

2006

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

Radiation Protection Bill 2006

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2006

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

Radiation Protection Bill 2006

A Bill for

An Act to provide for the protection of the health and safety of people, and for the protection of property and the environment, from the harmful effects of radiation, and for related purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Radiation Protection Act 2006*.

4 **2 Commencement**

5 (1) This Act commences on a day fixed by the Minister by written
6 notice.

7 *Note 1* The naming and commencement provisions automatically commence on
8 the notification day (see Legislation Act, s 75 (1)).

9 *Note 2* A single day or time may be fixed, or different days or times may be
10 fixed, for the commencement of different provisions (see Legislation
11 Act, s 77 (1)).

12 (2) The Legislation Act, section 79 (Automatic commencement of
13 postponed law) does not apply to this Act.

14 (3) However, if this Act has not commenced before 1 July 2007, it
15 automatically commences on that day.

16 **3 Object of Act**

17 The object of this Act is to protect the health and safety of people,
18 and to protect property and the environment, from the harmful
19 effects of radiation.

20 **4 Radiation protection principle**

21 (1) The *radiation protection principle* means the principle that people,
22 property and the environment should be protected from unnecessary
23 exposure to radiation through the processes of justification,
24 limitation and optimisation for which—

- 1 (a) **justification** involves assessing whether the benefits of a
2 radiation practice, or the use of a radiation source, outweigh
3 the detriment caused by the practice or source; and
- 4 (b) **limitation** involves setting radiation dose limits, or imposing
5 other measures, so that the health risk to anyone, or the risk of
6 damage to property or the environment, from being exposed to
7 radiation is below unacceptable levels; and
- 8 (c) **optimisation**—
- 9 (i) in relation to the conduct of a radiation practice, or the
10 use of a radiation source, that may expose a person,
11 property or the environment to radiation involves
12 keeping—
- 13 (A) the magnitude of individual doses of, or the number
14 of people who may be exposed to, ionising radiation;
15 or
- 16 (B) if the magnitude of individual doses, or the number
17 of people who may be exposed, is uncertain—the
18 likelihood of exposures of ionising radiation
19 happening;
- 20 as low as reasonably achievable taking into account
21 economic, social and environmental factors; and
- 22 (ii) optimising, to a level of cost effectiveness, the conduct of
23 a radiation practice, or the use of a radiation source, that
24 may expose a person, property or the environment to non-
25 ionising radiation.
- 26 (2) The council, and anyone else with functions under this Act, must
27 have regard to the radiation protection principle in exercising a
28 function under this Act.
- 29 *Note* A reference to an Act includes a reference to the statutory instruments
30 made or in force under the Act, including regulations (see Legislation
31 Act, s 104)

1 **5 Dictionary**

2 The dictionary at the end of this Act is part of this Act.

3 *Note 1* The dictionary at the end of this Act defines certain terms used in this
4 Act, and includes references (*signpost definitions*) to other terms
5 defined elsewhere in this Act.

6 For example, the signpost definition ‘*radiation source*—see
7 section 9 (1).’ means that the term ‘radiation source’ is defined in that
8 subsection.

9 *Note 2* A definition in the dictionary (including a signpost definition) applies to
10 the entire Act unless the definition, or another provision of the Act,
11 provides otherwise or the contrary intention otherwise appears (see
12 Legislation Act, s 155 and s 156 (1)).

13 **6 Notes**

14 A note included in this Act is explanatory and is not part of this Act.

15 *Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of
16 notes.

17 **7 Offences against Act—application of Criminal Code etc**

18 Other legislation applies in relation to offences against this Act.

19 *Note 1* *Criminal Code*
20 The Criminal Code, ch 2 applies to all offences against this Act (see
21 Code, pt 2.1).

22 The chapter sets out the general principles of criminal responsibility
23 (including burdens of proof and general defences), and defines terms
24 used for offences to which the Code applies (eg *conduct*, *intention*,
25 *recklessness* and *strict liability*).

26 *Note 2* *Penalty units*
27 The Legislation Act, s 133 deals with the meaning of offence penalties
28 that are expressed in penalty units.

1 **Part 2** **Important terms**

2 **8** **Meaning of *radiation* and *ionising* and *non-ionising*** 3 **radiation**

4 (1) For this Act, *radiation* is a phenomena caused naturally, or created
5 artificially, that is—

6 (a) an electromagnetic waveform, quanta or both; and

7 (b) propagated through space or through a material medium.

8 (2) Radiation is *ionising* if it is—

9 (a) capable of producing ions directly or indirectly; and

10 (b) either—

11 (i) particulate radiation; or

12 (ii) electromagnetic radiation of a wavelength of
13 100 nanometres or less.

14 (3) Radiation is *non-ionising* if it is electromagnetic radiation of a
15 wavelength greater than 100 nanometres.

16 **9** **Meaning of *radiation source* etc**

17 (1) A thing is a *radiation source* if it emits or may emit radiation.

18 (2) A radiation source can be a radiation apparatus, a radiation facility
19 or radioactive material.

20 (3) A *radiation apparatus* is—

21 (a) apparatus that—

22 (i) produces radiation when energised; or

23 (ii) if assembled or repaired, would be capable of producing
24 radiation when energised; or

- 1 (b) a thing prescribed by regulation to be a radiation apparatus.
- 2 (4) A *radiation facility* is a facility prescribed by regulation to be a
- 3 radiation facility.
- 4 (5) *Radioactive material* is material that spontaneously emits ionising
- 5 radiation as a consequence of nuclear transformations.

6 **10 Meaning of *prohibited radiation source* and *regulated***

7 ***radiation source***

- 8 (1) A radiation source is a *prohibited radiation source* if it is prescribed
- 9 by regulation to be a prohibited radiation source.
- 10 (2) A radiation source is a *regulated radiation source* if it is—
- 11 (a) a radiation source (other than a prohibited radiation source)
- 12 that emits or is capable of emitting ionising radiation above the
- 13 level prescribed by regulation; or
- 14 (b) a radiation source prescribed by regulation that emits or is
- 15 capable of emitting non-ionising radiation.

16 **11 Meaning of *deal* with radiation source**

- 17 (1) A person *deals* with a radiation source if the person—
- 18 (a) manufactures the radiation source; or
- 19 (b) possesses the radiation source; or
- 20 (c) supplies the radiation source to someone else; or
- 21 (d) uses the radiation source; or
- 22 (e) disposes of the radiation source; or
- 23 (f) for radioactive material—stores, packs or transports the
- 24 material.

25 *Note* *Dispose* of and *use* are defined in the dictionary.

- 1 (2) For subsection (1) (b), a person does not possess a radiation source
2 only because, as part of a diagnostic or therapeutic procedure—
- 3 (a) the person, or an animal kept by the person, has been injected
4 with radioactive material; or
- 5 (b) radioactive material has been administered to or implanted in
6 the person or animal in any other way.

1 **Part 3 Radiation safety**

2 **Division 3.1 Safety duties**

3 **12 General duty to ensure no harm**

4 A person who deals with a regulated radiation source must take all
5 reasonable steps to ensure that no harm results to the health or safety
6 of people or to property or the environment from radiation emitted
7 from the radiation source.

8 *Note 1* A failure to comply with this section may be an offence (see s 53).

9 *Note 2* For the meaning of *deal* with a radiation source, see s 11.

10 **13 Radiation exposure**

11 (1) This section applies to a person who deals with a regulated radiation
12 source.

13 (2) The person must take all reasonable steps to ensure that, if anyone
14 (including the person) receives a dose of radiation, the dose must
15 not result in that person receiving doses of radiation during a period
16 that, when added together, are higher than the dose limit for the
17 period.

18 (3) This section does not apply to a dose received by a person from the
19 carrying out of a diagnostic or therapeutic procedure involving the
20 irradiation of the person at the request of a doctor.

21 *Note 1* A failure to comply with this section may be an offence (see s 53).

22 *Note 2* For the meaning of *deal* with a radiation source, see s 11.

23 **14 Diagnostic or therapeutic procedures**

24 A person who uses a regulated radiation source to carry out a
25 diagnostic or therapeutic procedure involving the irradiation of a
26 person (the *treated person*) at the request of a doctor must ensure

1 that the treated person does not receive a dose of radiation from the
2 procedure that is not in accordance with the request.

3 *Note* A failure to comply with this section may be an offence (see s 53).

4 **15 Incorporated documents, approved codes of practice etc**
5 **may be considered**

6 In deciding whether a person has complied with a safety duty, an
7 incorporated document, or approved code of practice, applying to
8 the duty may be considered.

9 *Note 1* For the meaning of *safety duty*, see s 52.

10 *Note 2* For the meaning of *incorporated document* and *approved code of*
11 *practice*, see the dictionary.

12 **Division 3.2 Licensing**

13 **16 Application for licence**

14 (1) A person may apply to the council for a licence to deal with a
15 regulated radiation source.

16 *Note 1* If a form is approved under s 121 for an application, the form must be
17 used.

18 *Note 2* A fee may be determined under s 120 for this provision.

19 (2) The council may, in writing, require the applicant to give the council
20 additional information or documents that the council reasonably
21 needs to decide the application.

22 **Examples of information or documents**

- 23 1 information about the proposed dealings under the licence
24 2 an assessment of the potential hazards from the radiation source
25 3 the qualifications of people proposed to be dealing with the radiation source
26 4 proposed procedures for handling, use or storage of the radiation source

1 5 a proposed safety plan for dealings under the licence

2 *Note* An example is part of the Act, is not exhaustive and may extend, but
3 does not limit, the meaning of the provision in which it appears (see
4 Legislation Act, s 126 and s 132).

5 (3) If the applicant does not comply with a requirement under
6 subsection (2), the council may refuse to consider the application.

7 **17 Decision about licence application**

8 (1) On an application by a person for a licence, the council must—

9 (a) issue the licence; or

10 (b) refuse to issue the licence.

11 (2) In deciding whether to issue the licence, the council must
12 consider—

13 (a) whether the applicant can satisfy any relevant competency
14 requirements set out in the national directory, schedule 6; and

15 (b) whether the applicant can comply with any relevant conditions
16 set out in the national directory, schedule 7; and

17 (c) whether the applicant can satisfy any relevant security
18 requirements under the national directory, schedule 8; and

19 (d) any criteria prescribed by regulation.

20 (3) Subsection (2) does not limit the matters that the council may
21 consider.

22 (4) The council must refuse to issue the licence if the council is satisfied
23 it is not in the public interest to issue the licence.

24 (5) In considering the public interest, the council must consider the risk
25 of a dose limit being exceeded.

26 *Note* **Dose limit** is defined in the dictionary.

27 (6) Subsection (5) does not limit the matters the council may consider in
28 considering the public interest.

1 **18 Form of licence**

2 A licence must—

- 3 (a) be in writing; and
- 4 (b) state the full name and address of the person to whom the
5 licence is issued; and
- 6 (c) identify or describe—
- 7 (i) each regulated radiation source to which the licence
8 applies (a *relevant source*); and
- 9 (ii) each kind of dealing authorised by the licence in relation
10 to each relevant source; and
- 11 (d) state the period for which the licence is given; and
- 12 (e) include any conditions on the licence.

13 **19 Licence conditions**

14 A licence is subject to any conditions—

- 15 (a) prescribed by regulation; or
- 16 (b) imposed on the licence by the council.

17 **Examples of conditions that may be imposed on a licence**

- 18 1 that an approved code of practice or standard must be complied with
- 19 2 that a national incident reporting framework must be complied with
- 20 3 that particular requirements about inspection and reporting must be complied
21 with
- 22 4 that particular security procedures must be complied with

23 *Note 1* An example is part of the Act, is not exhaustive and may extend, but
24 does not limit, the meaning of the provision in which it appears (see
25 Legislation Act, s 126 and s 132).

26 *Note 2* The council may amend a licence (including by imposing a condition
27 on, or amending an existing condition of, the licence) at any time
28 (see s 22).

1 **20 Term of licence**

2 A licence is issued for the period of up to 3 years stated in the
3 licence.

4 **21 Licensee to notify change of name or address**

5 (1) If a licensee changes his or her name or address, the licensee must,
6 as soon as practicable but no later than 14 days after the day the
7 change happens, tell the council, in writing, about the change.

8 Maximum penalty: 20 penalty units.

9 (2) An offence against this section is a strict liability offence.

10 **22 Amendment of licence by council on its own initiative**

11 (1) The council may, at any time and on its own initiative, amend a
12 licence (including by imposing a condition on, or amending an
13 existing condition of, the licence).

14 **Example of amendment**

15 to change a dealing with a radiation source authorised under the licence

16 *Note* An example is part of the Act, is not exhaustive and may extend, but
17 does not limit, the meaning of the provision in which it appears (see
18 Legislation Act, s 126 and s 132).

19 (2) However, the council may amend a licence only if—

20 (a) the council has given the licensee written notice of the
21 proposed amendment; and

22 (b) the notice states that written comments on the proposal may be
23 made to the council before the end of a stated period of at least
24 14 days after the day the notice is given to the person; and

25 (c) the council has considered any comments made before the end
26 of the stated period.

27 (3) Subsection (2) does not apply if the licensee applied for, or agreed
28 in writing to, the amendment.

