



# **Radiation Safety Act 1999**

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Queensland

# Radiation Safety Act 1999

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# Radiation Safety Act 1999

**An Act to provide for the control generally of sources of ionising radiation and harmful non-ionising radiation, and for other purposes**

## **Part 1 Preliminary**

### **Division 1 Introduction**

#### **1 Short title**

This Act may be cited as the *Radiation Safety Act 1999*.

#### **2 Commencement**

This Act commences on a day to be fixed by proclamation.

### **Division 2 Operation of Act**

#### **3 Act binds all persons**

- (1) This Act binds all persons, including the State.
- (2) Nothing in this Act makes the State liable to be prosecuted for an offence.

## **Division 3                      Objects**

### **4                      Main object of Act and its achievement**

- (1) The main object of this Act is to protect persons and the environment from the harmful effects of particular sources of ionising radiation and harmful non-ionising radiation.
- (2) The object is to be achieved mainly by—
  - (a) establishing a licensing regime to regulate—
    - (i) the possession and use of radiation sources; and
    - (ii) the transportation of radioactive substances; and
  - (b) establishing a legislative framework to ensure radiation sources and the premises at which they are used, and the premises at which radioactive substances are stored, comply with radiation safety standards; and
  - (c) imposing restrictions on—
    - (i) the acquisition and relocation of radiation sources; and
    - (ii) the disposal of radiation apparatus and radioactive material; and
  - (d) requiring a person who possesses a radiation source for a radiation practice to have an approved radiation safety and protection plan for the practice; and
  - (e) requiring a person who possesses a security enhanced source to have an approved security plan for the source; and
  - (f) requiring a person to have an approved transport security plan for the transport of a security enhanced source; and
  - (g) ensuring the health and safety of any person are, or the environment is, not adversely affected by the carrying out of radiation practices with radiation sources; and



- 
- (h) establishing a legislative framework within which compliance monitoring, and investigative and enforcement activities, may be undertaken; and
  - (i) establishing the Radiation Advisory Council.

## **Division 4                      Radiation safety, protection and security principles**

### **5                      Guiding principles**

The principles intended to guide the achievement of this Act's main object (the *radiation safety, protection and security principles*) are the following—

- (a) People should be protected from unnecessary exposure to ionising radiation through the processes of justification, limitation and optimisation.
  - **Justification**

Justification involves assessing whether more good than harm results from a radiation practice.
  - **Limitation**

Limitation involves setting radiation dose limits, or imposing other measures, so that the health risks to any person exposed to radiation are below levels considered unacceptable.
  - **Optimisation**

Optimisation involves minimising health risks to any person, with the broad objective that the degree of exposure to radiation, number of persons exposed and likelihood of exposure be kept as low as reasonably achievable, having regard to economic and social factors.
- (b) People should be protected from unnecessary exposure to harmful non-ionising radiation through the processes

of specifying emission or absorption standards, limitation and avoidance.

- **Specifying emission or absorption standards**

Specifying emission or absorption standards involves deciding thresholds above which exposure to radiation may result in unacceptable health risks to any person.

- **Limitation**

Limitation involves setting radiation dose limits, or imposing other measures, so that the health risks to any person exposed to radiation are below levels considered unacceptable.

- **Avoidance**

Avoidance involves minimising, as far as practicable, exposures to radiation.

- (c) People should be protected from unnecessary exposure to radiation resulting from a malevolent event by ensuring that radiation sources are safely managed and securely protected at all times, including after the end of their useful life.

## **Division 5 Interpretation**

### **6 Interpretation to promote radiation safety, protection and security principles**

In interpreting a provision of this Act, a construction that would promote radiation safety, protection and security principles is to be preferred to a construction that would not promote radiation safety, protection and security principles.

### **7 Dictionary**

The dictionary in schedule 2 defines particular words used in this Act.

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## **8 When a possession licensee is taken to remain in possession of a radiation source**

- (1) For this Act, a possession licensee who allows another person to carry out a radiation practice with a radiation source in compliance with the licensee's approved radiation safety and protection plan for the practice is taken to remain in possession of the source while the other person has the source for the purpose of the practice.
- (2) For subsection (1), a reference to a radiation source or radiation practice is a reference to the source or practice to which the licence relates.
- (3) Also, for this Act, a possession licensee who allows another person to transport a radioactive substance to which the licence relates is taken to remain in possession of the substance while the other person has the substance for the purpose of the transportation.

## **9 Meaning of *use* in relation to a radiation source or the carrying out of a radiation practice**

- (1) *Use* a radiation source, means actual use by an individual of radiation emitted from the source, and includes, for a radiation source that is a radioactive substance, administer the substance to, or inject or implant the substance into, an animal or person.
- (2) *Use*, in relation to the carrying out of a radiation practice with a radiation source, means actual use by an individual of radiation emitted from the source to carry out the practice.
- (3) For subsections (1) and (2), it is immaterial whether the individual is using the radiation in the capacity of an agent or employee.

## **10 Meaning of *carry out* in relation to a radiation practice**

- (1) *Carry out*, in relation to a radiation practice, means the actual performance of the practice by an individual.

- (2) For subsection (1), it is immaterial whether the individual is carrying out the practice in the capacity of an agent or employee.

## 11 Meaning of *radiation practice*

- (1) *Radiation practice* means an activity in relation to a radiation source that may result, whether or not intentionally, in exposing anyone to radiation, but does not include the transport of a radioactive substance.
- (2) To remove doubt, it is declared that the storing of a radioactive substance is a radiation practice.

## Part 2 Licences

### 12 Requirement for possession licence

- (1) A person must not possess a radiation source, unless the person is allowed to possess it under a possession licence.

Maximum penalty—

- (a) for a radiation source that is not a security enhanced source—1,000 penalty units; or
- (b) for a security enhanced source—2,500 penalty units.

*Editor's note—*

Part 7 states the requirements to be complied with to obtain a possession licence and other types of licences.

- (2) For subsection (1), a person is not in possession of a radiation source merely because the person is being allowed by a possession licensee for the source—
  - (a) to carry out a radiation practice, to which the licence relates, with the source in compliance with the licensee's approved radiation safety and protection plan for the practice; or
  - (b) if the source is a radioactive substance—to transport the substance.

- (3) Also, for subsection (1), a person is not in possession of a radiation source merely because the person, or an animal kept by the person, has been injected with a radioactive substance, or a radioactive substance has been administered to or implanted in the person or animal, as part of a diagnostic or therapeutic procedure.

### 13 Requirement for use licence

- (1) A person must not use a radiation source, unless the person is allowed to use it under a use licence.

Maximum penalty—

- (a) for a radiation source that is not a portable security enhanced source—400 penalty units; or  
(b) for a portable security enhanced source—2,500 penalty units.

*Example of when a person needs a use licence—*

A person who uses a radiation source to irradiate another person as part of a diagnostic or therapeutic procedure must do so under a use licence allowing the use of the source to carry out the procedure.

*Editor's note—*

Under section 49(2), only an individual may apply for a use licence.

