transitional provisions, consequential amendments and other provisions

Division 1 Preliminary

91 Definitions

In this Part:

commencement date means the date on which this Act comes into operation.

repealed Radiation Safety Control Act means the *Radiation (Safety Control) Act 1978* as in force immediately before the commencement date.

Division 2 Repeal of Acts

92 Repeal of radiation safety legislation

The Acts specified in Schedule 1 are repealed.

Division 3 Transitional provisions for repealed Radiation Safety Control Act

94 Licences

- (1) Subsections (2) and (3) apply to a licence (the **former licence**):
 - (a) granted under section 11 of the repealed Radiation Safety Control Act authorising the possession, manufacture, purchase, use, sale, handling or disposal of a radioactive substance or irradiating apparatus under that Act; and
 - (b) in force immediately before the commencement date.

- (2) The former licence is taken to be a licence under this Act authorising the licensee to possess, manufacture, purchase, use, sell, handle or dispose of, as the case may be, the radiation source that is the radioactive substance or irradiating apparatus to which the former licence related.
- (3) The licence continues in force, subject to the same conditions that applied to the former licence immediately before the commencement date, until the former licence would have expired had the repealed Radiation Safety Control Act not been repealed.
- (4) Subsections (5) and (6) apply to a licence:
 - (a) granted under section 11 of the repealed Radiation Safety Control Act authorising the holder of the licence to carry out maintenance on irradiating apparatus under that Act; and
 - (b) in force immediately before the commencement date.
- (5) The licence is taken to be a certificate of accreditation under this Act issued to the holder authorising the holder to carry out work on the radiation source that is the irradiating apparatus to which the licence related.
- (6) The certificate continues in force, subject to the same conditions that applied to the licence immediately before the commencement date, until the licence would have expired had the repealed Radiation Safety Control Act not been repealed.

95 Pending licence applications

- (1) Subsection (2) applies if, immediately before the commencement date, the Chief Health Officer had not decided an application for or renewal of a licence under the repealed Radiation Safety Control Act, authorising the possession, manufacture, purchase, use, sale, handling or disposal of a radioactive substance or irradiating apparatus.
- (2) The application is taken to be an application for or renewal of a licence under this Act for carrying out the activity in relation to the radiation source that is the radioactive substance or irradiating apparatus.
- (3) Subsection (4) applies if, immediately before the commencement date, the Chief Health Officer had not decided an application for or renewal of a licence under the repealed Radiation Safety Control Act authorising the carrying out of maintenance on irradiating apparatus under that Act.

- (4) The application is taken to be an application for or renewal of a certificate of accreditation under this Act for carrying out work on the radiation source that is the irradiating apparatus.

96 Approvals for disposal of radioactive substance

- (1) This section applies to an approval:
- (a) granted under section 22 of the repealed Radiation Safety Control Act authorising the disposal or abandonment of a radioactive substance under that Act; and
 - (b) in force immediately before the commencement date.
- (2) The approval is taken to be a licence under this Act authorising the licensee to dispose of the radiation source that is the radioactive substance to which the approval related.
- (3) The licence continues in force, subject to the same conditions that applied to the approval immediately before the commencement date, until 6 months after the commencement date.

97 Registered irradiating apparatus

- (1) This section applies to a certificate of registration (the **former certificate**):
- (a) issued under section 31 of the repealed Radiation Safety Control Act for an irradiating apparatus under that Act; and
 - (b) in force immediately before the commencement date.
- (2) The former certificate is taken to be a certificate of registration issued under this Act to the owner of the radiation source that is the irradiating apparatus to which the former certificate related.
- (3) The certificate continues in force subject to the same conditions that applied to the former certificate immediately before the commencement date.

98 Pending applications for registration

- (1) This section applies if, immediately before the commencement date, the Chief Health Officer had not decided an application for a certificate of registration under the repealed Radiation Safety Control Act for an irradiating apparatus under that Act.
- (2) The application is taken to be an application for a certificate of registration under this Act for the radiation source that is the irradiating apparatus.

99 Approved stores

- (1) This section applies to an approval of a place as a store for a radioactive substance:
 - (a) granted under section 53 of the repealed Radiation Safety Control Act; and
 - (b) in force immediately before the commencement date.
- (2) The approval is taken to be a licence under this Act authorising the owner of the place to store at the place the radiation source that is the radioactive substance to which the approval related.
- (3) The licence continues in force, subject to the same conditions that applied to the approval immediately before the commencement date, until 6 months after the commencement date.

Division 4 Provisions relating to Diagnostic Radiographers

100 Registration certificate taken to be licence

- (1) This section applies to a person who:
 - (a) is registered under the Health Practitioner Regulation National Law (other than as a student) to practise as a diagnostic radiographer in the diagnostic radiographer division of the medical radiation practice profession; and
 - (b) uses a radiation apparatus under that Law for practising radiography.
- (2) The person's certificate of registration issued under section 124 of the Health Practitioner Regulation National Law is taken to be a licence under this Act authorising the person to use the radiation source that is the radiation apparatus for practising radiography.
- (3) The licence has effect subject to the conditions applying to the certificate of registration that relates to using the radiation source for practising radiography.
- (4) However, subsections (2) and (3) do not apply to the person during a period in which the person's certificate of registration is suspended under the Health Practitioner Regulation National Law.