- 1 **23** **Amendment of licence on application**
- 2 (1) A licensee may apply to the council to amend the licensee’s licence
- 3 (including by removing or amending a condition of the licence).
- 4 **Example of amendment**
- 5 to change a dealing with a radiation source authorised under the licence
- 6 *Note 1* If a form is approved under s 121 for an application, the form must be
- 7 used.
- 8 *Note 2* A fee may be determined under s 120 for this provision.
- 9 *Note 3* An example is part of the Act, is not exhaustive and may extend, but
- 10 does not limit, the meaning of the provision in which it appears (see
- 11 Legislation Act, s 126 and s 132).
- 12 (2) The council may, in writing, require the applicant to give the council
- 13 additional information or documents that the council reasonably
- 14 needs to decide the application.
- 15 (3) If the applicant does not comply with a requirement under
- 16 subsection (2), the council may refuse to consider the application.
- 17 (4) In deciding whether to amend the licence, the council may consider
- 18 anything the council may consider under section 17 in relation to an
- 19 application for a licence.
- 20 (5) On an application by a person to amend a licence, the council
- 21 must—
- 22 (a) amend the licence in the way applied for; or
- 23 (b) refuse to amend the licence.
- 24 *Note* For the return of the licence to the council, see s 40.

1 **24 Automatic cancellation of licence**

- 2 (1) This section applies if—
- 3 (a) a licence is in force in relation to a radiation source that is a
4 regulated radiation source; and
- 5 (b) the radiation source becomes a prohibited radiation source.
- 6 (2) The licence is automatically cancelled.

7 **Division 3.3 Registration of radiation sources**

8 **25 Application for registration of radiation source**

- 9 (1) The owner of a regulated radiation source may apply to the council
10 to register the radiation source.

11 *Note 1* If a form is approved under s 121 for an application, the form must be
12 used.

13 *Note 2* A fee may be determined under s 120 for this provision.

- 14 (2) The council may, in writing, require the applicant to give the council
15 additional information or documents that the council reasonably
16 needs to decide the application.

17 **Examples of information or documents**

- 18 1 information about where the radiation source is to be kept
19 2 an assessment of the potential hazards from the radiation source
20 3 proposed procedures for handling, use or storage of the radiation source

21 *Note* An example is part of the Act, is not exhaustive and may extend, but
22 does not limit, the meaning of the provision in which it appears (see
23 Legislation Act, s 126 and s 132).

- 24 (3) If the applicant does not comply with a requirement under
25 subsection (2), the council may refuse to consider the application.

-
- 1 **26** **Decision about radiation source registration application**
- 2 (1) On an application by a person for registration of a regulated
3 radiation source, the council must—
- 4 (a) register the radiation source; or
- 5 (b) refuse to register the radiation source.
- 6 (2) In deciding whether to register the regulated radiation source, the
7 council must consider—
- 8 (a) whether the applicant can satisfy any relevant requirement set
9 out in the national directory, schedule 9; and
- 10 *Note* Sch 9 is about uses of certain sealed sources and premises.
- 11 (b) any criteria prescribed by regulation.
- 12 (3) Subsection (2) does not limit the matters that the council may
13 consider.
- 14 (4) The council must refuse to register the regulated radiation source if
15 the council is satisfied it is not in the public interest to register it.
- 16 (5) In considering the public interest, the council must consider the risk
17 of a dose limit being exceeded.
- 18 *Note* **Dose limit** is defined in the dictionary.
- 19 (6) Subsection (5) does not limit the matters the council may consider in
20 considering the public interest.
- 21 **27** **Form of registration**
- 22 (1) A registration of a regulated radiation source must—
- 23 (a) be in writing; and
- 24 (b) state the full name and address of the person to whom the
25 registration is granted; and
- 26 (c) identify or describe the radiation source registered; and

- 1 (d) state each place where the radiation source may be kept; and
2 (e) state the period of the registration; and
3 (f) include any conditions on the registration.
4 (2) The person mentioned in subsection (1) (b) is the *registered owner*
5 of the registered radiation source.

6 **28 Registration conditions**

7 Registration of a regulated radiation source is subject to any
8 conditions—

- 9 (a) prescribed by regulation; or
10 (b) imposed on the registration by the council.

11 **Examples of conditions that may be imposed on a registration**

- 12 1 that an approved code of practice or standard must be complied with
13 2 that a national incident reporting framework must be complied with
14 3 that particular procedures about inspection and reporting must be complied
15 with
16 4 that particular security procedures must be complied with
17 5 that the council must be told if the radiation source is transported

18 *Note 1* An example is part of the Act, is not exhaustive and may extend, but
19 does not limit, the meaning of the provision in which it appears (see
20 Legislation Act, s 126 and s 132).

21 *Note 2* The council may amend a registration (including by imposing a
22 condition on, or amending an existing condition of, the registration) at
23 any time (see s 31).

24 **29 Term of registration**

25 A regulated radiation source may be registered for a period of up to
26 3 years stated in the registration.

-
- 1 **30** **Registered owner to notify change of name or address**
- 2 (1) If the registered owner of a regulated radiation source changes his or
- 3 her name or address, the registered owner must, as soon as
- 4 practicable but no later than 14 days after the day the change
- 5 happens, tell the council, in writing, about the change.
- 6 Maximum penalty: 20 penalty units.
- 7 (2) An offence against this section is a strict liability offence.
- 8 **31** **Amendment of registration by council on its own**
- 9 **initiative**
- 10 (1) The council may, at any time and on its own initiative, amend the
- 11 registration of a regulated radiation source (including by imposing a
- 12 condition on, or amending an existing condition of, the registration).
- 13 **Example of amendment**
- 14 to change a requirement about where the radiation source is kept
- 15 *Note* An example is part of the Act, is not exhaustive and may extend, but
- 16 does not limit, the meaning of the provision in which it appears (see
- 17 Legislation Act, s 126 and s 132).
- 18 (2) However, the council may amend the registration of the radiation
- 19 source only if—
- 20 (a) the council has given the registered owner of the radiation
- 21 source written notice of the proposed amendment; and
- 22 (b) the notice states that written comments on the proposal may be
- 23 made to the council before the end of a stated period of at least
- 24 14 days after the day the notice is given to the person; and
- 25 (c) the council has considered any comments made before the end
- 26 of the stated period.
- 27 (3) Subsection (2) does not apply if the registered owner applied for, or
- 28 agreed in writing to, the amendment.

- 1 **32 Amendment of registration on application**
- 2 (1) The registered owner of a regulated radiation source may apply to
- 3 the council to amend the registration (including by removing or
- 4 amending a condition of the registration).
- 5 **Example of amendment**
- 6 to change a requirement about where the radiation source is kept
- 7 *Note 1* If a form is approved under s 121 for an application, the form must be
- 8 used.
- 9 *Note 2* A fee may be determined under s 120 for this provision.
- 10 *Note 3* An example is part of the Act, is not exhaustive and may extend, but
- 11 does not limit, the meaning of the provision in which it appears (see
- 12 Legislation Act, s 126 and s 132).
- 13 (2) The council may, in writing, require the applicant to give the council
- 14 additional information or documents that the council reasonably
- 15 needs to decide the application.
- 16 (3) If the applicant does not comply with a requirement under
- 17 subsection (2), the council may refuse to consider the application.
- 18 (4) In deciding whether to amend the registration, the council may
- 19 consider anything the council may consider under section 26 in
- 20 relation to an application for registration of a regulated radiation
- 21 source.
- 22 (5) On an application by a person to amend a radiation source
- 23 registration, the council must—
- 24 (a) amend the registration in the way applied for; or
- 25 (b) refuse to amend the registration.

1 **33** **Automatic cancellation of registration**

- 2 (1) This section applies if—
- 3 (a) a registration is in force in relation to a radiation source that is
- 4 a regulated radiation source; and
- 5 (b) the radiation source becomes a prohibited radiation source.
- 6 (2) The registration of the radiation source is automatically cancelled.

7 **Division 3.4** **Disciplinary action**

8 **34** **Grounds for disciplinary action**

- 9 (1) Each of the following is a *ground* for disciplinary action against a
- 10 licensee:
- 11 (a) the licensee gave information to the council in relation to the
- 12 application for, or an application for amendment of, the
- 13 licensee's licence that was false or misleading in a material
- 14 particular;
- 15 (b) the licensee has contravened, or is contravening, this Act,
- 16 whether or not the licensee has been convicted or found guilty
- 17 of an offence for the contravention;
- 18 (c) the licensee has contravened, or is contravening, a territory law
- 19 (other than this Act) or a law of the Commonwealth, a State or
- 20 another Territory, whether or not the licensee has been
- 21 convicted or found guilty of an offence for the contravention.
- 22 (2) Each of the following is a *ground* for disciplinary action against a
- 23 registered owner of a regulated radiation source:
- 24 (a) the registered owner gave information to the council in relation
- 25 to the application for, or an application for amendment of, the
- 26 registration of the radiation source that was false or misleading
- 27 in a material particular;

- 1 (b) the registered owner has contravened, or is contravening, this
2 Act, whether or not the registered owner has been convicted or
3 found guilty of an offence for the contravention;
- 4 (c) the registered owner has contravened, or is contravening, a
5 territory law (other than this Act) or a law of the
6 Commonwealth, a State or another Territory, whether or not
7 the registered owner has been convicted or found guilty of an
8 offence for the contravention.

9 **35 Disciplinary action**

- 10 (1) Each of the following is *disciplinary action* when taken against a
11 person who is a licensee:
- 12 (a) reprimanding the person;
- 13 (b) requiring the person to complete a stated course of training to
14 the satisfaction of the council or another stated person;
- 15 (c) amending the licence, including by imposing a condition on the
16 licence or amending an existing condition of the licence;
- 17 (d) suspending the licence, or a particular authorised dealing under
18 the licence—
- 19 (i) for a stated period; or
- 20 (ii) until the person completes a stated course of training to
21 the satisfaction of the council or someone else; or
- 22 (iii) until a stated event happens;
- 23 (e) cancelling the licence;
- 24 (f) cancelling the licence and disqualifying the person from
25 applying for a licence, or a particular kind of licence in relation
26 to a radiation source—
- 27 (i) for a stated period; or

- 1 (ii) until the person completes a stated course of training to
2 the satisfaction of the council or someone else; or
- 3 (iii) until a stated event happens.
- 4 (2) Each of the following is *disciplinary action* when taken against a
5 person who is the registered owner of a radiation source:
- 6 (a) reprimanding the person;
- 7 (b) requiring the person to complete a stated course of training to
8 the satisfaction of the council or another stated person;
- 9 (c) amending the registration, including by imposing a condition
10 on the registration or amending an existing condition of the
11 registration;
- 12 (d) suspending the registration—
- 13 (i) for a stated period; or
- 14 (ii) until the person completes a stated course of training to
15 the satisfaction of the council or someone else; or
- 16 (iii) until a stated event happens;
- 17 (e) cancelling the registration;
- 18 (f) cancelling the registration and disqualifying the person from
19 applying for a registration, or registration of a particular kind
20 of radiation source—
- 21 (i) for a stated period; or
- 22 (ii) until the person completes a stated course of training to
23 the satisfaction of the council or someone else; or
- 24 (iii) until a stated event happens.

- 1 **36 Taking disciplinary action**
- 2 (1) If the council proposes to take disciplinary action in relation to a
- 3 person, the council must give the person a written notice (a
- 4 *disciplinary notice*) that—
- 5 (a) states the proposed action (including any proposed
- 6 disqualification period, suspension period or amendment of a
- 7 licence); and
- 8 (b) states the grounds for the proposed action; and
- 9 (c) tells the person that the person may, not later than 14 days after
- 10 the day the person receives the notice, give a written response
- 11 to the council about the notice.
- 12 (2) In deciding whether to take disciplinary action, the council must
- 13 consider any response given to the council by the person in
- 14 accordance with the notice.
- 15 (3) The council may take the proposed disciplinary action in relation to
- 16 the person if satisfied that—
- 17 (a) a ground for taking disciplinary action has been established in
- 18 relation to a person; and
- 19 (b) if the ground is a ground mentioned in section 34 (1) (c) or
- 20 (2) (c)—it is in the public interest for the proposed disciplinary
- 21 action to be taken in relation to the person.
- 22 (4) The council must give the person written notice of the council’s
- 23 decision.
- 24 (5) Disciplinary action under this section takes effect 14 days after the
- 25 day when the notice of the decision is given to the person or, if the
- 26 notice states a later date of effect, that date.
- 27 *Note* For the return of the licence to the council, see s 40.

1 **37 Immediate suspension of licence or registration**

2 (1) This section applies if the council has given, or is considering
3 whether to give, a disciplinary notice to a licensee or registered
4 owner of a regulated radiation source on a ground on which
5 disciplinary action may be taken against the licensee or registered
6 owner (the *relevant disciplinary ground*).

7 (2) The council may give the licensee or registered owner a written
8 notice (an *immediate suspension notice*) suspending the licence, a
9 particular authorised dealing under the licence or the registration on
10 the relevant disciplinary ground.

11 *Note* *Authorised dealing* is defined in the dictionary.

12 (3) However, the council may give the licensee or registered owner an
13 immediate suspension notice on the relevant disciplinary ground
14 only if—

15 (a) the council has taken into account the circumstances leading to
16 the decision to give or consider giving the disciplinary notice;
17 and

18 (b) the council believes, on reasonable grounds, that it is in the
19 public interest that the licence, authorised dealing or
20 registration be suspended before a decision is made whether or
21 not to take disciplinary action against the licensee under
22 section 36 on the relevant disciplinary ground.