- (2) Subsection (1) does not apply to a person if—
- (a) the person is using the source in the presence, and under the personal supervision, of a use licensee who is allowed, under the licence, to use the source to carry out a radiation practice; and
- (b) the use is for the purpose of—
- (i) helping the licensee to carry out the practice, if the practice is a prescribed radiation practice; or
- (ii) the person undergoing training prescribed under a regulation.
- (3) In this section—

*prescribed radiation practice* means a radiation practice, other than the carrying out of a diagnostic or therapeutic procedure involving the irradiation of another person, prescribed under a regulation.

#### **14 Requirement for transport licence—transport by road**

- (1) Subsection (2) applies if a radioactive substance is being transported by road in a vehicle.
- (2) The person in charge of the vehicle must hold a transport licence to transport the substance.

Maximum penalty—

- (a) for a radioactive substance that is not a security enhanced source—400 penalty units; or
- (b) for a radioactive substance that is a security enhanced source—2,500 penalty units.

*Editor's note—*

Under section 49(2), only an individual may apply for a transport licence that allows the transport of a radioactive substance by road.

- (3) However, the person is not required to hold a transport licence if the person is helping a transport licensee to transport a radioactive substance, to which the licence relates, by road and the person is in the licensee's presence.

#### **15 Requirement for transport licence—transport otherwise than by road**

- (1) A person must not transport a radioactive substance other than by road, unless the person is the holder of a transport licence to transport the substance.

Maximum penalty—

- (a) for a radioactive substance that is not a security enhanced source—400 penalty units; or
- (b) for a radioactive substance that is a security enhanced source—2,500 penalty units.

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- (2) Subsection (1) does not apply to a person who transports the substance merely as an employee.

## **Part 3                      Radiation safety standards and certificates of compliance**

### **Division 1                      Radiation safety standards**

#### **16            Making of radiation safety standards**

- (1) The Minister may make radiation safety standards about—
- (a) radiation sources in relation to the carrying out of radiation practices; or
  - (b) the sealing of radioactive substances; or
  - (c) sealed source apparatus; or
  - (d) premises at which radiation sources are used to carry out radiation practices; or
  - (e) premises at which radioactive substances are stored.
- (2) A radiation safety standard must state the day the standard expires.
- (3) The stated day must not be more than 10 years after the standard is made.
- (4) The Minister must notify the making of a radiation safety standard.
- (5) The notice must state the places where copies of the standard and the provisions of any document applied, adopted or incorporated by the standard are available for inspection, without charge, during normal business hours at the places.
- (6) The notice is subordinate legislation.

## **Division 2                      Obligations of possession licensees in relation to radiation safety standards**

### **17            Obligations of possession licensees**

- (1) A possession licensee who, under the licence, possesses a radiation source for a radiation practice must ensure the source is not used to carry out the practice unless—
  - (a) the source complies with the relevant radiation safety standard; and
  - (b) if the source is to be used to carry out the practice at premises—the premises comply with the relevant radiation safety standard.

Maximum penalty—200 penalty units.

- (2) A possession licensee who, under the licence, possesses a radioactive substance must not store the substance, or allow the substance to be stored, on premises that do not comply with the relevant radiation safety standard.

Maximum penalty—200 penalty units.

## **Division 3                      Certificates of compliance**

### **18            When a possession licensee must obtain a certificate of compliance**

- (1) Subsection (2) applies in relation to a radiation source if there is a relevant radiation safety standard for the source.
- (2) A possession licensee who, under the licence, possesses the source for a radiation practice must ensure the source is not used to carry out the practice unless, within the period prescribed under a regulation before the day of use, the licensee has obtained a certificate of compliance for the source.

Maximum penalty—50 penalty units.



- (3) Subsections (4) and (5) apply in relation to premises if there is a relevant radiation safety standard for the premises.
- (4) A possession licensee who, under the licence, possesses a radiation source for a radiation practice must ensure the source is not used to carry out the practice at the premises unless, within the period prescribed under a regulation before the day of use, the licensee has obtained a certificate of compliance for the premises.

Maximum penalty—50 penalty units.

- (5) A possession licensee who, under the licence, possesses a radioactive substance must not store the substance, or allow the substance to be stored, at the premises unless, within the period prescribed under a regulation before the day of storage, the licensee has obtained a certificate of compliance for the premises.

Maximum penalty for subsection (5)—50 penalty units.

## **19 Circumstances for giving certificate of compliance**

- (1) An accredited person may issue a certificate of compliance for—
  - (a) a radiation source to be used to carry out a radiation practice; or
  - (b) the premises at which a radiation source is to be used to carry out a radiation practice; or
  - (c) the premises at which a radioactive substance is to be stored.
- (2) The certificate of compliance must state that the source or premises comply with the relevant radiation safety standard.
- (3) However, an accredited person must not issue a certificate of compliance for a radiation source or premises unless, under the person's accreditation certificate, the person is allowed to issue the certificate of compliance for the source or premises.

- (4) Subsection (5) applies in relation to a radiation source or premises if there is a relevant radiation safety standard for the source or premises.
- (5) An accredited person must not issue a certificate of compliance for the source or premises unless the person is satisfied the source or premises comply with the standard.
- (6) A certificate of compliance must be in the approved form.

*Editor's note—*

See section 82(1)(c) for an effect of a contravention of subsection (3) or (5).

## 20 Assessment report

- (1) This section applies if an accredited person is acting on a request for a certificate of compliance for a radiation source or premises.
- (2) The accredited person must assess whether the source or premises comply with the relevant radiation safety standard.
- (3) The accredited person must prepare a report (an ***assessment report***), for the source or premises, stating the following—
  - (a) whether or not the source or premises comply with the relevant radiation safety standard;
  - (b) if the source or premises do not comply with the relevant radiation safety standard—particulars of what needs to be done for the source or premises to comply with the standard (the ***requirements***).
- (4) The assessment report must be in the approved form.
- (5) If the report states requirements, the accredited person must, as soon as practicable, give a copy of the report to the person who asked for the certificate of compliance.
- (6) If the report does not state requirements, the accredited person must issue a certificate of compliance for the source or premises.
- (7) The accredited person must give the chief executive a copy of the report mentioned in subsection (6) as soon as practicable

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after the issue of the certificate of compliance, stating the date the certificate was issued.

Maximum penalty—50 penalty units.

- (8) If the report states requirements and none of the requirements are complied with within 30 days after a copy of the report is given to a person under subsection (5), the accredited person must as soon as practicable give the chief executive a copy of the report.

Maximum penalty for subsection (8)—50 penalty units.

## **21 Amendment of assessment report—all requirements complied with**

- (1) This section applies if—
- (a) the assessment report states requirements; and
  - (b) the accredited person is satisfied, within 30 days after giving a copy of the report to the person who asked for the certificate of compliance, all the requirements have been complied with.
- (2) The accredited person must—
- (a) amend the report to indicate all the requirements have been complied with; and
  - (b) issue a certificate of compliance for the source or premises.
- (3) The accredited person must give the chief executive a copy of the amended report as soon as practicable after the issue of the certificate of compliance, stating the date the certificate was issued.

Maximum penalty for subsection (3)—50 penalty units.

