

Radiation Safety Amendment Bill 2009

Explanatory Notes for Amendments to be moved during consideration in detail by the Honourable Paul Lucas MP

Title of the Bill

Radiation Safety Amendment Bill 2009

Objective of the Amendments

The objective of the amendments is to amend an incorrect reference in section 103A, which lists who may be required to undergo a criminal history and security check should they wish to possess, use, transport or otherwise deal with a security enhanced source.

Achievement of the Objectives

The Radiation Safety Amendment Bill 2009 (the Bill) provides for the *Radiation Safety Act 1999* to be amended to give effect to the recommendations emanating from the Review of Radiological Material which were endorsed by the Council of Australian Governments in 2007.

The most significant changes to the Act concern the adoption of the Code of Practice for the Security of Radioactive Sources (the National Security Code) published by the Australian Radiation Protection and Nuclear Safety Agency to provide a nationally consistent regulatory framework to prevent unauthorised access to, or acquisition of, radioactive sources for malicious purposes.

One of the key objectives of the Code is to prevent persons with malicious intent from being able to acquire radiation sources that are security enhanced sources.

As required by the National Security Code, the Bill provides for access to a security enhanced source to be controlled in two ways.

Firstly, through the licensing requirements of the Radiation Safety Act, which mandate who may be authorised to possess, use or transport a

security enhanced source. Each of the provisions dealing with a particular category of licence is to be amended to make it an offence for a person to possess, use or transport a security enhanced source unless they are licensed, or are otherwise authorised under the Act, to do so.

Secondly, the Bill provides for the circumstances under which other persons may have access to a security enhanced source to be managed through a security plan or transport security plan approved by the chief executive.

A security plan is a written document that sets out how a possession licensee intends to ensure the security of a security enhanced source the licensee is allowed to possess under their licence.

A transport security plan is a written document that sets out how the security of a radioactive substance that is a security enhanced source will be ensured during the transport of the source.

Each of these plans must clearly list who may have access to a security enhanced source, the type of access this person may have, and whether the person will be required to undergo an identity check, criminal history check and/or security check in order to gain access to the source.

If an individual has restricted access to a security enhanced source (e.g. they are supervised at all times by a person who has undergone a full background check), they will only be required to undergo an identity check. However, if an individual is to have unrestricted access to a security enhanced source, they will be required to undergo an identity check, a criminal history check and a security check for politically motivated violence.

Clause 42 of Bill provides for a new division 10 to be inserted into Part 7 of the Act to provide the necessary authority for the conduct of criminal history checks and security checks. Division 10 is comprised of section 103A to 103J.

Section 103A lists those persons who are required to undergo a criminal history check and security check before they are able to have access to a security enhanced source.

An error has been identified in relation to paragraph (1)(e) of section 103A. The paragraph states that the chief executive may conduct a security check and criminal history check for a person who is to have access to a portable security enhanced source under the approved security plan for the source. The reference to a 'portable security enhance source' is incorrect.

Reference should have been made to the broader term ‘security enhanced source’.

The proposed amendment will correct this error and thereby ensure that the Bill gives full effect to the new security requirements of the National Security Code.

Consistency with Fundamental Legislative Principles

The amendment is consistent with Fundamental Legislative Principles.

Consultation

No consultation has been undertaken in relation to the proposed amendment as it is merely correcting an error.

Notes on Provisions

Amendment 1 amends clause 42 by omitting the word ‘portable’ from paragraph (e) of new subsection 103A(1), as the reference to a ‘portable security enhance source’ is incorrect. Reference should have been made to the broader term ‘security enhanced source’.