23 (4) If an immediate suspension notice is given to the licensee or
24 registered owner, the suspension takes effect when the notice is
25 given to the licensee or registered owner.

26 *Note* For the return of the licence to the council, see s 40.

27 (5) If the licensee or registered owner is given an immediate suspension
28 notice but has not been given a disciplinary notice on the relevant
29 disciplinary ground, the council must, as soon as possible, give a
30 disciplinary notice to the licensee or registered owner or tell the
31 licensee or registered owner in writing that a disciplinary notice will

- 1 not be given to the licensee or registered owner in relation to that
2 ground.
- 3 (6) The immediate suspension notice ends when the earliest of the
4 following happens:
- 5 (a) if the licence or registration is cancelled or suspended under
6 section 36, or a particular authorised dealing is suspended
7 under that section on the relevant disciplinary ground—the
8 cancellation or suspension takes effect;
- 9 (b) if a condition is imposed on the licence or registration, or an
10 existing condition of the licence or registration is amended,
11 under section 36 on the relevant disciplinary ground—the
12 condition or amended condition takes effect;
- 13 (c) the person is given written notice under section 36 (4) of the
14 decision in relation to the relevant disciplinary ground;
- 15 (d) the period of 8 weeks after the suspension under the notice
16 takes effect ends.

17 **38 Effect of suspension of licence or dealing**

- 18 (1) If a licence is suspended, the licence does not authorise the licensee
19 to carry on any activity under the licence during the suspension.
- 20 (2) If an authorised dealing under a licence is suspended, the licence—
- 21 (a) does not authorise the licensee to carry out that dealing under
22 the licence during the suspension; and
- 23 (b) is taken to be amended under this part to the extent necessary
24 to give effect to the suspension.

1 **39** **Effect on licensee of suspension of registration**

2 If the registration of a regulated radiation source is suspended, a
3 person who holds a licence to deal with the radiation source is taken
4 not to hold a licence to deal with the radiation source in any way
5 (other than possessing the radiation source) during the suspension.

6 **40** **Return of amended, suspended or cancelled licences**

7 (1) A licensee commits an offence if—

8 (a) the licensee's licence is—

9 (i) amended under section 22 (Amendment of licence by
10 council on its own initiative); or

11 (ii) amended under section 23 (Amendment of licence on
12 application); or

13 (iii) amended, suspended or cancelled under this division; and

14 (b) the licensee fails to return the licence to the council as soon as
15 practicable (but not later than 7 days) after the day the licensee
16 is told about the council's action.

17 Maximum penalty: 20 penalty units.

18 (2) An offence against this section is a strict liability offence.

19 **41** **Action by council in relation to amended, suspended or**
20 **cancelled licence**

21 (1) If a licence that is amended under this part is returned to the council,
22 the council must—

23 (a) amend the licence and return it to the licensee; or

24 (b) give the licensee a replacement licence that includes the
25 amendment.

26 *Note* A licence is taken to be amended if an authorised dealing under the
27 licence is suspended (see s 38 (2)).

- 1 (2) If a licence is suspended under this part and the suspension ends
2 before the end of the term of the licence, the council must return the
3 licence to the licensee.

4 **Division 3.5 Abandoning a radiation source**

5 **42 Prohibition on abandoning radiation source**

6 A person must not abandon a regulated radiation source.

7 Maximum penalty: 1 000 penalty units, 3 years imprisonment or
8 both.

9 **43 Procedure if radiation source abandoned**

10 (1) If the council believes, on reasonable grounds, that a regulated
11 radiation source has been abandoned, the council—

12 (a) may direct an authorised person to take possession of the
13 radiation source; or

14 (b) may ask someone else to take possession and dispose of the
15 radiation source.

16 (2) If an authorised person takes possession of a regulated radiation
17 source under subsection (1) (a), the authorised person may do all or
18 any of the following:

19 (a) keep possession of the radiation source until legal proceedings
20 against a person in relation to the abandonment are finally dealt
21 with;

22 (b) destroy the radiation source;

23 (c) otherwise make the radiation source harmless;

24 (d) dispose of the radiation source.

- 1 (3) If a person is asked under subsection (1) (b) to take possession and
2 dispose of a regulated radiation source, the person—
- 3 (a) may, but is not required to, take possession of the radiation
4 source and, if the person does so, must dispose of it in a way
5 approved by the council; and
- 6 (b) is taken to hold a licence in relation to the radiation source that
7 authorises the person to dispose of it and to possess, store and
8 transport it for that purpose.

9 **44 Person abandoning radiation source liable for recovery**
10 **costs**

11 A person who abandons a regulated radiation source is liable for the
12 reasonable costs incurred by the Territory or anyone else in taking
13 action under section 43.

14 *Note* An amount owing under a law may be recovered as a debt in a court of
15 competent jurisdiction (see Legislation Act, s 177).

16 **Division 3.6 Disposal of prohibited radiation**
17 **source**

18 **45 Disposal etc of prohibited radiation source**

- 19 (1) The council may—
- 20 (a) direct an authorised person to take possession of a prohibited
21 radiation source; or
- 22 (b) may ask someone else to take possession and dispose of a
23 prohibited radiation source.

- 1 (2) If an authorised person takes possession of a prohibited radiation
2 source under subsection (1) (a) the authorised person may do all or
3 any of the following:
- 4 (a) keep possession of the radiation source until legal proceedings
5 against a person in relation to possessing the radiation source
6 are finally dealt with;
- 7 (b) destroy the radiation source;
- 8 (c) otherwise make the radiation source harmless;
- 9 (d) dispose of the radiation source.
- 10 (3) If a person is asked under subsection (1) (b) to take possession and
11 dispose of a prohibited radiation source, the person—
- 12 (a) may, but is not required to, take possession of the radiation
13 source and if the person does so, must dispose of it in a way
14 approved by the council; and
- 15 (b) may possess, store and transport the radiation source for that
16 purpose.

17 **46 Person in possession of prohibited radiation source**
18 **liable for disposal costs**

19 A person from whom possession of a prohibited radiation source is
20 taken by an authorised officer or anyone else under section 45
21 (Disposal etc of prohibited radiation source) is liable for the
22 reasonable costs incurred by the Territory or anyone else in
23 disposing of the prohibited radiation source.

24 *Note* An amount owing under a law may be recovered as a debt in a court of
25 competent jurisdiction (see Legislation Act, s 177).

1 **Division 3.7 Emergency powers**

2 **47 Emergency orders**

- 3 (1) The Minister may, in writing, make an order (an *emergency order*)
4 if the Minister believes, on reasonable grounds, that the order is
5 necessary to prevent or minimise a risk arising from a radiation
6 incident.

7 *Note* The power to make an instrument includes the power to amend or repeal
8 the instrument (see Legislation Act, s 46).

- 9 (2) An emergency order may authorise the chief executive to do all or
10 any of the following:

- 11 (a) require a person to enter, not to enter or to leave a place;
12 (b) subject to subsection (3), authorise the detention of a person;
13 (c) require a person to undergo a decontamination procedure;
14 (d) require the owner or occupier of a place to decontaminate the
15 place;
16 (e) require the disposal or destruction of a radiation source or
17 anything that has been affected or contaminated by radiation
18 and state how the disposal or destruction must be done;
19 (f) make any other requirement necessary to protect the health or
20 safety of people or to prevent damage to property or the
21 environment.

- 22 (3) An order may only authorise the detention of a person—

- 23 (a) for reasonable testing to decide whether, because of the
24 radiation incident, the person has been contaminated and poses
25 a serious risk to the health or safety of anyone else or of the
26 safety of anyone else's property or the environment; and
27 (b) if the person is contaminated and poses a serious risk to the
28 health or safety of anyone else or of the safety of anyone else's

1 property or the environment—to prevent the person
2 contaminating anyone else, anyone else’s property or the
3 environment.

4 (4) A person commits an offence if the person fails to take all
5 reasonable steps to comply with a requirement made of the person
6 under subsection (2).

7 Maximum penalty: 50 penalty units.

8 (5) In this section:

9 *radiation incident* means an incident or event that results, or may
10 result, in a risk of serious harm to the health or safety of people, or
11 substantial damage to property or the environment, from the
12 emission of radiation from a radiation source.

13 **48 Compensation—emergency orders**

14 (1) A person who suffers loss because of an act or omission of the chief
15 executive under section 47 (Emergency orders) is entitled to be paid
16 reasonable compensation by the Territory for the loss.

17 (2) Compensation is not payable to a person for a loss to the extent—

18 (a) of any amount recovered or recoverable by the person under a
19 policy of insurance; or

20 (b) that the conduct of the person contributed to the loss.

21 (3) Compensation is not payable to a person for a loss if the loss would
22 have arisen despite the act or omission.

23 (4) The person may apply, in writing, to the Minister for compensation.

24 *Note* If a form is approved under s 121 for an application, the form must be
25 used.

26 (5) The application must state particulars of the loss, the amount
27 claimed and the basis for the amount claimed.

1 **49 Minister’s decision on claim for compensation**

- 2 (1) This section applies if a person applies to the Minister under
3 section 48 for compensation.
- 4 (2) If the Minister is satisfied that the person is entitled to
5 compensation, the Minister must give the person a written notice
6 setting out—
- 7 (a) an offer to pay the person the amount of compensation to
8 which the Minister considers the claimant is entitled; and
- 9 (b) an explanation of how the amount was worked out.
- 10 (3) If the Minister is not satisfied that the person is entitled to
11 compensation, the Minister must give the person a written notice
12 telling the person that the Minister is not satisfied that the person is
13 entitled to compensation.
- 14 (4) If, at the end of 28 days after the day the application is made to the
15 Minister, the Minister has not given the person a notice under
16 subsection (2) or (3), the Minister is taken to have decided the
17 person is not entitled to be paid compensation.

18 **50 Acceptance or rejection of offer of compensation**

- 19 (1) A person to whom an offer has been made under section 49 (2) (a)
20 may, in writing—
- 21 (a) accept the offer; or
- 22 (b) reject the offer.
- 23 (2) If the person accepts the offer, the Territory must pay the amount to
24 the person.

1 **51 Recovery of compensation in court**

2 If the Territory and the person to whom compensation is payable
3 under section 48 (Compensation—emergency orders) do not agree
4 on the amount of compensation, the person may, by proceeding in a
5 court of competent jurisdiction, recover from the Territory the
6 reasonable compensation that the court decides.

1 **Part 4** **Offences**

2 *Note* The *Environment Protection Act 1997*, div 15.1, creates offences in
3 relation to polluting the environment. Under that Act, *pollutant*
4 includes radioactivity, light or other electromagnetic radiation.

5 **52** **Meaning of safety duty**

6 In this Act:

7 *safety duty* means a duty under any of the following provisions:

- 8 • section 12 (General duty to ensure no harm)
- 9 • section 13 (Radiation exposure)
- 10 • section 14 (Diagnostic or therapeutic procedures).

11 **53** **Failure to comply with safety duty—general offence**

12 (1) A person commits an offence if—

- 13 (a) the person is required to comply with a safety duty; and
- 14 (b) the person fails to comply with the safety duty.

15 Maximum penalty: 100 penalty units.

16 (2) Absolute liability applies to subsection (1) (a).

17 (3) Strict liability applies to subsection (1) (b).

18 **54** **Failure to comply with safety duty—exposing people to
19 substantial risk of death or serious harm**

20 (1) A person commits an offence if—

- 21 (a) the person is required to comply with a safety duty; and
- 22 (b) the person fails to comply with the safety duty; and
- 23 (c) the failure exposes anyone to a substantial risk of death or
24 serious harm; and

- 1 (d) the person either—
2 (i) was reckless about whether the failure would expose
3 anyone to a substantial risk of death or serious harm; or
4 (ii) was negligent about whether the failure would expose
5 anyone to a substantial risk of death or serious harm.
6 Maximum penalty: 1 500 penalty units, 5 years imprisonment or
7 both.

- 8 (2) Absolute liability applies to subsection (1) (a).

9 **55 Failure to comply with safety duty—causing death or**
10 **serious harm to people**

- 11 (1) A person commits an offence if—
12 (a) the person is required to comply with a safety duty; and
13 (b) the person fails to comply with the safety duty; and
14 (c) the failure causes the death of or serious harm to anyone; and;
15 (d) the person either—
16 (i) was reckless about whether the failure would cause the
17 death of or serious harm to anyone; or
18 (ii) was negligent about whether the failure would cause the
19 death of or serious harm to anyone.

20 Maximum penalty: 2 000 penalty units, 7 years imprisonment or
21 both.

- 22 (2) Absolute liability applies to subsection (1) (a).