## **22 Amendment of assessment report—some requirements complied with**

- (1) This section applies if—

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- (a) the assessment report states requirements; and
  - (b) the accredited person is satisfied, within 30 days after giving a copy of the report to the person who asked for the certificate of compliance, that some, but not all, the requirements have been complied with.
- (2) The accredited person must amend the report to indicate the requirements that have been complied with.
- (3) The accredited person must give the chief executive a copy of the amended report as soon as practicable after the 30 day period has ended.

Maximum penalty for subsection (3)—50 penalty units.

## **Part 4 Acquisition, supply and relocation of radiation sources**

### **23 Who may acquire a radiation source**

- (1) A person must not acquire a radiation source, unless the person is a possession licensee for the source and the holder of an approval to acquire the source.

Maximum penalty—

- (a) for a radiation source that is not a security enhanced source—400 penalty units; or
- (b) for a security enhanced source—2,500 penalty units.

*Editor's note—*

Part 7 states the requirements to be complied with to obtain an approval to acquire.

- (2) For subsection (1), a person does not acquire a radiation source merely because a possession licensee, under the licence, possesses the source for a radiation practice and the person is being allowed by the licensee—
- (a) to carry out the practice with the source in compliance with the licensee's approved radiation safety and protection plan for the practice; or

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- (b) if the source is a radioactive substance—to transport the substance.
  - (3) Also, for subsection (1), a person does not acquire a radiation source merely because the person, or an animal kept by the person, has been injected with a radioactive substance, or a radioactive substance has been administered to or implanted in the person or animal, as part of a diagnostic or therapeutic procedure.

## 24 Supply of radiation sources

- (1) A person must not supply a radiation source to another person, unless the other person is a possession licensee for the source and the holder of an approval to acquire the source.

Maximum penalty—

- (a) for a radiation source that is not a security enhanced source—400 penalty units; or
- (b) for a security enhanced source—2,500 penalty units.
- (2) For subsection (1), a possession licensee who, under the licence, possesses a radiation source for a radiation practice does not supply the source to another person merely because the other person is being allowed by the licensee—
  - (a) to carry out the practice with the source in compliance with the licensee’s approved radiation safety and protection plan for the practice; or
  - (b) if the source is a radioactive substance—to transport the substance.
- (3) Also, for subsection (1), a person (the *first person*) does not supply a radiation source to another person merely because the first person injects the other person, or an animal kept by the other person, with a radioactive substance, or a radioactive substance is administered to or implanted in the other person or animal by the first person, as part of a diagnostic or therapeutic procedure.
- (4) In this section—

*sell* includes give possession under a lease, exchange, hiring or other commercial arrangement.

*supply*, a radiation source, means sell, give away or otherwise give possession of the source.

## **25 Person must not relocate a radiation source without approval**

A person must not relocate a radiation source from a place in Queensland to a place outside Queensland (whether in or outside Australia), unless the person is a possession licensee for the source and the holder of an approval to relocate the source.

Maximum penalty—

- (a) for a radiation source that is not a security enhanced source—400 penalty units; or
- (b) for a security enhanced source—2,500 penalty units.

*Editor's note—*

Other provisions of this Act deal with the possession, acquisition, supply, transport and disposal of a radiation source in the State. Also, part 7 states the requirements to be complied with to obtain an approval to relocate.

*Note—*

If a corporation commits an offence against this provision, an executive officer of the corporation may also be subject to personal criminal liability—see sections 205 and 205A.

# **Part 5 Disposal of radioactive material and radiation apparatus and abandoning of radiation sources**

## **26 Disposal of radioactive material**

- (1) A person must not dispose of radioactive material, unless—

- (a) the concentration or activity of a radionuclide in the material is not more than the maximum concentration or activity prescribed under a regulation; or
- (b) the person is the holder of an approval to dispose of the material and disposes of it as required under the approval.

Maximum penalty—2,500 penalty units.

*Editor's note—*

Part 7 states the requirements to be complied with to obtain an approval to dispose.

*Note—*

If a corporation commits an offence against this provision, an executive officer of the corporation may also be subject to personal criminal liability—see sections 205 and 205A.

- (2) For subsection (1)(a), a regulation may provide for the point of disposal at which the concentration or activity of the radionuclide in the material is to be decided.

## **27 Notification of disposal of radiation apparatus**

- (1) A person who disposes of a radiation apparatus must give the chief executive written notice of the disposal within 7 days after the disposal.

Maximum penalty—50 penalty units.

- (2) For subsection (1), the notice must contain information adequate to identify the apparatus disposed of.

*Example of identifying information—*

the serial number of the radiation apparatus

## **27A Person must not abandon radiation source**

- (1) A person must not abandon a radiation source.

Maximum penalty—2,500 penalty units.

*Note—*

If a corporation commits an offence against this provision, an executive officer of the corporation may also be subject to personal criminal liability—see sections 205 and 205A.

- (2) A person does not contravene subsection (1) if the person disposes of a radiation source under this Act.

## **Part 6                      Other radiation safety,    protection and security    provisions**

### **Division 1                Radiation safety and protection    plans**

#### **Subdivision 1        Interpretation**

##### **28        What is a *radiation safety and protection plan***

- (1) A *radiation safety and protection plan*, for a radiation practice, is a plan for the practice for which a possession licensee is allowed to possess a radiation source under the licence.
- (2) The plan must state the following—
  - (a) particulars, and an assessment, of all the radiation hazards specific to the practice and source the licensee knows, or ought reasonably to know, exist or might arise;
  - (b) the radiation safety and protection measures to deal with the hazards;
  - (c) any other measures necessary to deal with the hazards;
  - (d) how the licensee proposes to monitor and review the implementation and effectiveness of the measures;



- (e) the functions of the radiation safety officer to be appointed for the practice;

*Editor's note—*

Section 37 lists the minimum functions of a radiation safety officer.

- (f) particulars of a training program for persons carrying out the practice;
- (g) other particulars prescribed under a regulation.
- (3) Also, if a person, other than a person being irradiated as part of a diagnostic or therapeutic procedure, may receive from the carrying out of the practice a radiation dose higher than the radiation dose limit prescribed under a regulation, the plan must provide for—
- (a) the supply of a personal monitoring device to the person; and
- (b) the assessment of the device.
- (4) The plan must be written in a way likely to be understood easily by persons who carry out the practice with the source.

*Editor's note—*

The plan may need to take into account persons with special needs, for example, non-English speaking persons.

- (5) The plan must be dated and signed by the licensee.
- (6) In this section—

***radiation safety and protection measures*** are measures, prescribed under a regulation, for preventing or minimising health risks to any person arising from exposure to radiation from the carrying out of a radiation practice.

## **Subdivision 2      Approval of, and amendment of approved, radiation safety and protection plans**

### **29      Approval of radiation safety and protection plan**

- (1) This section applies if the chief executive issues a possession licence.
- (2) The chief executive is taken to have approved the radiation safety and protection plan identified in the licence.

*Note—*

Under section 51(3) and (4)(a), an application for a possession licence must be accompanied by the proposed radiation safety and protection plan for the radiation practice for which the applicant wants to possess a radiation source.