101 Regulations

- (1) The regulations may provide for a matter arising from this Division.

Part 9	Repeals, transitional provisions, consequential amendments and other provisions
Division 5	Consequential amendment

- (2) Without limiting subsection (1), the regulations may provide for matters relevant to the application of this Act to a person who is taken to hold a licence as provided in section 100.

Division 5 Consequential amendment

103 Amendment of *Dangerous Goods Act 1998*

Section 4 of the *Dangerous Goods Act 1998* is amended by omitting subsection (1)(a) and substituting the following:

- (a) radiation material within the meaning of the *Radiation Protection Act 2004*; or

Schedule 1 Radiation safety legislation repealed

section 92

Radiation (Safety Control) Ordinance 1978

No. 87, 1978

Radiation (Safety Control) Amendment Act 1999

No. 22, 1999

ENDNOTES
1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION***Radiation Protection Act 2004 (Act No. 23, 2004)***

Assent date	28 April 2004
Commenced	5 October 2009 (<i>Gaz</i> S53, 5 October 2009)

Statute Law Revision Act 2005 (Act No. 44, 2005)

Assent date	14 December 2005
Commenced	s 33: 1 March 2001; rem: 14 December 2005

Radiation Protection and Radiographers Amendment Act 2009 (Act No. 21, 2009)

Assent date	25 June 2009
Commenced	pts 1 and 2: 25 June 2009; pt 3: 5 October 2009; rem: 5 October 2010; (s 2(2) and (3), s 2 <i>Radiation Protection Act 2004</i> and <i>Gaz</i> S53, 5 October 2009)

Amending Legislation***Health Practitioner (National Uniform Legislation) Implementation Act 2010 (Act No. 18, 2010)***

Assent date	20 May 2010
Commenced	1 July 2010

Public and Environmental Health Act 2011 (Act No. 7, 2011)

Assent date	16 March 2011
Commenced	1 July 2011 (<i>Gaz</i> S28, 3 June 2011)

Penalties Amendment (Children and Families, Health and Primary Industry, Fisheries and Resources) Act 2011 (Act No. 28, 2011)

Assent date	31 August 2011
Commenced	21 September 2011 (<i>Gaz</i> G38, 21 September 2011, p 4)

Radiation Protection Amendment Act 2012 (Act No. 14, 2012)

Assent date	27 April 2012
Commenced	2 July 2012 (<i>Gaz</i> G23, 6 June 2012, p 2)

Health Practitioner (National Uniform Legislation) Implementation Act 2012 (Act No. 17, 2012)

Assent date	22 May 2012
Commenced	1 July 2012 (s 2)

Local Court (Related Amendments) Act 2016 (Act No. 8, 2016)

Assent date	6 April 2016
Commenced	1 May 2016 (s 2, s 2 <i>Local Court (Repeals and Related Amendments) Act 2016</i> (Act No. 9, 2016) and <i>Gaz S34</i> , 29 April 2016)

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 9, 47A, 48, 91 and 103.

4 LIST OF AMENDMENTS

s 4	amd No. 7, 2011, s 140; No. 14, 2012, s 4
s 6	amd No. 44, 2005, s 35
s 9	amd No. 14, 2012, s 5
ss10 – 19	amd No. 28, 2011, s 4
ss 23 – 24	amd No. 28, 2011, s 4
s 34	amd No. 28, 2011, s 4
s 40	amd No. 28, 2011, s 4
s 42	amd No. 28, 2011, s 4
s 45	amd No. 28, 2011, s 4
s 47	amd No. 28, 2011, s 4
pt 3A hdg	ins No. 14, 2012, s 6
ss 47A – 47F	ins No. 14, 2012, s 6
s 52	amd No. 28, 2011, s 4
s 57	amd No. 28, 2011, s 4
s 61	amd No. 8, 2016, s 45
ss 64 – 65	amd No. 28, 2011, s 4
ss 68 – 73	amd No. 28, 2011, s 4
s 89	amd No. 21, 2009, s 4
pt 9 hdg	amd No. 21, 2009, s 5
s 91	amd No. 21, 2009, s 6
s 93	rep No. 21, 2009, s 7
pt 9	
div 4 hdg	amd No. 21, 2009, s 8
	sub No. 17, 2012, s 54
s 100	amd No. 21, 2009, s 9
	sub No. 17, 2012, s 54
s 101	rep No. 21, 2009, s 10
	ins No. 17, 2012, s 54
s 102	amd No. 21, 2009, s 11
	rep No. 17, 2012, s 54
s 103	amd No. 21, 2009, s 12
sch 2	rep No. 21, 2009, s 13