-
- 1 **56** **Failure to comply with safety duty—exposing property or**
2 **environment to substantial risk of substantial damage**
- 3 (1) A person commits an offence if—
- 4 (a) the person is required to comply with a safety duty; and
- 5 (b) the person fails to comply with the safety duty; and
- 6 (c) the failure exposes property or the environment to a substantial
- 7 risk of substantial damage; and
- 8 (d) the person either—
- 9 (i) was reckless about whether the failure would expose
- 10 property or the environment to a substantial risk of
- 11 substantial damage; or
- 12 (ii) was negligent about whether the failure would expose
- 13 property or the environment to a substantial risk of
- 14 substantial damage.
- 15 Maximum penalty: 1 000 penalty units, 3 years imprisonment or
- 16 both.
- 17 (2) Absolute liability applies to subsection (1) (a).
- 18 **57** **Alternative verdicts for failure to comply with safety**
19 **duties**
- 20 (1) This section applies if, in a prosecution for an offence for a failure
- 21 to comply with a safety duty, the trier of fact—
- 22 (a) is not satisfied beyond reasonable doubt that the defendant is
- 23 guilty of the offence; but
- 24 (b) is satisfied beyond reasonable doubt that the defendant is guilty
- 25 of an alternative offence.
- 26 (2) The trier of fact may find the defendant guilty of the alternative
- 27 offence, but only if the defendant has been given procedural fairness
- 28 in relation to the finding of guilt.

Part 4 Offences

Section 57

1 (3) In this section:
2 *alternative offence*, for an offence mentioned in table 57, column 2,
3 means an offence mentioned in column 3 for the offence.

4 **Table 57** **Alternative verdicts**

column 1 item	column 2 prosecuted offence	column 3 alternative offence
1	section 53 (which is about failing to comply with a safety duty)	section 58 (Failure to comply with condition of licence) section 61 (Failure to comply with condition of registration of radiation source)
2	section 54 (which is about exposing a person to a substantial risk of death or serious harm)	section 53 (which is about failing to comply with a safety duty) section 58 (Failure to comply with condition of licence) section 61 (Failure to comply with condition of registration of radiation source)
3	section 55 (which is about causing death or serious harm to a person)	section 53 (which is about failing to comply with a safety duty) section 54 (which is about exposing a person to a substantial risk of death or serious harm) section 58 (Failure to comply with condition of licence) section 61 (Failure to comply with condition of registration of radiation source)

column 1 item	column 2 prosecuted offence	column 3 alternative offence
4	section 56 (which is about exposing property or the environment to substantial risk of substantial damage)	section 53 (which is about failing to comply with a safety duty) section 58 (Failure to comply with condition of licence) section 61 (Failure to comply with condition of registration of radiation source)

- 1 **58** **Failure to comply with condition of licence**
- 2 (1) A licensee commits an offence if—
- 3 (a) the licensee’s licence is subject to a condition; and
- 4 (b) the licensee fails to comply with a requirement of the
- 5 condition.
- 6 Maximum penalty: 100 penalty units.
- 7 (2) An offence against this section is a strict liability offence.
- 8 **59** **Dealing with regulated radiation source without licence**
- 9 (1) A person commits an offence if—
- 10 (a) the person intentionally deals with a regulated radiation source;
- 11 and
- 12 (b) the dealing by the person is not authorised under a licence in
- 13 relation to the radiation source; and
- 14 (c) the person knows that the dealing by the person is not
- 15 authorised under a licence in relation to the radiation source.
- 16 Maximum penalty: 1 000 penalty units, 2 years imprisonment or
- 17 both.

- 1 (2) A person commits an offence if—
- 2 (a) the person deals with a regulated radiation source; and
- 3 (b) the dealing by the person is not authorised under a licence in
- 4 relation to the radiation source; and
- 5 (c) the person, in dealing with the radiation source is negligent
- 6 about whether—
- 7 (i) the radiation source is a regulated radiation source; or
- 8 (ii) the dealing by the person is not authorised under a licence
- 9 in relation to the radiation source.
- 10 Maximum penalty: 500 penalty units, 1 year imprisonment or both.
- 11 (3) A person commits an offence if—
- 12 (a) the person deals with a regulated radiation source; and
- 13 (b) the dealing by the person is not authorised under a licence in
- 14 relation to the radiation source.
- 15 Maximum penalty: 50 penalty units.
- 16 (4) Strict liability applies to subsection (3) (b).
- 17 (5) Subsection (6) applies if—
- 18 (a) in a prosecution for an offence against subsection (1), the trier
- 19 of fact is not satisfied that the defendant committed the offence
- 20 but is satisfied beyond reasonable doubt that the defendant
- 21 committed an offence against subsections (2) or (3) (the
- 22 ***alternative offence***); or
- 23 (b) in a prosecution for an offence against subsection (1), the trier
- 24 of fact is not satisfied that the defendant committed the offence
- 25 but is satisfied beyond reasonable doubt that the defendant
- 26 committed an offence against subsection (3) (also the
- 27 ***alternative offence***).

- 1 (6) The trier of fact may find the defendant guilty of the alternative
2 offence but only if the defendant has been given procedural fairness
3 in relation to that finding of guilt.

4 **60 Owning unregistered radiation source**

- 5 (1) A person commits an offence if—
6 (a) the person owns a regulated radiation source; and
7 (b) the person fails to apply to register the radiation source not
8 later than 7 days after the day the person acquires ownership.

9 Maximum penalty: 50 penalty units.

- 10 (2) A person does not commit an offence against subsection (1) if—
11 (a) the person manufactures the radiation source; and
12 (b) the person is authorised under a licence to manufacture the
13 radiation source; and
14 (c) the person owns the radiation source for a period of not longer
15 than 90 days after the day the manufacture of the radiation
16 source is completed.

- 17 (3) An offence against this section is a strict liability offence.

18 **61 Failure to comply with condition of registration of**
19 **radiation source**

- 20 (1) A registered owner of a regulated radiation source commits an
21 offence if—
22 (a) the registration of the radiation source is subject to a condition;
23 and

1 (b) the registered owner fails to comply with a requirement of the
2 condition.

3 Maximum penalty: 100 penalty units.

4 (2) An offence against this section is a strict liability offence.

5 **62 Dealings with prohibited radiation source**

6 (1) A person commits an offence if the person intentionally deals with a
7 prohibited radiation source.

8 Maximum penalty: 2000 penalty units, 7 years imprisonment or
9 both.

10 (2) This section does not apply to any action in accordance with
11 section 45 (Disposal etc of prohibited radiation source).

12 **63 Failure to notify council of dangerous event**

13 (1) A person commits an offence if—

14 (a) the person possesses a radiation source; and

15 (b) a dangerous event happens in relation to the radiation source;
16 and

17 (c) the person knows the dangerous event happened; and

18 (d) the person fails to tell the council immediately about the
19 dangerous event.

20 Maximum penalty: 200 penalty units.

21 (2) A person commits an offence if—

22 (a) the person possesses a radiation source; and

23 (b) a dangerous event happens in relation to the radiation source;
24 and

- 1 (c) the person fails to give the council the information it
2 reasonably requires about the dangerous event.

3 Maximum penalty: 50 penalty units.

4 **Examples for par (c)**

5 1 the location of the dangerous event

6 2 the radiation source involved in the dangerous event

7 *Note* An example is part of the Act, is not exhaustive and may extend, but
8 does not limit, the meaning of the provision in which it appears (see
9 Legislation Act, s 126 and s 132).

- 10 (3) In this section:

11 *dangerous event* means an event prescribed by regulation to be a
12 dangerous event.

13 **64 Criminal liability of corporation officers**

- 14 (1) This section applies to the following provisions:

15 (a) section 42 (Prohibition on abandoning radiation source);

16 (b) a provision of this part.

- 17 (2) An officer of a corporation commits an offence if—

18 (a) the corporation contravenes a provision to which this section
19 applies; and

20 (b) the contravention is an offence against this Act (the *relevant*
21 *offence*); and

22 (c) the officer was reckless about whether the contravention would
23 happen; and

24 (d) the officer was in a position to influence the conduct of the
25 corporation in relation to the contravention; and

- 1 (e) the officer failed to take all reasonable steps to prevent the
2 contravention.
- 3 Maximum penalty: The maximum penalty that may be imposed for
4 the commission of the relevant offence by an individual.
- 5 (3) This section applies whether or not the corporation is prosecuted for,
6 or convicted of, the relevant offence.
- 7 (4) In deciding whether the officer took (or failed to take) reasonable
8 steps to prevent the contravention, a court must have regard to the
9 following:
- 10 (a) any action the officer took directed towards ensuring the
11 following (to the extent that the action is relevant to the act or
12 omission):
- 13 (i) that the corporation arranged regular professional
14 assessments of the corporation's compliance with the
15 contravened provision;
- 16 (ii) that the corporation implemented any appropriate
17 recommendation arising from such an assessment;
- 18 (iii) that the corporation's employees, agents and contractors
19 had a reasonable knowledge and understanding of the
20 requirement to comply with the contravened provision;
- 21 (b) any action the officer took when the officer became aware that
22 the contravention was, or might be, about to happen.
- 23 (5) Subsection (4) does not limit the matters to which the court may
24 have regard.
- 25 (6) This section does not apply if the corporation would have a defence
26 to a prosecution for the relevant offence.

- 1 (7) In this section:
- 2 ***officer***, of a corporation, means—
- 3 (a) a director or secretary of the corporation; or
- 4 (b) a person—
- 5 (i) who makes, or takes part in making, decisions that affect
- 6 all, or a substantial part, of the business of the
- 7 corporation; or
- 8 (ii) in accordance with whose instructions or wishes the
- 9 directors of the corporation are accustomed to act
- 10 (excluding advice given by the person in the proper
- 11 exercise of functions attaching to the person's
- 12 professional capacity or business relationship with the
- 13 directors or the corporation); or
- 14 (iii) a receiver, or receiver and manager, of the corporation's
- 15 property; or
- 16 (c) an administrator of the corporation; or
- 17 (d) an administrator of a deed of company arrangement executed
- 18 by the corporation; or
- 19 (e) a liquidator of the corporation; or
- 20 (f) a trustee or other person administering a compromise or
- 21 arrangement made between the corporation and someone else.

- 1 **Part 5 Administration**
- 2 **Division 5.1 Radiation council**
- 3 **65 Establishment of radiation council**
- 4 (1) The Radiation Council (the *council*) is established.
- 5 (2) The council—
- 6 (a) is a corporation; and
- 7 (b) may sue and be sued in its corporate name; and
- 8 (c) may have a seal.
- 9 (3) The council represents the Territory when exercising its functions,
- 10 unless this Act or another territory law otherwise provides.
- 11 **66 Council functions**
- 12 The council has the following functions:
- 13 (a) issuing licences;
- 14 (b) registering regulated radiation sources;
- 15 (c) advising the Minister on radiation protection issues;
- 16 (d) exercising any other function given to it under this Act or
- 17 another territory law.
- 18 *Note* A provision of a law that gives an entity (including a person) a function
- 19 also gives the entity powers necessary and convenient to exercise the
- 20 function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

1 **67 Delegation of certain council functions**

2 The council may delegate its functions to a member of the council
3 or a public servant.

4 *Note* For the making of delegations and the exercise of delegated functions,
5 see the Legislation Act, pt 19.4.

6 **Division 5.2 Council members**

7 **68 Council members**

8 (1) The Minister may appoint the council members.

9 *Note 1* For the making of appointments (including acting appointments), see
10 the Legislation Act, pt 19.3.

11 *Note 2* In particular, an appointment may be made by naming a person or
12 nominating the occupant of a position (see s 207).

13 *Note 3* Certain Ministerial appointments require consultation with an Assembly
14 committee and are disallowable (see Legislation Act, div 19.3.3).

15 (2) The council members must include—

16 (a) a member of the public; and

17 (b) 1 member who is a doctor registered under the *Health*
18 *Professionals Act 2004* in the specialist area of radiology; and

19 (c) 1 member with expert knowledge of the physical properties or
20 biological effects of radiation; and

21 (d) a person who, in the Minister's opinion, has qualifications or
22 experience relevant to assisting the council carry out its
23 functions.

24 **69 Term of council member appointments**

25 A council member must not be appointed for longer than 3 years.

26 *Note* A person may be reappointed to a position if the person is eligible to be
27 appointed to the position (see Legislation Act, s 208 and dict, pt 1,
28 def *appoint*).

1 **70 Chair and deputy chair of council**

- 2 (1) The Minister may appoint a council member to be the chair of the
3 council and another member to be the deputy chair of the council.
- 4 (2) The Minister must try to ensure that the council always has a chair
5 and a deputy chair.

6 **71 Ending appointment of council member**

7 The Minister may end a council member's appointment—

- 8 (a) if a member contravenes a territory law; or
9 (b) for misbehaviour; or
10 (c) if the member becomes bankrupt or executes a personal
11 insolvency agreement; or
12 (d) if the member is convicted, or found guilty, in Australia of an
13 offence punishable by imprisonment for at least 1 year; or
14 (e) if the member is convicted, or found guilty, outside Australia
15 of an offence that, if it had been committed in the ACT, would
16 be punishable by imprisonment for at least 1 year; or
17 (f) if the member exercises the member's functions other than in
18 accordance with section 74 (Honesty, care and diligence of
19 council members); or
20 (g) if the member fails to take all reasonable steps to avoid being
21 placed in a position where a conflict of interest arises during
22 the exercise of the member's functions; or
23 (h) if the member contravenes section 77 (Disclosure of interests
24 by council members); or
25 (i) if the member is absent from 3 consecutive meetings of the
26 council, otherwise than on approved leave; or

- 1 (j) for physical or mental incapacity, if the incapacity substantially
2 affects the exercise of the member's functions.

3 *Note* The appointment of a member also ends if the member resigns (see
4 Legislation Act, s 210).

5 **Division 5.3 Functions of council members**

6 **72 Chair's functions**

7 The chair of the council has the following functions:

- 8 (a) managing the affairs of the council;
9 (b) ensuring the Minister is kept informed about the operations of
10 the council.