- (3) The chief executive must endorse the plan with the chief executive's written approval and give the endorsed plan to the possession licensee.

### **30      Changing approved radiation safety and protection plan—chief executive's initiative**

- (1) The chief executive may change a possession licensee's approved radiation safety and protection plan for a radiation practice if the chief executive considers it necessary or desirable to make the change, having regard to the requirements for a radiation safety and protection plan mentioned in section 28(2).
- (2) Before changing the plan, the chief executive must—
  - (a) give a written notice to the licensee, stating—
    - (i) the particulars of the proposed change; and
    - (ii) the day it is proposed the change is to take effect; and
    - (iii) that the licensee may make written submissions to the chief executive about the proposed change before a stated day; and

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- (b) have regard to written submissions made to the chief executive by the licensee before the stated day.
  - (3) The stated day must not be earlier than 21 days after the notice is given to the licensee.
  - (4) If the chief executive decides to change the plan, the chief executive must immediately give the licensee an information notice about the decision.
  - (5) The change takes effect on the day stated for the change in the information notice and does not depend on—
    - (a) the plan being amended to incorporate the change; or
    - (b) the licence being amended to identify the amended plan.
  - (6) The day mentioned in subsection (5) must not be earlier than 35 days after the notice is given to the licensee.

### **31 Changing approved radiation safety and protection plan—application by possession licensee**

- (1) A possession licensee may apply to the chief executive to change the licensee's approved radiation safety and protection plan for a radiation practice.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) be accompanied by the fee prescribed under a regulation.
- (3) In deciding whether to grant the application, the chief executive must have regard to the requirements for a radiation safety and protection plan mentioned in section 28(2).
- (4) If the chief executive decides to grant the application, the chief executive must immediately give the licensee notice of the decision.
- (5) The change takes effect on the day stated for the change in the notice and does not depend on—
  - (a) the plan being amended to incorporate the change; or

- (b) the licence being amended to identify the amended plan.
- (6) The day mentioned in subsection (5) must not be earlier than 35 days after the notice is given to the licensee.
- (7) If the chief executive decides not to grant the application, the chief executive must immediately give the licensee an information notice about the decision.
- (8) If the chief executive fails to decide the application within 90 days after its receipt, the failure is taken to be a decision by the chief executive not to grant the application.

### **32 Recording change of approved radiation safety and protection plan**

- (1) This section applies if a possession licensee receives an information notice under section 30(4), or a notice under section 31(4), about a change to the licensee's approved radiation safety and protection plan for the radiation practice.
- (2) Within 14 days after receiving the notice, the licensee must return the following documents to the chief executive—
  - (a) the plan, incorporating the change;
  - (b) the licensee's possession licence in which the plan is identified.

Maximum penalty—50 penalty units.

- (3) On receiving the plan, incorporating the change, the chief executive must immediately endorse the plan with the chief executive's written approval and give the endorsed plan to the licensee.
- (4) On receiving the licence, the chief executive must immediately amend the licence to identify the amended plan and give the amended licence to the licensee.

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### **Subdivision 3      Obligations in relation to approved radiation safety and protection plans**

#### **33      Obligations in relation to approved radiation safety and protection plan—possession licensees**

- (1) This section applies to a possession licensee who, under the licence, possesses a radiation source for a radiation practice.
- (2) The licensee must take reasonable steps to ensure a person carrying out the practice with the source—
  - (a) has always available for inspection a copy of the licensee’s approved radiation safety and protection plan for the practice; and
  - (b) has undergone the training program mentioned in the plan.

Maximum penalty for subsection (2)—100 penalty units.

#### **34      Obligations in relation to approved radiation safety and protection plan—persons carrying out a radiation practice**

- (1) This section applies if a possession licensee, under the licence, possesses a radiation source for a radiation practice.
- (2) A person must not carry out the practice with the source unless—
  - (a) the person has available for inspection a copy of the approved radiation safety and protection plan for the practice; and
  - (b) the person has undergone the training program mentioned in the plan.

Maximum penalty for subsection (2)—100 penalty units.

## **Division 1A            Security plans**

### **Subdivision 1        Interpretation**

#### **34A    What is a *security plan***

- (1) A *security plan* is a plan for the security of a security enhanced source that a possession licensee is allowed to possess under the licence.
- (2) The plan must state the following—
  - (a) particulars of the security enhanced source the licensee is allowed to possess;
  - (b) the radiation practice for which the licensee is allowed to possess the source;
  - (c) particulars, and an assessment, of all the security risks relating to the practice and source the licensee knows, or ought reasonably to know, exist or might arise;
  - (d) persons who have access to the source under the possession licensee's licence and the type of access each person has to the source;
  - (e) other persons to whom the plan applies;
  - (f) the security measures for the source;
  - (g) any other measures necessary to deal with risks to the security of the source;
  - (h) how the licensee proposes to monitor and review the implementation and effectiveness of the measures;
  - (i) particulars of a training program for persons to whom the plan applies;
  - (j) if the possession licensee is a corporation—the name of the nominated person for the licensee;
  - (k) other particulars prescribed under a regulation.

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- (3) The plan must be written in a way likely to be easily understood by persons required to comply with the plan.
  - (4) The plan must be dated and signed by the licensee.
  - (5) In this section—  
*security measures* are measures, prescribed under a regulation, for ensuring the security of a security enhanced source.

## **Subdivision 2      Approval of, and amendment of approved, security plans**

### **34B      Approval of security plan**

- (1) This section applies if the chief executive issues a possession licence for a security enhanced source.
- (2) The chief executive is taken to have approved the security plan identified in the licence.
- (3) The chief executive must endorse the plan with the chief executive's written approval and give the endorsed plan to the possession licensee.

*Note—*

See section 51(4)(b), for the requirement for an application for a possession licence for a radiation source that is a security enhanced source to be accompanied by the proposed security plan for the source.

### **34C      Changing approved security plan—chief executive's initiative**

- (1) The chief executive may change a possession licensee's approved security plan if the chief executive considers it necessary or desirable to make the change, having regard to the requirements for a security plan mentioned in section 34A(2).
- (2) Before changing the plan, the chief executive must—
  - (a) give a written notice to the licensee, stating—

- (i) the particulars of the proposed change; and
  - (ii) the day it is proposed the change is to take effect; and
  - (iii) that the licensee may make written submissions to the chief executive about the proposed change before a stated day; and
- (b) have regard to written submissions made to the chief executive by the licensee before the stated day.
- (3) The stated day must not be earlier than 21 days after the notice is given to the licensee.
- (4) If the chief executive decides to change the plan, the chief executive must immediately give the licensee an information notice about the decision.
- (5) The change takes effect on the day stated for the change in the information notice and does not depend on—
  - (a) the plan being amended to incorporate the change; or
  - (b) the licence being amended to identify the amended plan.
- (6) The day mentioned in subsection (5) must not be earlier than 35 days after the notice is given to the licensee.

#### **34D Changing approved security plan—application by possession licensee**

- (1) A possession licensee may apply to the chief executive to change the licensee's approved security plan.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) be accompanied by the fee prescribed under a regulation.
- (3) In deciding whether to grant the application, the chief executive must have regard to the requirements for a security plan mentioned in section 34A(2).



- (4) If the chief executive decides to grant the application, the chief executive must immediately give the licensee notice of the decision.
- (5) The change takes effect on the day stated for the change in the notice and does not depend on—
  - (a) the plan being amended to incorporate the change; or
  - (b) the licence being amended to identify the amended plan.
- (6) The day mentioned in subsection (5) must not be earlier than 35 days after the notice is given to the licensee.
- (7) If the chief executive decides not to grant the application, the chief executive must immediately give the licensee an information notice about the decision.
- (8) If the chief executive fails to decide the application within 90 days after its receipt, the failure is taken to be a decision by the chief executive not to grant the application.

### **34E Recording change of approved security plan**

- (1) This section applies if a possession licensee receives an information notice under section 34C(4), or a notice under section 34D(4), about a change to the licensee's approved security plan.
- (2) Within 14 days after receiving the notice, the licensee must return the following documents to the chief executive—
  - (a) the plan, incorporating the change;
  - (b) the licensee's possession licence in which the plan is identified.

Maximum penalty—50 penalty units.

- (3) On receiving the plan, incorporating the change, the chief executive must immediately endorse the plan with the chief executive's written approval and give the endorsed plan to the licensee.

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- (4) On receiving the licence, the chief executive must immediately amend the licence to identify the amended plan and give the amended licence to the licensee.

### **Subdivision 3      Obligations in relation to approved security plans**

#### **34F      Obligations in relation to approved security plan—possession licensees**

- (1) This section applies to a possession licensee who, under the licence, possesses a security enhanced source.
- (2) The licensee must take reasonable steps to ensure a person to whom the approved security plan for the source applies—
  - (a) has always available for inspection a copy of the parts of the plan relevant to the person; and
  - (b) has undergone the training program mentioned in the plan.

Maximum penalty for subsection (2)—2,500 penalty units.

#### **34G      Obligations in relation to approved security plan—access of persons to security enhanced source**

- (1) This section applies if a possession licensee, under the licence, possesses a security enhanced source.
- (2) A person (the *first person*) must not personally access, or allow another person access to, the source unless—
  - (a) the approved security plan provides for the first person and the other person to access the source; and
  - (b) the first person has available for inspection a copy of the parts of the approved security plan relevant to the access to the source; and
  - (c) the first person has undergone the training program mentioned in the plan.

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Maximum penalty for subsection (2)—2,500 penalty units.

## **Division 1B            Transport security plans**

### **Subdivision 1        Interpretation**

#### **34H    What is a *transport security plan***

- (1) A *transport security plan* is a plan for the security of a radioactive substance that is a security enhanced source during the transport of the source.
- (2) The plan must state the following—
  - (a) particulars of the security enhanced source to be transported;
  - (b) particulars of the transport arrangements for the source;
  - (c) particulars, and an assessment, of all the security risks relating to the transport of the source the transport security plan holder of the plan knows, or ought reasonably to know, exist or might arise;
  - (d) persons who have access to the source and the type of access each person has to the source;
  - (e) other persons to whom the plan applies;
  - (f) the period for which the plan applies;
  - (g) the transport security measures for the source;
  - (h) any other measures necessary to deal with risks to the security of the source;
  - (i) how the transport security plan holder proposes to monitor and review the implementation and effectiveness of the measures;
  - (j) particulars of a training program for persons to whom the plan applies;

- (k) if the transport security plan holder is a corporation—the name of the nominated person for the holder;
- (l) other particulars prescribed under a regulation.
- (3) The plan must be written in a way likely to be easily understood by persons required to comply with the plan.
- (4) The plan must be dated and signed by the transport security plan holder.
- (5) In this section—  
*transport security measures* are measures, prescribed under a regulation, for ensuring the security of a security enhanced source during its transport.

## **Subdivision 2      Approval of, and amendment of approved, transport security plans**

### **34I      When a person must have a transport security plan**

- (1) This section applies to the following persons—
  - (a) a possession licensee acquiring a security enhanced source that needs to be transported to effect the acquisition;
  - (b) a possession licensee relocating a security enhanced source that needs to be transported to effect the relocation;
  - (c) a possession licensee whose security enhanced source is being transported between locations for the licensee’s radiation practice;
  - (d) a transport licensee who is transporting 2 or more radioactive substances that have become a security enhanced source as a result of their aggregation;
  - (e) another person who is transporting 2 or more radioactive substances that have become a security enhanced source as a result of their aggregation.

- (2) A person to whom this section applies must not transport a security enhanced source unless the person has an approved transport security plan for the transport of the source.

Maximum penalty—2,500 penalty units.

*Note—*

Sections 14 and 15 state the circumstances in which a person must hold a transport licence to transport a radioactive substance that is a security enhanced source.

### **34J Application for approval of transport security plan**

- (1) An application for approval of a transport security plan must—
- (a) be made to the chief executive; and
  - (b) be in the approved form; and
  - (c) be accompanied by—
    - (i) the proposed transport security plan; and
    - (ii) if the applicant is a possession licensee whose security enhanced source is to be transported between locations for the licensee's radiation practice—the licensee's licence; and
    - (iii) the fee prescribed under a regulation.
- (2) The chief executive must consider the application and either grant, or refuse to grant, the application.
- (3) The chief executive may grant the application only if the chief executive is satisfied the plan is adequate for the transport of the security enhanced source to which it relates, having regard to the requirements for a transport security plan mentioned in section 34H(2).

### **34K Inquiries into applications**

- (1) Before deciding the application, the chief executive—
- (a) may investigate the applicant; and

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- (b) may, by written notice given to the applicant, require the applicant to give the chief executive, within a reasonable period of at least 30 days stated in the notice, further information or a document the chief executive reasonably requires to decide the application.
- (2) The applicant is taken to have withdrawn the application if, within the stated period, the applicant does not comply with a requirement under subsection (1)(b).
- (3) A notice under subsection (1)(b) must be given to the applicant within 90 days after the chief executive receives the application.

### **34L Decision**

- (1) If the chief executive decides to grant the application, the chief executive must—
  - (a) endorse the transport security plan with the chief executive's written approval and give the endorsed plan to the applicant; and
  - (b) if the applicant is a possession licensee whose security enhanced source is being transported between locations for the licensee's radiation practice—amend the licensee's licence to identify the plan and give the amended licence to the applicant.
- (2) If the chief executive decides to refuse to grant the application, the chief executive must immediately give the applicant an information notice about the decision.

### **34M Failure to decide applications**

- (1) Subject to subsections (2) and (3), if the chief executive fails to decide the application within 90 days after its receipt, the failure is taken to be a decision by the chief executive to refuse to grant the application.
- (2) Subsection (3) applies if—

- (a) a person has made an application for approval of a transport security plan; and
  - (b) the chief executive has, under section 34K(1)(b), required the applicant to give the chief executive further information or a document.
- (3) The chief executive is taken to have refused to grant the application if the chief executive does not decide the application within 90 days after the chief executive receives the further information or document.