11 **73 Deputy chair's functions**

12 If the chair of the council is absent or cannot for any reason exercise
13 the functions of the chair, the deputy chair of the council must
14 exercise the functions of the chair.

15 *Note* The Legislation Act, s 209 deals with acting appointments.

16 **74 Honesty, care and diligence of council members**

17 In exercising the functions of a council member, a member must
18 exercise the degree of honesty, care and diligence required to be
19 exercised by a director of a corporation in relation to the affairs of
20 the corporation.

21 **75 Conflicts of interest by council members**

22 A council member must take all reasonable steps to avoid being
23 placed in a position where a conflict of interest arises during the
24 exercise of the member's functions.

1 **76 Agenda to require disclosure of interest item**

2 The agenda for each meeting of the council must include an item
3 requiring any material interest in an issue to be considered at the
4 meeting to be disclosed to the meeting.

5 **77 Disclosure of interests by council members**

6 (1) If a council member has a material interest in an issue being
7 considered, or about to be considered, by the council, the member
8 must disclose the nature of the interest at a council meeting as soon
9 as practicable after the relevant facts come to the member's
10 knowledge.

11 *Note* **Material interest** is defined in s (4). The definition of *indirect interest*
12 in s (4) applies to the definition of *material interest*.

13 (2) The disclosure must be recorded in the council's minutes and, unless
14 the council otherwise decides, the member must not—

15 (a) be present when the council considers the issue; or

16 (b) take part in a decision of the council on the issue.

17 **Example**

18 Glenn, Joe and Bronwyn are members of the council. They have an interest in an
19 issue being considered at a council meeting and they disclose the interest as soon
20 as they become aware of it. Glenn's and Joe's interests are minor but Bronwyn
21 has a direct financial interest in the issue.

22 The council considers the disclosures and decides that because of the nature of the
23 interests:

24 • Glenn may be present when the council considers the issue but not take part
25 in the decision

26 • Joe may be present for the consideration and take part in the decision.

27 The council does not make a decision allowing Bronwyn to be present or take part
28 in the council's decision. Accordingly, since Bronwyn has a material interest she
29 cannot be present for the consideration of the issue or take part in the decision.

30 *Note* An example is part of the Act, is not exhaustive and may extend, but
31 does not limit, the meaning of the provision in which it appears (see
32 Legislation Act, s 126 and s 132).

- 1 (3) Any other council member who also has a material interest in the
2 issue must not be present when the council is considering its
3 decision under subsection (2).
- 4 (4) In this section:
- 5 *associate*, of a person, means—
- 6 (a) the person's business partner; or
7 (b) a close friend of the person; or
8 (c) a family member of the person.
- 9 *executive officer*, of a corporation, means a person (however
10 described) who is concerned with, or takes part in, the corporation's
11 management, whether or not the person is a director of the
12 corporation.
- 13 *indirect interest*—without limiting the kinds of indirect interests a
14 person may have, a person has an *indirect interest* in an issue if any
15 of the following has an interest in the issue:
- 16 (a) an associate of the person;
- 17 (b) a corporation if the corporation has not more than
18 100 members and the person, or an associate of the person, is a
19 member of the corporation;
- 20 (c) a subsidiary of a corporation mentioned in paragraph (b);
- 21 (d) a corporation if the person, or an associate of the person, is an
22 executive officer of the corporation;
- 23 (e) the trustee of a trust if the person, or an associate of the person,
24 is a beneficiary of the trust;
- 25 (f) a member of a firm or partnership if the person, or an associate
26 of the person, is a member of the firm or partnership;

1 (g) someone else carrying on a business if the person, or an
2 associate of the person, has a direct or indirect right to
3 participate in the profits of the business.

4 **material interest**—a council member has a **material interest** in an
5 issue if the member has—

6 (a) a direct or indirect financial interest in the issue; or

7 (b) a direct or indirect interest of any other kind if the interest
8 could conflict with the proper exercise of the member's
9 functions in relation to the council's consideration of the issue.

10 **78 Reporting of disclosed interests to Minister**

11 (1) Within 3 months after the day a material interest is disclosed under
12 section 77 (1), the chair of the council must report to the Minister in
13 writing about—

14 (a) the disclosure; and

15 (b) the nature of the interest disclosed; and

16 (c) any decision by the council under section 77 (2).

17 (2) The chair must also give the Minister, not later than 31 days after
18 the end of each financial year, a statement that sets out the
19 information given to the Minister in reports under subsection (1)
20 that relate to disclosures made during the previous financial year.

21 (3) The Minister must give a copy of the statement to the relevant
22 committee of the Legislative Assembly within 31 days after the day
23 the Minister receives the statement.

24 (4) In this section:

25 **relevant committee** means—

26 (a) a standing committee of the Legislative Assembly nominated
27 by the Speaker for subsection (3); or

- 1 (b) if no nomination under paragraph (a) is in effect—the standing
2 committee of the Legislative Assembly responsible for public
3 accounts.

4 **79 Protection of council members from liability**

- 5 (1) A council member is not civilly liable for anything done or omitted
6 to be done honestly and without recklessness—
7 (a) in the exercise of a function under a territory law; or
8 (b) in the reasonable belief that the act or omission was in the
9 exercise of a function under a territory law.
10 (2) Any liability that would, apart from this section, attach to a council
11 member attaches instead to the council.

12 **Division 5.4 Council proceedings**

13 **80 Time and place of council meetings**

- 14 (1) Meetings of the council are to be held when and where it decides.
15 (2) However, the council must meet at least once every 3 months.
16 (3) The chair—
17 (a) may at any time call a meeting of the council; and
18 (b) must call a meeting if asked by the Minister or at least
19 2 members.
20 (4) The chair must give the other members reasonable notice of the time
21 and place of a meeting called by the chair.

1 **81 Presiding member at council meetings**

- 2 (1) The chair presides at all meetings at which the chair is present.
3 (2) If the chair is absent, the deputy chair presides.
4 (3) If the chair and the deputy chair are absent, the member chosen by
5 the members present presides.

6 **82 Quorum at council meetings**

7 Business may be carried on at a meeting of the council only if at
8 least $\frac{1}{2}$ the number of members appointed are present.

9 **83 Voting at council meetings**

10 At a meeting of the council a question is decided by a majority of
11 the votes of the members present and voting but, if the votes are
12 equal, the member presiding has a deciding vote.

13 **84 Conduct of council meetings etc**

- 14 (1) The council may conduct its proceedings (including its meetings) as
15 it considers appropriate.
16 (2) A meeting may be held using a method of communication, or a
17 combination of methods of communication, that allows a council
18 member taking part to hear what each other member taking part says
19 without the members being in each other's presence.

20 **Examples**

21 a phone link, a satellite link

22 *Note* An example is part of the Act, is not exhaustive and may extend, but
23 does not limit, the meaning of the provision in which it appears (see
24 Legislation Act, s 126 and s 132).

- 25 (3) A council member who takes part in a meeting conducted under
26 subsection (2) is taken, for all purposes, to be present at the meeting.

- 1 (4) A resolution is a valid resolution of the council, even if it is not
2 passed at a meeting of the council, if all members agree to the
3 proposed resolution in writing or by electronic communication.

4 **Example of electronic communication**

5 email

- 6 (5) The board must keep minutes of its meetings.

7 **85 Reports to Minister on radiation protection issues**

8 If the Minister asks the council, in writing, to advise the Minister on
9 a radiation protection issue, the council must investigate the issue
10 and give the Minister a report on it, including a recommendation if
11 appropriate, within the period stated in the request.

12 **Division 5.5 Radiation register**

13 **86 Radiation register**

14 The council must keep a register of the following:

- 15 (a) licences issued under section 17;
16 (b) radiation sources registered under section 26;
17 (c) disciplinary action taken under section 36;
18 (d) immediate suspension of licences and registrations under
19 section 37;
20 (e) anything else prescribed by regulation.

21 **87 Correction of register**

22 The council may correct a mistake, error or omission in the radiation
23 register.

1 **90 Identity cards**

2 (1) The chief executive must give an authorised person an identity card
3 stating the person's name and that the person is an authorised
4 person.

5 (2) The identity card must show—

6 (a) a recent photograph of the person; and

7 (b) the card's date of issue and expiry; and

8 (c) anything else prescribed by regulation.

9 (3) A person commits an offence if—

10 (a) the person stops being an authorised person; and

11 (b) the person does not return the person's identity card to the
12 chief executive as soon as practicable, but no later than 7 days
13 after the day the person stops being an authorised person.

14 Maximum penalty: 1 penalty unit.

15 (4) An offence against this section is a strict liability offence.

16 **Division 6.3 Powers of authorised people**

17 **91 Power to enter premises**

18 (1) For this Act, an authorised person may—

19 (a) at any reasonable time, enter premises that the public is entitled
20 to use or that are open to the public (whether or not on
21 payment of money); or

22 (b) at any time, enter premises with the occupier's consent; or

23 (c) enter premises in accordance with a search warrant; or

24 (d) at any time, enter premises if the authorised person believes, on
25 reasonable grounds, that the circumstances are so serious and

1 urgent that immediate entry to the premises without the
2 authority of a search warrant is necessary.

3 (2) However, subsection (1) (a) does not authorise entry into a part of
4 premises that is being used only for residential purposes.

5 (3) An authorised person may, without the consent of the occupier of
6 premises, enter land around the premises to ask for consent to enter
7 the premises.

8 (4) To remove any doubt, an authorised person may enter premises
9 under subsection (1) without payment of an entry fee or other
10 charge.

11 (5) In this section:

12 *at any reasonable time* includes at any time when the public is
13 entitled to use the premises, or when the premises are open to or
14 used by the public (whether or not on payment of money).

15 **92 Production of identity card**

16 An authorised person must not remain at premises entered under this
17 part if the authorised person does not produce his or her identity
18 card when asked by the occupier.

19 **93 Consent to entry**

20 (1) When seeking the consent of an occupier of premises to enter
21 premises under section 91 (1) (b), an authorised person must—

22 (a) produce his or her identity card; and

23 (b) tell the occupier—

24 (i) the purpose of the entry; and

25 (ii) that anything found and seized under this part may be
26 used in evidence in court; and

27 (iii) that consent may be refused.

- 1 (2) If the occupier consents, the authorised person must ask the occupier
2 to sign a written acknowledgment (an *acknowledgement of*
3 *consent*)—
- 4 (a) that the occupier was told—
- 5 (i) the purpose of the entry; and
- 6 (ii) that anything found and seized under this part may be
7 used in evidence in court; and
- 8 (iii) that consent may be refused; and
- 9 (b) that the occupier consented to the entry; and
- 10 (c) stating the time and date when consent was given.
- 11 (3) If the occupier signs an acknowledgment of consent, the authorised
12 person must immediately give a copy to the occupier.
- 13 (4) A court must find that the occupier did not consent to entry to the
14 premises by the authorised person under this part if—
- 15 (a) the question arises in a proceeding in the court whether the
16 occupier consented to the entry; and
- 17 (b) an acknowledgment of consent is not produced in evidence;
18 and
- 19 (c) it is not proved that the occupier consented to the entry.

20 **94 General powers on entry to premises**

- 21 (1) An authorised person who enters premises under this part may, for
22 this Act, do 1 or more of the following in relation to the premises or
23 anything on the premises:
- 24 (a) inspect or examine;
- 25 (b) take measurements or conduct tests;
- 26 (c) take samples;

- 1 (d) take photographs, films, or audio, video or other recordings;
2 (e) require the occupier, or anyone at the premises, to give the
3 authorised person reasonable help to exercise a power under
4 this part.

5 *Note* The Legislation Act, s 170 and s 171 deal with the application of the
6 privilege against self incrimination and client legal privilege.

- 7 (2) A person must take all reasonable steps to comply with a
8 requirement made of the person under subsection (1) (e).

9 Maximum penalty: 50 penalty units.

10 **95 Power to seize things**

- 11 (1) An authorised person who enters premises under this part with the
12 occupier's consent may seize anything at the premises if—

13 (a) the authorised person is satisfied, on reasonable grounds, that
14 the thing is connected with an offence against this Act; and

15 (b) seizure of the thing is consistent with the purpose of the entry
16 told to the occupier when seeking the occupier's consent.

- 17 (2) An authorised person who enters premises under a warrant under
18 this part may seize anything at the premises that the authorised
19 person is authorised to seize under the warrant.

- 20 (3) An authorised person who enters premises under this part (whether
21 with the occupier's consent, under a warrant or otherwise) may seize
22 anything at the premises if satisfied, on reasonable grounds, that—

23 (a) the thing is connected with an offence against this Act; and

24 (b) the seizure is necessary to prevent the thing from being—

25 (i) concealed, lost or destroyed; or

26 (ii) used to commit, continue or repeat the offence.

- 1 (4) Also, an authorised person who enters premises under this part
2 (whether with the consent of a person in charge of the premises,
3 under a warrant or otherwise) may seize anything at the premises if
4 satisfied, on reasonable grounds, that the thing poses a risk to the
5 health or safety of people or of damage to property or the
6 environment.
- 7 (5) The powers of an authorised person under subsections (3) and (4)
8 are additional to any powers of the authorised person under
9 subsections (1) or (2) or any other territory law.
- 10 (6) Having seized a thing, an authorised person may—
11 (a) remove the thing from the premises where it was seized (the
12 *place of seizure*) to another place; or
13 (b) leave the thing at the place of seizure but restrict access to it.
- 14 (7) A person commits an offence if—
15 (a) the person interferes with a seized thing, or anything
16 containing a seized thing, to which access has been restricted
17 under subsection (6); and
18 (b) the person does not have an authorised person's approval to
19 interfere with the thing.
- 20 Maximum penalty: 50 penalty units.
- 21 (8) An offence against this section is a strict liability offence.