### **34N Changing approved transport security plan—chief executive’s initiative**

- (1) The chief executive may change an approved transport security plan if the chief executive considers it necessary or desirable to make the change having regard to the requirements for a transport security plan mentioned in section 34H(2).
- (2) Before changing the plan, the chief executive must—
  - (a) give a written notice to the transport security plan holder, stating—
    - (i) the particulars of the proposed change; and
    - (ii) the day it is proposed the change is to take effect; and
    - (iii) that the transport security plan holder may make written submissions to the chief executive about the proposed change before a stated day; and
  - (b) have regard to written submissions made to the chief executive by the transport security plan holder before the stated day.
- (3) The stated day must not be earlier than 21 days after the notice is given to the transport security plan holder.
- (4) If the chief executive decides to change the plan, the chief executive must immediately give the transport security plan holder an information notice about the decision.

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- (5) The change takes effect on the day stated for the change in the information notice and does not depend on the plan being amended to incorporate the change.
- (6) The day mentioned in subsection (5) must not be earlier than 35 days after the notice is given to the transport security plan holder.

### **34O Changing approved transport security plan—application by transport security plan holder**

- (1) A transport security plan holder may apply to the chief executive to change the transport security plan holder's approved transport security plan.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) be accompanied by the fee prescribed under a regulation.
- (3) In deciding whether to grant the application, the chief executive must have regard to the requirements for a transport security plan mentioned in section 34H(2).
- (4) If the chief executive decides to grant the application, the chief executive must immediately give the transport security plan holder notice of the decision.
- (5) The change takes effect on the day stated for the change in the notice and does not depend on the plan being amended to incorporate the change.
- (6) The day mentioned in subsection (5) must not be earlier than 35 days after the notice is given to the transport security plan holder.
- (7) If the chief executive decides not to grant the application, the chief executive must immediately give the transport security plan holder an information notice about the decision.
- (8) If the chief executive fails to decide the application within 90 days after its receipt, the failure is taken to be a decision by the chief executive not to grant the application.



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### **34P Recording change of approved transport security plan**

- (1) This section applies if a transport security plan holder receives an information notice under section 34N(4), or a notice under section 34O(4), about a change to the transport security plan holder's approved transport security plan.
- (2) Within 14 days after receiving the notice, the transport security plan holder must return the following documents to the chief executive—
  - (a) the plan incorporating the change; and
  - (b) if the applicant is a possession licensee whose security enhanced source is being transported between locations for the licensee's radiation practice—the licensee's possession licence in which the plan is identified.

Maximum penalty—50 penalty units.

- (3) On receiving the plan, incorporating the change, the chief executive must immediately endorse the plan with the chief executive's written approval and give the endorsed plan to the transport security plan holder.
- (4) On receiving the licence, the chief executive must immediately amend the licence to identify the amended plan and give the amended licence to the licensee.

### **Subdivision 3 Obligations in relation to approved transport security plans**

#### **34Q Obligations in relation to approved transport security plan—transport security plan holder**

A transport security plan holder must take reasonable steps to ensure a person to whom the approved transport security plan applies—

- (a) has always available for inspection a copy of the parts of the plan relevant to the person; and

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- (b) has undergone the training program mentioned in the plan.

Maximum penalty—2,500 penalty units.

### **34R Obligations in relation to approved transport security plan—access of persons to security enhanced source**

- (1) This section applies if there is an approved transport security plan for the transport of a security enhanced source.
- (2) A person (the *first person*) must not personally access, or allow another person access to, the source unless—
  - (a) the approved transport security plan provides for the first person and the other person to access the source; and
  - (b) the first person has available for inspection a copy of the parts of the approved transport security plan relevant to the access to the source; and
  - (c) the first person has undergone the training program mentioned in the plan.

Maximum penalty for subsection (2)—2,500 penalty units.

## **Division 2 Radiation safety officers**

### **Subdivision 1 Appointment of radiation safety officers**

#### **35 When radiation safety officers must be appointed**

- (1) Subsection (2) applies to a possession licensee who, under the licence, possesses a radiation source for a radiation practice.
- (2) The licensee must ensure, whenever the practice is being carried out, that a person has been appointed as, and is carrying out the functions of, a radiation safety officer for the practice.

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Maximum penalty—100 penalty units.

- (3) If the appointment of the radiation safety officer ends, the licensee does not contravene subsection (2) in relation to any period, before the start of a new appointment, that may be reasonably necessary for the appointment to be made or take effect.

## **36 Who may be appointed**

- (1) Only a qualified person who holds a radiation safety officer certificate relevant to a radiation practice may be appointed as a radiation safety officer for the practice.
- (2) Subject to subsection (1), a possession licensee who is a qualified person may appoint himself or herself as a radiation safety officer for a radiation practice.
- (3) Despite subsection (1), a possession licensee who is not a qualified person may appoint himself or herself as a radiation safety officer for a radiation practice if the licensee is the holder of a qualification, relevant to the practice, prescribed under a regulation.

## **Subdivision 2 Functions of radiation safety officers**

### **37 Functions**

- (1) This section applies if a possession licensee, under the licence, possesses a radiation source for a radiation practice.
- (2) The licensee's approved radiation safety and protection plan for the practice must state at least the following functions for a radiation safety officer appointed by the licensee for the practice—
  - (a) to identify ways, consistent with the plan, of minimising the radiation doses received by persons from the source;

- (b) to provide, or arrange for the provision of, training about radiation hazards and safe working practices to—
    - (i) persons carrying out the practice; and
    - (ii) the licensee’s employees and other persons working for the licensee who may be exposed to radiation emitted from the source; and
    - (iii) other persons prescribed under a regulation;
  - (c) to provide, or arrange for the provision of, training to the persons mentioned in paragraph (b) about precautions that need to be taken to ensure radiation doses received by the persons and other persons from the source, are—
    - (i) for ionising radiation—below the radiation dose limit prescribed under a regulation and as low as reasonably achievable; or
    - (ii) for non-ionising radiation—below the radiation dose limit prescribed under a regulation and minimised as far as is practicable;
  - (d) to identify whether the plan is being complied with;
  - (e) to regularly review the plan to ensure its continued effectiveness;
  - (f) to identify whether the relevant radiation safety standard for the source, or premises at which the practice is being carried out, is being complied with.
- (3) If a radiation safety officer appointed for the practice is not also the possession licensee for the practice, the plan must also state the following functions for the officer—
- (a) to advise the licensee of the ways, identified under subsection (2)(a), of minimising the radiation doses received by persons from the source;
  - (b) to report to the licensee—
    - (i) any contravention of the plan or the relevant radiation safety standard identified under subsection (2)(d) or (f); and

- (ii) what action needs to be taken to ensure compliance with the plan or standard;
  - (c) to advise the licensee of the results of a review under subsection (2)(e) and make recommendations to the licensee about changes to the plan.
- (4) In this section—
- employees*, of a possession licensee, include agents of the licensee and the agents' employees.

## Division 3                      Radiation monitoring

### 38            Radiation monitoring—possession and use licensees

- (1) This section applies to the following persons—
- (a) a possession licensee who—
    - (i) under the licence, possesses a radiation source for a radiation practice; and
    - (ii) provides to another person (the *monitored person*) a personal monitoring device, as required by the licensee's approved radiation safety and protection plan for the practice;
  - (b) a possession licensee who, under the licensee's approved radiation safety and protection plan for a radiation practice under the licence, is a person (also the *monitored person*) required to be provided with a personal monitoring device;
  - (c) a use licensee (also the *monitored person*) who, as a condition of the licence, is required—
    - (i) to wear a personal monitoring device when using a radiation source to carry out a radiation practice under the licence; and
    - (ii) to have the device assessed from time to time.

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- (2) The licensee must, as soon as practicable after receiving the result of an assessment of the device under the plan or condition, give the chief executive written notice of the result.

Maximum penalty—50 penalty units.

*Editor's note—*

Under section 28(3)(b), the radiation safety and protection plan is required to provide for the assessment of personal monitoring devices.

- (3) Without limiting subsection (2), the licensee is taken to comply with subsection (2) if the notice is given to the chief executive, on the licensee's behalf, by the person who conducted the assessment, as soon as practicable after the assessment is carried out.

- (4) The licensee must keep an up-to-date record for the monitored person (a ***personal monitoring record***), containing the following information—

- (a) the results of all the assessments;
- (b) other information prescribed under a regulation.

Maximum penalty—100 penalty units.

- (5) Without limiting the ways in which a possession licensee or use licensee may comply with subsection (4), a possession licensee or use licensee is taken to comply with subsection (4) if the personal monitoring record is kept, on the licensee's behalf, by another person under arrangements approved in writing by the chief executive.

- (6) For subsection (4), the personal monitoring record must be kept until the later of the following days—

- (a) the day that is 30 years after the day when the last assessment happened;
- (b) the day when the monitored person turns, or would have turned, 75 years.

- (7) The licensee must make the personal monitoring record available for inspection by the chief executive or an inspector at any reasonable time.

Maximum penalty for subsection (7)—50 penalty units.

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**39 Obligations about personal monitoring records—certain possession licensees**

- (1) Subsections (2) and (3) apply to a possession licensee who—
- (a) under the licence, possesses a radiation source for a radiation practice; and
  - (b) provides to another person a personal monitoring device, as required under the licensee’s approved radiation safety and protection plan for the practice.

- (2) The licensee must, as soon as practicable after receiving the result of an assessment of the device under the plan, take reasonable steps to make the person aware of the result.

Maximum penalty—50 penalty units.

- (3) The licensee must allow the person to inspect, at any reasonable time, the personal monitoring record kept by the licensee for the person.

Maximum penalty—50 penalty units.

- (4) Subsection (5) applies if the person stops being a person to whom the licensee is required to provide a personal monitoring device under the plan.

- (5) If asked in writing by the person during the period for which a personal monitoring record is required to be kept by the licensee for the person, the licensee must as soon as practicable give the person a copy of the record.

Maximum penalty for subsection (5)—50 penalty units.

*Editor’s note—*

Section 38(6) states the period for which a personal monitoring record is required to be kept by the licensee for the person.

**40 Other obligations in relation to personal monitoring records**

- (1) This section applies if—
- (a) a person stops being a licensee who is required to keep a personal monitoring record under section 38(4); and

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- (b) immediately before the person stopped being a licensee of that type, the person was keeping a personal monitoring record under the subsection.
- (2) The person must as soon as practicable ask the chief executive for directions about the keeping of the record.
- Maximum penalty—50 penalty units.
- (3) The chief executive must give the person written directions about the keeping of the record.
- (4) Without limiting subsection (3), a direction may require the person to give the record to another person, including, for example, the chief executive, who is to keep the record.
- (5) The directions are to ensure the record will continue to be kept until the later of the following days—
- (a) the day that is 30 years after the day when the last assessment of a personal monitoring device, mentioned in the record, happened;
- (b) the day when the person to whom the record relates turns, or would have turned, 75 years.
- (6) The person must comply with the written directions given to the person by the chief executive, unless the person has a reasonable excuse.

Maximum penalty for subsection (6)—100 penalty units.

## **Division 4                      Diagnostic or therapeutic procedures involving the irradiation of persons**

### **41            Diagnostic or therapeutic procedures**

- (1) A person (the *first person*) must not prescribe for another person a therapeutic procedure, or request for another person a diagnostic procedure, involving the irradiation of the other person, unless the first person is authorised to do so under a regulation (an *authorised person*).



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Maximum penalty—200 penalty units.

- (2) A use licensee who, under the licence, uses a radiation source to carry out a diagnostic or therapeutic procedure involving the irradiation of a person must not carry out the procedure unless the licensee reasonably believes the diagnostic procedure has been requested, or the therapeutic procedure has been prescribed, by an authorised person.

Maximum penalty—200 penalty units.

*Examples of a diagnostic or therapeutic procedure involving the irradiation of a person—*

- 1 using an x-ray machine to identify bone fractures suffered by a person
  - 2 using a radiopharmaceutical administered to a person to assess the person's thyroid function
  - 3 using an implanted radioactive substance to treat a person's cancer
- (3) A use licensee who, under the licence, uses a radiation source to carry out a diagnostic or therapeutic procedure involving the irradiation of a person (the *treated person*) must ensure the treated person does not receive a radiation dose from the carrying out of the procedure in an amount, or a way, that does not comply with the request for the diagnostic procedure or prescription for the therapeutic procedure.

Maximum penalty—200 penalty units.

- (4) Subsections (2) and (3) do not apply to a person who is an authorised person for the procedure.
- (5) Also, the licensee must not, in carrying out the procedure with the source, allow another person involved in carrying out the procedure, other than the treated person, to receive a radiation dose higher than the radiation dose limit prescribed under a regulation.

Maximum penalty for subsection (5)—200 penalty units.

*Example for subsection (5)—*

A parent of a child, who is holding the child while the child is undergoing diagnostic radiography, is involved in carrying out the procedure.

## **Division 5                      Limitation on exposure of any person to radiation**

### **42            Causing radiation exposure from radiation practice**

- (1) This section applies in relation to a radiation source for a radiation practice possessed under a possession licence.
- (2) A person, in carrying out the practice with the source, must not cause another person to receive a radiation dose higher than the radiation dose limit prescribed under a regulation.

Maximum penalty—500 penalty units.

- (3) Subsection (2) does not apply if—
  - (a) the other person receives the dose while being a treated person; or

*Editor's note—*

Section 41(3) deals with this situation.

- (b) the other person receives the dose while involved in carrying out a diagnostic or therapeutic procedure involving the irradiation of a person.

*Editor's note—*

Section 41(5) deals with this situation.

### **42A        Causing ionising radiation exposure from particular radioactive material**

- (1) This section applies to a person who possesses radioactive material that is not a radioactive substance.
- (2) The person must ensure that another person does not receive a radiation dose of ionising radiation that is higher than the radiation dose limit prescribed by regulation for the ionising radiation.

Maximum penalty—100 penalty units.

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## **Division 6                      Additional obligations of possession licensees and other persons**

### **43            Additional obligations of possession licensees**

- (1) This section applies if a possession licensee, under the licence, possesses a radiation source for a radiation practice.
- (2) The licensee must take reasonable steps to ensure that neither of the following is adversely affected by exposure to radiation because of the carrying out of the practice with the source—
  - (a) the health or safety of any person;
  - (b) the environment.