22 **Division 6.4 Search warrants**

23 **96 Warrants generally**

- 24 (1) An authorised person may apply to a magistrate for a warrant to
25 enter premises.
- 26 (2) The application must be sworn and state the grounds on which the
27 warrant is sought.

- 1 (3) The magistrate may refuse to consider the application until the
2 authorised person gives the magistrate all the information the
3 magistrate requires about the application in the way the magistrate
4 requires.
- 5 (4) The magistrate may issue a warrant only if satisfied there are
6 reasonable grounds for suspecting—
- 7 (a) there is a particular thing or activity connected with an offence
8 against this Act; and
- 9 (b) the thing or activity—
- 10 (i) is, or is being engaged in, at the premises; or
- 11 (ii) may be, or may be engaged in, at the premises within the
12 next 7 days.
- 13 (5) The warrant must state—
- 14 (a) that an authorised person may, with any necessary assistance
15 and force, enter the premises and exercise the authorised
16 person's powers under this part; and
- 17 (b) the offence for which the warrant is issued; and
- 18 (c) the things that may be seized under the warrant; and
- 19 (d) the hours when the premises may be entered; and
- 20 (e) the date, within 7 days after the day of the warrant's issue, the
21 warrant ends.

22 **97 Warrants—application made other than in person**

- 23 (1) An authorised person may apply for a warrant by phone, fax, radio
24 or other form of communication if the authorised person considers it
25 necessary because of—
- 26 (a) urgent circumstances; or
- 27 (b) other special circumstances.

- 1 (2) Before applying for the warrant, the authorised person must prepare
2 an application stating the grounds on which the warrant is sought.
- 3 (3) The authorised person may apply for the warrant before the
4 application is sworn.
- 5 (4) After issuing the warrant, the magistrate must immediately fax a
6 copy to the authorised person if it is practicable to do so.
- 7 (5) If it is not practicable to fax a copy to the authorised person—
8 (a) the magistrate must—
9 (i) tell the authorised person the terms of the warrant; and
10 (ii) tell the authorised person the date and time the warrant
11 was issued; and
12 (b) the authorised person must complete a form of warrant (the
13 **warrant form**) and write on it—
14 (i) the magistrate's name; and
15 (ii) the date and time the magistrate issued the warrant; and
16 (iii) the warrant's terms.
- 17 (6) The faxed copy of the warrant, or the warrant form properly
18 completed by the authorised person, authorises the entry and the
19 exercise of the authorised person's powers under this part.
- 20 (7) The authorised person must, at the first reasonable opportunity, send
21 to the magistrate—
22 (a) the sworn application; and
23 (b) if the authorised person completed a warrant form—the
24 completed warrant form.
- 25 (8) On receiving the documents, the magistrate must attach them to the
26 warrant.

- 1 (9) A court must find that a power exercised by the authorised person
2 was not authorised by a warrant under this section if—
- 3 (a) the question arises in a proceeding in the court whether the
4 exercise of power was authorised by a warrant; and
- 5 (b) the warrant is not produced in evidence; and
- 6 (c) it is not proved that the exercise of power was authorised by a
7 warrant under this section.

8 **98 Search warrants—announcement before entry**

- 9 (1) An authorised person must, before anyone enters premises under a
10 search warrant—
- 11 (a) announce that the authorised person is authorised to enter the
12 premises; and
- 13 (b) give anyone at the premises an opportunity to allow entry to
14 the premises; and
- 15 (c) if the occupier of the premises, or someone else who
16 apparently represents the occupier, is present at the premises—
17 identify himself or herself to the person.
- 18 (2) The authorised person is not required to comply with subsection (1)
19 if the authorised person believes, on reasonable grounds, that
20 immediate entry to the premises is required to ensure—
- 21 (a) the safety of anyone (including the authorised person or any
22 person assisting); or
- 23 (b) that the effective execution of the warrant is not frustrated.

24 **99 Details of search warrant to be given to occupier etc**

25 If the occupier of premises, or someone else who apparently
26 represents the occupier, is present at the premises while a search
27 warrant is being executed, the authorised person or a person
28 assisting must make available to the person—

- 1 (a) a copy of the warrant; and
2 (b) a document setting out the rights and obligations of the person.

3 **100 Occupier entitled to be present during search etc**

- 4 (1) If the occupier of premises, or someone else who apparently
5 represents the occupier, is present at the premises while a search
6 warrant is being executed, the person is entitled to observe the
7 search being conducted.
8 (2) However, the person is not entitled to observe the search if—
9 (a) to do so would impede the search; or
10 (b) the person is under arrest, and allowing the person to observe
11 the search being conducted would interfere with the objectives
12 of the search.
13 (3) This section does not prevent 2 or more areas of the premises being
14 searched at the same time.

15 **Division 6.5 Return and forfeiture of things seized**

16 **101 Receipt for things seized**

- 17 (1) As soon as practicable after an authorised person seizes a thing
18 under this part, the authorised person must give a receipt for it to the
19 person from whom it was seized.
20 (2) If, for any reason, it is not practicable to comply with subsection (1),
21 the authorised person must leave the receipt, secured conspicuously,
22 at the place of seizure under section 95 (Power to seize things).
23 (3) A receipt under this section must include the following:
24 (a) a description of the thing seized;
25 (b) an explanation of why the thing was seized;

- 1 (c) the authorised person's name, and how to contact the
2 authorised person;
- 3 (d) if the thing is moved from the premises where it is seized—
4 where the thing is to be taken.

5 **102 Moving things to another place for examination or**
6 **processing under search warrant**

- 7 (1) A thing found at premises entered under a search warrant may be
8 moved to another place for examination or processing to decide
9 whether it may be seized under the warrant if—
- 10 (a) both of the following apply:
- 11 (i) there are reasonable grounds for believing that the thing is
12 or contains something to which the warrant relates;
- 13 (ii) it is significantly more practicable to do so having regard
14 to the timeliness and cost of examining or processing the
15 thing at another place and the availability of expert
16 assistance; or
- 17 (b) the occupier of the premises agrees in writing.
- 18 (2) The thing may be moved to another place for examination or
19 processing for no longer than 72 hours.
- 20 (3) An authorised person may apply to a magistrate for an extension of
21 time if the authorised person believes, on reasonable grounds, that
22 the thing cannot be examined or processed within 72 hours.
- 23 (4) The authorised person must give notice of the application to the
24 occupier of the premises, and the occupier is entitled to be heard on
25 the application.

- 1 (5) If a thing is moved to another place under this section, the
2 authorised person must, if practicable—
- 3 (a) tell the occupier of the premises the address of the place where,
4 and time when, the examination or processing will be carried
5 out; and
- 6 (b) allow the occupier or the occupier's representative to be
7 present during the examination or processing.
- 8 (6) The provisions of this part relating to the issue of search warrants
9 apply, with any necessary changes, to the giving of an extension
10 under this section.

11 **103 Access to things seized**

- 12 A person who would, apart from the seizure, be entitled to inspect a
13 thing seized under this part may—
- 14 (a) inspect it; and
- 15 (b) if it is a document—take extracts from it or make copies of it.

16 **104 Return of things seized**

- 17 (1) A thing seized under this part must be returned to its owner, or
18 reasonable compensation must be paid by the Territory to the owner
19 for the loss of the thing, if—
- 20 (a) an infringement notice for an offence relating to the thing is
21 not served on the owner within 1 year after the day of the
22 seizure and—
- 23 (i) a prosecution for an offence relating to the thing is not
24 started within the 1-year period; or
- 25 (ii) a prosecution for an offence relating to the thing is started
26 within the 1-year period but the court does not find the
27 offence proved; or

- 1 (b) an infringement notice for an offence relating to the thing is
2 served on the owner within 1 year after the day of the seizure,
3 the infringement notice is withdrawn and—
- 4 (i) a prosecution for an offence relating to the thing is not
5 started within the 1-year period; or
- 6 (ii) a prosecution for an offence relating to the thing is started
7 within the 1-year period but the court does not find the
8 offence proved; or
- 9 (c) an infringement notice for an offence relating to the thing is
10 served on the owner and not withdrawn within 1 year after the
11 day of the seizure, liability for the offence is disputed in
12 accordance with the *Magistrates Court Act 1930*, section 132
13 (Disputing liability for infringement notice offence) and—
- 14 (i) an information is not laid in the Magistrates Court against
15 the person for the offence within 60 days after the day
16 notice is given under section 132 that liability is disputed;
17 or
- 18 (ii) an information is laid in the Magistrates Court against the
19 person for the offence within the 60-day period, but the
20 Magistrates Court does not find the offence proved; or
- 21 (d) before the thing is forfeited to the Territory under section 105
22 (Forfeiture of seized things), the chief executive—
- 23 (i) becomes satisfied that there has been no offence against
24 this Act with which the thing was connected; or
- 25 (ii) decides not to prosecute or serve an infringement notice
26 for the offence.
- 27 (2) However, this section does not apply—
- 28 (a) to a thing seized under section 95 (4) (which is about the
29 seizure of things that pose a risk to the health or safety of
30 people or of damage to property or the environment); or

1 (b) to a thing if the chief executive believes, on reasonable
2 grounds, that the only practical use of the thing in relation to
3 the premises where it was seized would be an offence against
4 this Act; or

5 (c) to a thing if possession of it by its owner would be an offence.

6 **105 Forfeiture of seized things**

7 (1) This section applies if—

8 (a) anything seized under this part has not been destroyed or
9 otherwise disposed of under section 106 (Power to destroy
10 unsafe things) or returned under section 104 (Return of things
11 seized); and

12 (b) an application for disallowance of the seizure under
13 section 107 (Application for order disallowing seizure)—

14 (i) has not been made within 10 days after the day of the
15 seizure; or

16 (ii) has been made within that period, but the application has
17 been refused or has been withdrawn before a decision in
18 relation to the application had been made.

19 (2) If this section applies to the seized thing—

20 (a) it is forfeited to the Territory; and

21 (b) it may be sold, destroyed or otherwise disposed of as the chief
22 executive directs.

23 **106 Power to destroy unsafe things**

24 (1) This section applies to anything inspected or seized under this part
25 by an authorised person if the authorised person is satisfied, on
26 reasonable grounds, that the thing poses a risk to the health or safety
27 of people or of damage to property or the environment.

- 1 (2) The authorised person may direct a person in charge of the premises
2 where the thing is to destroy or otherwise dispose of the thing.
- 3 (3) The direction may state 1 or more of the following:
- 4 (a) how the thing must be destroyed or otherwise disposed of;
- 5 (b) how the thing must be kept until it is destroyed or otherwise
6 disposed of;
- 7 (c) the period within which the thing must be destroyed or
8 otherwise disposed of.
- 9 (4) A person in charge of the premises where the thing is commits an
10 offence if the person contravenes a direction given to the person
11 under subsection (2).
- 12 Maximum penalty: 100 penalty units.
- 13 (5) Alternatively, if the thing has been seized under this part, the
14 authorised person may destroy or otherwise dispose of the thing.
- 15 (6) Costs incurred by the Territory in relation to the disposal of a thing
16 under subsection (5) are a debt owing to the Territory by, and are
17 recoverable together and separately from, the following people:
- 18 (a) the person who owned the thing;
- 19 (b) each person in control of the premises where the thing was.
- 20 (7) An offence against this section is a strict liability offence.

21 **107 Application for order disallowing seizure**

- 22 (1) A person claiming to be entitled to anything seized under this part
23 may apply to the Magistrates Court within 10 days after the day of
24 the seizure for an order disallowing the seizure.
- 25 (2) The application may be heard only if the applicant has served a copy
26 of the application on the chief executive.

- 1 (3) The chief executive is entitled to appear as respondent at the hearing
2 of the application.

3 **108 Order for return of seized thing**

- 4 (1) This section applies if a person claiming to be entitled to anything
5 seized under this chapter applies to the Magistrates Court under
6 section 107 for an order disallowing the seizure.

- 7 (2) The Magistrates Court must make an order disallowing the seizure if
8 the court is satisfied that—

9 (a) the applicant would, apart from the seizure, be entitled to the
10 return of the seized thing; and

11 (b) the thing is not connected with an offence against this Act; and

12 (c) possession of the thing by the person would not be an offence.

- 13 (3) The Magistrates Court may also make an order disallowing the
14 seizure if satisfied there are exceptional circumstances justifying the
15 making of the order.

- 16 (4) If the Magistrates Court makes an order disallowing the seizure, the
17 court may make 1 or more of the following ancillary orders:

18 (a) an order directing the chief executive to return the thing to the
19 applicant or to someone else who appears to be entitled to it;

20 (b) if the thing cannot be returned or has depreciated in value
21 because of the seizure—an order directing the Territory to pay
22 reasonable compensation;

23 (c) an order about the payment of costs in relation to the
24 application.

1 **Division 6.6 Miscellaneous**

2 **109 Damage etc to be minimised**

- 3 (1) In the exercise, or purported exercise, of a function under this part,
4 an authorised person must take all reasonable steps to ensure that the
5 authorised person, and any person assisting the authorised person,
6 causes as little inconvenience, detriment and damage as practicable.
- 7 (2) If an authorised person, or a person assisting an authorised person,
8 damages anything in the exercise or purported exercise of a function
9 under this part, the authorised person must give written notice of the
10 particulars of the damage to the person the authorised person
11 believes, on reasonable grounds, is the owner of the thing.
- 12 (3) If the damage happens at premises entered under this part in the
13 absence of the occupier, the notice may be given by leaving it,
14 secured conspicuously, at the premises.

15 **110 Compensation for exercise of enforcement powers**

- 16 (1) A person may claim compensation from the Territory if the person
17 suffers loss or expense because of the exercise, or purported
18 exercise, of a function under this part by an authorised person or a
19 person assisting an authorised person.
- 20 (2) Compensation may be claimed and ordered in a proceeding for—
21 (a) compensation brought in a court of competent jurisdiction; or
22 (b) an offence against this Act brought against the person making
23 the claim for compensation.
- 24 (3) A court may order the payment of reasonable compensation for the
25 loss or expense only if it is satisfied it is just to make the order in the
26 circumstances of the particular case.
- 27 (4) A regulation may prescribe matters that may, must or must not be
28 taken into account by the court in considering whether it is just to
29 make the order.

1 **Part 7** **Review of decisions**

2 **111** **Reviewable decisions**

3 Each of the following decisions of the council is a *reviewable*
4 *decision*:

- 5 (a) refusing to issue a licence under section 17 (1) (b);
6 (b) imposing a condition on a licence under section 19 (b);
7 (c) amending a licence under section 22 (1);
8 (d) refusing to amend a licence under section 23 (5) (b);
9 (e) refusing to register a regulated radiation source under
10 section 26 (1) (b);
11 (f) imposing a condition on registration of a regulated radiation
12 source under section 28 (b);
13 (g) amending the registration of a regulated radiation source under
14 section 31 (1);
15 (h) refusing to amend the registration of a regulated radiation
16 source under section 32 (5) (b);
17 (i) taking disciplinary action under section 36.

18 **112** **Review of decisions**

19 Application may be made to the AAT for review of a reviewable
20 decision.

1 **113 Notice of reviewable decisions**

2 (1) If the council makes a reviewable decision, it must give a written
3 notice of the decision to each person affected by the decision.

4 (2) The notice must be in accordance with the requirements of the code
5 of practice in force under the *Administrative Appeals Tribunal*
6 *Act 1989*, section 25B (1).

1 Part 8 Miscellaneous

2 114 Minister may exempt people, radiation sources etc

- 3 (1) The Minister may exempt a person, a radiation source or a dealing
4 with a radiation source from this Act if the Minister is satisfied that
5 the person's conduct, the radiation source or the dealing does not
6 pose a significant risk to the health or safety of people or of damage
7 to property or the environment.

8 *Note 1* A reference to an Act includes a reference to a provision of an Act (see
9 Legislation Act, s 7 (3)).

10 *Note 2* A regulation may also provide for exemptions (see s 123).

- 11 (2) An exemption may be conditional.
- 12 (3) An exemption under subsection (1) has no effect to the extent that it
13 is inconsistent with a regulation.
- 14 (4) An exemption is a disallowable instrument.
- 15 *Note* A disallowable instrument must be notified, and presented to the
16 Legislative Assembly, under the Legislation Act.
- 17 (5) In deciding whether to exempt a person, radiation source or a
18 dealing with a radiation source, the Minister must take into account
19 any criteria prescribed by regulation.

20 115 Divulging of information by council

- 21 (1) In this section:

22 *court* includes any entity with power to require the production of
23 documents or the answering of questions.

24 *divulge* includes communicate.

25 *health insurance commission* means the Health Insurance
26 Commission established under the *Health Insurance Commission*
27 *Act 1973* (Cwlth), section 4.

- 1 ***person to whom this section applies*** means anyone who is, or has
2 been—
- 3 (a) a council member; or
- 4 (b) acting under the direction or authority of the council ; or
- 5 (c) providing advice, expertise or assistance to the council.
- 6 ***produce*** includes allow access to.
- 7 ***protected information*** means information about a person that is
8 disclosed to, or obtained by, a person to whom this section applies
9 (the ***relevant person***) because of the exercise of a function under
10 this Act by the relevant person or someone else.
- 11 (2) A person to whom this section applies commits an offence if—
- 12 (a) the person—
- 13 (i) makes a record of protected information about someone
14 else; and
- 15 (ii) is reckless about whether the information is protected
16 information about the other person; or
- 17 (b) the person—
- 18 (i) does something that divulges protected information about
19 someone else; and
- 20 (ii) is reckless about whether—
- 21 (A) the information is protected information about the
22 other person; or
- 23 (B) doing the thing would result in the information being
24 divulged.
- 25 Maximum penalty: 50 penalty units, imprisonment for 6 months or
26 both.

- 1 (3) This section does not apply if the record is made, or the information
2 is divulged—
- 3 (a) under this Act or another territory law; or
- 4 (b) in relation to the exercise of a function, as a person to whom
5 this section applies, under this Act or another territory law.
- 6 (4) Subsection (2) does not apply to the divulging of protected
7 information about a person—
- 8 (a) to the person; or
- 9 (b) with the consent of the person; or
- 10 (c) to a health profession board under the *Health Professionals*
11 *Act 2004*; or
- 12 (d) to the health insurance commission; or
- 13 (e) to the environment protection authority; or
- 14 (f) to the OH&S commissioner; or
- 15 (g) to an entity that, under a law of another jurisdiction, has the
16 corresponding functions of the council under this Act or an
17 entity mentioned in paragraphs (c) to (f); or
- 18 (h) to any other entity under a law of another jurisdiction that has
19 functions relating to radiation safety.
- 20 (5) A person to whom this section applies need not divulge protected
21 information to a court, or produce a document containing protected
22 information to a court, unless it is necessary to do so for this Act or
23 another territory law.

1 **116 Codes of practice**

2 (1) The Minister may approve codes of practice or standards for this
3 Act.

4 (2) An approved code of practice may apply, adopt or incorporate an
5 instrument, as in force from time to time.

6 *Note 1* The text of an applied, adopted or incorporated instrument, whether
7 applied as in force from time to time or as at a particular time, is taken
8 to be a notifiable instrument if the operation of the Legislation Act,
9 s 47 (5) or (6) is not disapplied (see s 47 (7)).

10 *Note 2* A notifiable instrument must be notified under the Legislation Act.

11 (3) A code of practice is a disallowable instrument.

12 *Note* A disallowable instrument must be notified and presented to the
13 Legislative Assembly, under the Legislation Act.

14 **117 Notification of certain incorporated documents**

15 (1) This section applies to—

16 (a) an incorporated document; or

17 (b) an amendment of, or replacement of, an incorporated
18 document.

19 **Example of replacement document**

20 a new edition of the incorporated document

21 *Note 1* For the meaning of *incorporated document*, see the dictionary.

22 *Note 2* An example is part of the Act, is not exhaustive and may extend, but
23 does not limit, the meaning of the provision in which it appears (see
24 Legislation Act, s 126 and s 132).

25 (2) The chief executive may prepare a written notice (an *incorporated*
26 *document notice*) for the incorporated document, amendment or
27 replacement that contains the following information:

28 (a) for an incorporated document—details of the document,
29 including its title, author and date of publication;

- 1 (b) for a replacement of an incorporated document—details of the
2 replacement, including its title, author and date of publication;
- 3 (c) for an amendment of an incorporated document—the date of
4 publication of the amendment (or of the document as amended)
5 and a brief summary of the effect of the amendment;
- 6 (d) for an incorporated document or any amendment or
7 replacement—
- 8 (i) a date of effect (no earlier than the day after the day of
9 notification of the notice); and
- 10 (ii) details of how access to inspect the document,
11 amendment or replacement may be obtained under
12 section 118 (Inspection of incorporated documents); and
- 13 (iii) details of how copies may be obtained, including an
14 indication of whether there is a cost involved.
- 15 (3) An incorporated document notice is a notifiable instrument.
- 16 *Note* A notifiable instrument must be notified under the Legislation Act.
- 17 (4) An incorporated document, and any amendment or replacement of
18 an incorporated document, has no effect under this Act unless—
- 19 (a) an incorporated document notice is notified in relation to the
20 document, amendment or replacement; or
- 21 (b) the document, amendment or replacement is notified under the
22 Legislation Act.
- 23 (5) The Legislation Act, section 47 (7) does not apply in relation to
24 incorporated documents.
- 25 (6) In this section:
- 26 ***amendment***, of an incorporated document, includes an amendment
27 of a replacement of the incorporated document.

- 1 **replacement**, of an incorporated document, means—
- 2 (a) a document that replaces the incorporated document; or
- 3 (b) a document (an **initial replacement**) that replaces a document
- 4 mentioned in paragraph (a); or
- 5 (c) a document (a **further replacement**) that replaces an initial
- 6 replacement or any further replacement.

7 **118 Inspection of incorporated documents**

- 8 (1) This section applies to an incorporated document, or an amendment
- 9 or replacement of an incorporated document.

10 *Note* For the meaning of **incorporated document**, see the dictionary.

- 11 (2) The chief executive must ensure that the document, amendment or
- 12 replacement is made available for inspection free of charge to the
- 13 public on business days at reasonable times at the office of the
- 14 commission or an administrative unit administered by the chief
- 15 executive.

- 16 (3) In this section:

17 **amendment**, of an incorporated document—see section 117 (6).

18 **119 Evidentiary certificates**

19 In a prosecution for an offence against this Act, a certificate signed

20 by the Minister or the chair of the council that includes any of the

21 following statements is evidence of the matter stated:

- 22 (a) a statement that, at a stated time or during a stated period, a
- 23 stated person was, or was not, the holder of a stated licence;
- 24 (b) a statement that, at a stated time or during a stated period, a
- 25 stated source or apparatus was, or was not, registered;
- 26 (c) a statement that a stated direction, notice, order, requirement,
- 27 decision, licence or registration was given, made, granted or
- 28 issued under this Act;

- 1 (d) a statement of the name or physical or chemical form of a
2 radiation material;
- 3 (e) a statement of the activity of a radioactive material;
- 4 (f) a statement of the quantity of an effective dose or equivalent
5 dose of radiation;
- 6 (g) a statement of the quantity of an absorbed dose of radiation.

7 **120 Determination of fees**

- 8 (1) The Minister may, in writing, determine fees for this Act.

9 *Note* The Legislation Act contains provisions about the making of
10 determinations and regulations relating to fees (see pt 6.3).

- 11 (2) A determination is a disallowable instrument.

12 *Note* A disallowable instrument must be notified, and presented to the
13 Legislative Assembly, under the Legislation Act.

14 **121 Approved forms**

- 15 (1) The Minister may, in writing, approve forms for this Act.

- 16 (2) If the Minister approves a form for a particular purpose, the
17 approved form must be used for that purpose.

18 *Note* For other provisions about forms, see the Legislation Act, s 255.

- 19 (3) An approved form is a notifiable instrument.

20 *Note* A notifiable instrument must be notified under the Legislation Act.

21 **122 Regulation-making power**

- 22 (1) The Executive may make regulations for this Act.

23 *Note* A regulation must be notified, and presented to the Legislative
24 Assembly, under the Legislation Act.

- 1 (2) A regulation may apply, adopt or incorporate an instrument, as in
2 force from time to time.

3 *Note 1* The text of an applied, adopted or incorporated instrument, whether
4 applied as in force from time to time or as at a particular time, is taken
5 to be a notifiable instrument if the operation of the Legislation Act,
6 s 47 (5) or (6) is not disapplied (see s 47 (7)).

7 *Note 2* A notifiable instrument must be notified under the Legislation Act.

- 8 (3) A regulation may create offences and fix maximum penalties of not
9 more than 10 penalty units for the offences.

10 **123 Regulations may exempt people, radiation sources etc**

- 11 (1) A regulation may exempt a person, a radiation source or a dealing
12 with a radiation source from this Act.

13 *Note* A reference to an Act includes a reference to a provision of an Act (see
14 Legislation Act, s 7 (3)).

- 15 (2) An exemption may be conditional.

16 **124 Regulations may impose conditions to licensing and**
17 **registration regimes**

18 A regulation may impose conditions, including restrictions, on
19 radiation licenses and the registration of regulated radiation sources
20 to protect the public or the public interest.

21 **125 Review of Act**

- 22 (1) The Minister must review the operation of this Act and present a
23 report of the review to the Legislative Assembly as soon as
24 practicable after 1 July 2016.

25 *Note* A reference to an Act includes a reference to the statutory instruments
26 made or in force under the Act, including any regulation (see
27 Legislation Act, s 104).

- 28 (2) This section expires on 1 July 2017.

1 **Part 9** **Consequential amendments and**
2 **repeals**

3 **126** **Legislation amended—sch 1**

4 This Act amends the following legislation:

- 5 • *Clinical Waste Act 1990*
- 6 • *Dangerous Substances Act 2004*.

7 **127** **Legislation repealed**

- 8 (1) The *Radiation Act 1983* A1983-58 is repealed.
- 9 (2) The *Radiation Regulation 2002* SL2002-1 is repealed.
- 10 (3) The following instruments are repealed:
- 11 • *Radiation (Council) Appointment 2005 (No 1)* NI2005-126
 - 12 • *Radiation (Council) Appointment 2005 (No 2)* DI2005-202
 - 13 • *Radiation Council Appointments 2003 (No 1)* NI2003-282
 - 14 • *Radiation Council Appointments 2003 (No 1)* DI2003-184
 - 15 • *Radiation (Council Decision) Notice 2006 (No 1)* NI2006-38
 - 16 • *Radiation (Council Decisions) Notice 2001* NI2001-175
 - 17 • *Radiation (Council Decisions) Notice 2001* NI2001-139
 - 18 • *Radiation (Council Decisions) Notice 2001* NI2001-154
 - 19 • *Radiation (Council Decisions) Notice 2005 (No 1)* NI2005-83
 - 20 • *Radiation (Council Decisions) Notice 2005 (No 2)* NI2005-189
 - 21 • *Radiation (Council Decisions) Notice 2005 (No 3)* NI2005-244
 - 22 • *Radiation (Council Decisions) Notice 2005 (No 4)* NI2005-272
 - 23 • *Radiation (Council Decisions) Notice 2005 (No 5)* NI2005-336
 - 24 • *Radiation (Council Decisions) Notice 2005 (No 6)* NI2005-413
 - 25 • *Radiation (Council Decisions) Notice 2005 (No 7)* NI2005-471
 - 26 • *Radiation (Fees) Determination 2005 (No 2)* DI2005-208
 - 27 • *Radiation (Particulars of Decisions) Notice 2001* NI2001-194

- 1 • *Radiation (Prescribed Qualifications) Declaration 2005*
2 *NI2005-123*
- 3 • *Radiation (Radiation Council Decisions) Notice 2004 (No 1)*
4 *NI2004-41*
- 5 • *Radiation (Radiation Council Decisions) Notice 2004 (No 2)*
6 *NI2004-79*
- 7 • *Radiation (Radiation Council Decisions) Notice 2004 (No 3)*
8 *NI2004-135*
- 9 • *Radiation (Radiation Council Decisions) Notice 2004 (No 4)*
10 *NI2004-209*
- 11 • *Radiation (Radiation Council Decisions) Notice 2004 (No 5)*
12 *NI2004-285*
- 13 • *Radiation (Radiation Council Decisions) Notice 2004 (No 6)*
14 *NI2004-387*
- 15 • *Radiation (Radiation Council Decisions) Notice 2004 (No 7)*
16 *NI2004-423*
- 17 • *Radiation (Radiation Council Decisions) Notice 2004 (No 8)*
18 *NI2004-471*
- 19 • *Radiation Act – Radiation Council – Notification of Particulars*
20 *of Decisions (No 4) NI2002-90*
- 21 • *Radiation Act – Radiation Council – Notification of Particulars*
22 *of Decisions 2002 (No 6) NI2002-170*
- 23 • *Radiation Act – Radiation Council – Notification of particulars*
24 *of decisions 2002 (No 7) NI2002-273*
- 25 • *Radiation Act – Radiation Council – Notification of particulars*
26 *of decisions 2002 (No 8) NI2002-274*
- 27 • *Radiation Act – Radiation Council – Notification of Particulars*
28 *of Decisions 2002 (No 9) NI2002-303*
- 29 • *Radiation Act – Radiation Council – Notification of Particulars*
30 *of Decisions 2002 (No 11) NI2003-16*
- 31 • *Radiation Council – Notification of particulars of Decisions*
32 *2001 NI2001-34*

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- 1 • *Radiation Council – Notification of Particulars of Decisions*
2 *2001 NI2001-55*
- 3 • *Radiation Council – Notification of particulars of Decisions*
4 *2001 NI2001-72*
- 5 • *Radiation Council Notification of Particulars of Decisions 2002*
6 *NI2002-28*
- 7 • *Radiation Council – Notification of Particulars of Decisions*
8 *2002 (No 5) NI2002-117*
- 9 • *Radiation Council – Notification of Particulars of Decisions*
10 *2002 (No 10) NI2002-349*
- 11 • *Radiation Council Notification of Particulars of Decisions 2003*
12 *(No 1) NI2003-297*
- 13 • *Radiation Council Notification of Particulars of Decisions 2003*
14 *(No 2) NI2003-298*
- 15 • *Radiation Council Notification of Particulars of Decisions 2003*
16 *(No 3) NI2003-306*
- 17 • *Radiation Council Notification of Particulars of Decisions 2003*
18 *(No 4) NI2003-379*
- 19 • *Radiation Council Notification of Particulars of Decisions 2003*
20 *(No 5) NI2003-440*
- 21 • *Radiation Council Notification of Particulars of Decisions 2003*
22 *(No 6) NI2003-516*
- 23 • *Radiation Notification of Decisions NI1996-30*
- 24 • *Radiation Notification of Decisions NI1996-31*
- 25 • *Radiation Notification of Decisions NI1996-53*
- 26 • *Radiation Notification of Decisions NI1997-6*
- 27 • *Radiation Notification of Decisions NI1997-70*
- 28 • *Radiation Notification of Decisions NI1997-165*
- 29 • *Radiation Notification of Decisions NI1997-193*
- 30 • *Radiation Notification of Decisions NI1997-220*
- 31 • *Radiation Notification of Decisions NI1997-275*
- 32 • *Radiation Notification of Decisions NI1998-13*
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- 1 • *Radiation Notification of Decisions NI1998-52*
- 2 • *Radiation Notification of Decisions NI1998-71*
- 3 • *Radiation Notification of Decisions NI1998-150*
- 4 • *Radiation Notification of Decisions NI1998-182*
- 5 • *Radiation Notification of Decisions NI1998-223*
- 6 • *Radiation Notification of Decisions NI1998-270*
- 7 • *Radiation Notification of Decisions NI1998-286*
- 8 • *Radiation Notification of Decisions NI1998-320*
- 9 • *Radiation Notification of Decisions NI1999-5*
- 10 • *Radiation Notification of Decisions NI1999-30*
- 11 • *Radiation Notification of Decisions NI1999-62*
- 12 • *Radiation Notification of Decisions NI1999-86*
- 13 • *Radiation Notification of Decisions NI1999-120*
- 14 • *Radiation Notification of Decisions NI1999-143*
- 15 • *Radiation Notification of Decisions NI1999-163*
- 16 • *Radiation Notification of Decisions NI1999-167*
- 17 • *Radiation Notification of Decisions NI1999-175*
- 18 • *Radiation Notification of Decisions NI1999-253*
- 19 • *Radiation Notification of Decisions NI2000-26*
- 20 • *Radiation Notification of Decisions NI2000-64*
- 21 • *Radiation Notification of Decisions NI2000-109*
- 22 • *Radiation Notification of Decisions NI2000-148*
- 23 • *Radiation Notification of Decisions NI2000-172*
- 24 • *Radiation Notification of Decisions NI2000-213*
- 25 • *Radiation Notification of Decisions NI2000-252*
- 26 • *Radiation Notification of Decisions NI2000-290*
- 27 • *Radiation Notification of Decisions NI2000-313*
- 28 • *Radiation Section 73 Notification of Decisions NI2001-229*
- 29 • *Radiation Section 73 – Notification of Decisions NI2001-262*
- 30 • *Radiation Section 73 – Notification of Decisions NI2001-324*

1 **Part 10** **Transitional**

2 **128** **Definitions—pt 10**

3 In this part:

4 *commencement day* means the day this Act commences.

5 *repealed Act* means the *Radiation Act 1983*.

6 **129** **Existing licences**

- 7 (1) A licence under the repealed Act is taken to be a licence under this
8 Act.
- 9 (2) To remove any doubt, the conditions of a licence mentioned in
10 subsection (1) include the conditions included in a licence under this
11 Act.
- 12 (3) This section is a law to which the Legislation Act, section 88
13 (Repeal does not end effect of transitional laws etc) applies.

14 **130** **Registration of radiation sources etc**

- 15 (1) A irradiating apparatus that was, immediately before
16 commencement day, registered under the repealed Act is taken to be
17 registered as a radiation source under division 3.3 (Registration of
18 radiation sources).
- 19 (2) To remove any doubt, the conditions of registration of an apparatus
20 mentioned in subsection (1) include the conditions for registration of
21 an radiation source under this Act.
- 22 (3) This section is a law to which the Legislation Act, section 88
23 (Repeal does not end effect of transitional laws etc) applies.

1 **131 Transitional regulations**

2 (1) A regulation may prescribe transitional matters necessary or
3 convenient to be prescribed because of the enactment of this Act.

4 (2) A regulation may modify this part to make provision in relation to
5 anything that, in the Executive's opinion, is not, or is not adequately
6 or appropriately, dealt with in this part.

7 (3) A regulation under subsection (2) has effect despite anything
8 elsewhere in this Act.

9 **132 Expiry—pt 10**

10 This part expires 2 years after the commencement day.

1 **Schedule 1** **Consequential amendments**

2 (see s 126)

3 **Part 1.1** **Clinical Waste Act 1990**

4 **[1.1] Section 6**

5 *substitute*

6 **6** **Radioactive material**

7 This Act does not apply to radioactive material within the meaning
8 of the *Radiation Protection Act 2006*.

9 **Part 1.2** **Dangerous Substances Act 2004**

10 **[1.2] Section 7 (1) (e)**

11 *substitute*

12 (e) radioactive material under the *Radiation Protection Act 2006*;

1 Dictionary

2 (see s 5)

3 *Note 1* The Legislation Act contains definitions and other provisions relevant to
4 this Act.

5 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 6 • AAT
- 7 • ACT
- 8 • chief executive (see s 163)
- 9 • doctor
- 10 • environment protection authority
- 11 • exercise
- 12 • function
- 13 • OH&S commissioner
- 14 • public servant
- 15 • territory law
- 16 • the Territory
- 17 • under.

18 *analysis*, of a radiation source or anything else, includes examining
19 or testing the thing.

20 *approved code of practice* means a code of practice approved under
21 section 116.

22 *at* premises includes in or on the premises.

23 *authorised dealing*, for a licence, means a dealing with a radiation
24 source that is authorised under the licence.

25 *authorised person* means a person who is appointed as an
26 authorised person under section 89.

27 *cause* death or serious harm to a person means substantially
28 contribute directly or indirectly to the death or harm.

29 *connected*, for part 6 (Enforcement)—see section 88.

- 1 **council** means the Radiation Council established under section 65.
- 2 **deals** with a radiation source—see section 11.
- 3 **disciplinary action**—see section 35.
- 4 **disciplinary notice**—see section 36.
- 5 **dispose**, of a radiation source, includes—
- 6 (a) bury the radiation source; and
- 7 (b) for a radiation source that is a liquid or gas—release the
- 8 radiation source; and
- 9 (c) for a radiation facility—decommission the facility.
- 10 **dose limit** means a dose limit prescribed by regulation.
- 11 **emergency order**—see section 47.
- 12 **environment** includes the built and natural environment.
- 13 **examine** includes inspect, weigh, count, test and measure.
- 14 **ground**, for disciplinary action—see section 34.
- 15 **immediate suspension notice**—see section 37 (2).
- 16 **incorporated document** means—
- 17 (a) the national directory; or
- 18 (b) an instrument (or a provision of an instrument) applied,
- 19 adopted or incorporated by a statutory instrument under this
- 20 Act.
- 21 *Note* A statutory instrument includes a subordinate law or a disallowable
- 22 instrument (see Legislation Act, s 13).
- 23 **incorporated document notice**—see section 117 (2).
- 24 **ionising** radiation—see section 8 (2).
- 25 **licence** means a licence issued under section 17 (1).
- 26 **licensee** means a person issued with a licence under section 17.

- 1 **manufacture** a radiation source or anything else includes—
- 2 (a) make, remake, alter, break-up, process, recondition or treat the
- 3 thing; and
- 4 (b) change the thing in a way that affects its properties or
- 5 performance.
- 6 **national directory** means the national directory for radiation
- 7 protection published by the Australian Radiation Protection and
- 8 Nuclear Safety Agency as in force from time to time.
- 9 **non-ionising** radiation—see section 8 (3).
- 10 **occupier**, of premises, for part 6 (Enforcement)—see section 88.
- 11 **offence**, for part 6 (Enforcement)—see section 88.
- 12 **premises** includes land or a structure or vehicle and any part of an
- 13 area of land or a structure or vehicle.
- 14 **prohibited radiation source**—see section 10.
- 15 **radiation**—see section 8 (1).
- 16 **radiation apparatus**—see section 9 (3).
- 17 **radiation facility**—see section 9 (4).
- 18 **radiation source**—see section 9 (1).
- 19 **radioactive material**—see section 9 (5).
- 20 **registered owner**, of a regulated radiation source—see
- 21 section 27 (2).
- 22 **regulated radiation source**—see section 10.
- 23 **reviewable decisions**—see section 111.
- 24 **safety duty**—see section 52.
- 25 **serious harm**, to a person—see the Criminal Code, dictionary.

- 1 **use** a radiation source includes—
- 2 (a) use radiation emitted from the radiation source; and
- 3 (b) if the radiation source is radioactive material—administer to,
- 4 or inject or implant the material into, a person, animal, plant or
- 5 thing; and
- 6 (c) cause the radiation source to emit radiation.
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Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2006.

2 Notification

Notified under the Legislation Act on 2006.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