Maximum penalty—500 penalty units.

- (3) Without limiting the ways in which a possession licensee may comply with subsection (2), a possession licensee is taken to comply with subsection (2) if at the relevant time—
  - (a) the source complies with the relevant radiation safety standard; and
  - (b) if the practice is being carried out at premises—the premises comply with the relevant radiation safety standard; and
  - (c) the licensee is complying with the licensee’s approved radiation safety and protection plan for the practice.
- (4) Also, the licensee must take reasonable steps to ensure another person does not use the source unless the person is allowed to do so under a use licence or otherwise under this Act.

Maximum penalty—500 penalty units.

*Editor’s note—*

Section 13(2) states circumstances in which a person is not required to hold a use licence to use a radiation source to carry out a radiation practice.

- (5) Subsection (6) applies if the source is a radioactive substance.

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- (6) The licensee must take reasonable steps to ensure another person does not transport the substance unless the person is allowed to do so under a transport licence or otherwise under this Act.

Maximum penalty for subsection (6)—500 penalty units.

*Editor's note—*

Section 14(3) states circumstances in which a person is not required to hold a transport licence to transport a radioactive substance.

#### **44 Additional obligation of persons carrying out radiation practices**

- (1) This section applies if a possession licensee, under the licence, possesses a radiation source for a radiation practice.
- (2) A person carrying out the practice with the source must take reasonable steps to ensure that neither of the following is adversely affected by exposure to radiation because of the way the person carries out the practice—
  - (a) the health or safety of any person;
  - (b) the environment.

Maximum penalty—500 penalty units.

- (3) Without limiting the ways in which a person carrying out the practice with the source may comply with subsection (2), a person carrying out the practice with the source is taken to comply with subsection (2) if, at the relevant time, the person is complying with the licensee's approved radiation safety and protection plan for the practice.

#### **44A Additional obligations of persons for security enhanced sources**

- (1) This section applies to the following persons—
  - (a) a possession licensee who, under the licence, possesses a security enhanced source;

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- (b) the possession licensee's employees and other persons who have access, or control access, to the source under the licensee's approved security plan or approved transport security plan for the source;
  - (c) other persons to whom the possession licensee's approved security plan or approved transport security plan applies;
  - (d) a transport licensee who is transporting 2 or more radioactive substances that have become a security enhanced source as a result of their aggregation;
  - (e) the transport licensee's employees and other persons who have access, or control access, to the source under the licensee's approved transport security plan for the source;
  - (f) other persons to whom the transport licensee's approved transport security plan applies;
  - (g) another person (the *transporter*) who is transporting 2 or more radiation sources that have become a security enhanced source as a result of their aggregation;
  - (h) the transporter's employees and other persons who have access, or control access, to the source under the transporter's approved transport security plan for the source;
  - (i) other persons to whom the transporter's approved transport security plan applies.
- (2) A person to whom this section applies must take reasonable steps to ensure the security of the security enhanced source.
- Maximum penalty—2,500 penalty units.
- (3) Without limiting the ways in which a person may comply with subsection (2), a person is taken to comply with subsection (2) if, at the relevant time, the person is complying with the parts of the following that apply to the person—
- (a) the licensee's approved security plan;

- (b) an approved transport security plan applying to the transport of the source.
- (4) In this section—
  - employees*, of a licensee or transporter, include agents of the licensee or transporter and the agents' employees.

#### **44B Requirement to have a nominated person**

- (1) This section applies to the following licensees if the licensee is a corporation—
  - (a) a possession licensee who is allowed to possess a security enhanced source under the licence;
  - (b) a transport licensee who is allowed to transport a radioactive substance that is a security enhanced source other than by road.
- (2) The licensee must appoint and retain an individual (a *nominated person*) to oversee the security of the security enhanced source.

Maximum penalty—2,500 penalty units.

- (3) If the appointment of the licensee's nominated person ends, the licensee must give the chief executive written notice of the ending of the appointment within 7 days of its ending.
- (4) If the licensee gives the chief executive written notice under subsection (3), the licensee does not contravene subsection (2) in relation to any period, before the start of a new appointment, that may be reasonably necessary for the appointment to be made or take effect.

## **Division 7                      Mandatory reporting requirements**

### **45 Notification of dangerous events**

- (1) This section applies—

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- (a) if a possession licensee, under the licence, possesses a radiation source for a radiation practice; and
  - (b) any of the following events (a *dangerous event*) happen—
    - (i) the source is, or appears to have been, lost or stolen;
    - (ii) there is a radiation incident in relation to the source, for which there are no remediation procedures stated in the licensee's approved radiation safety and protection plan for the practice being carried out with the source at the time;
    - (iii) equipment that uses, measures or controls radiation emitted from the source malfunctions with the result, or likely result, that there is, or will be, an unintended emission of the radiation or a person is, or will be, unintentionally exposed to the radiation;
    - (iv) the source is damaged;
    - (v) the source is subject to access that is not provided for under an approved security plan or approved transport security plan.
- (2) The licensee must give the chief executive notice, as required under subsections (3) and (4), of the dangerous event, unless the licensee has a reasonable excuse.

Maximum penalty—

- (a) if the dangerous event relates to a radiation source that is not a security enhanced source—100 penalty units; or
  - (b) if the dangerous event relates to a radiation source that is a security enhanced source—2,500 penalty units.
- (3) The notice must—
- (a) be given immediately, orally or in writing; and
  - (b) state the following—
    - (i) particulars adequate to identify the source;

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- (ii) if the licensee knows the location of the source, its location;
- (iii) if the licensee does not know the location of the source, the last location known to the licensee;
- (iv) the circumstances surrounding the dangerous event;
- (v) the steps taken, or proposed to be taken, to remedy the consequences of the dangerous event and to prevent the event happening again;

*Example—*

The possession licensee may initiate a review of the relevant security plan and submit changes to the plan to the chief executive for approval.

- (vi) if a source is lost or stolen, other information relevant to the recovery of the source.
- (4) If the notice is given orally, the licensee must give the chief executive a written notice confirming the oral notice within 7 days after the dangerous event happens.
- (4A) If a notice under subsection (2) relates to a security enhanced source, the chief executive must immediately advise each relevant authority the chief executive considers appropriate of the details contained in the notice.
- (5) In this section—

***radiation incident*** means an incident adversely affecting, or likely to adversely affect, either of the following because of the emission of radiation—

- (a) the health or safety of any person;
- (b) the environment.

***relevant authority*** means—

- (a) the Queensland Police Service; or
- (b) a body that has power under an Act of the Commonwealth or a State to deal with a radiation incident or dangerous event; or



(c) another body prescribed by regulation.

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

#### 46 False or misleading notices

A possession licensee must not give the chief executive a notice under section 45 containing information the licensee knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

### Division 8 Banned radiation sources and radiation practices

#### 47 Banning of certain radiation sources

(1) A person must not possess, supply or use a radiation source that is prescribed under a regulation to be a banned radiation source.

Maximum penalty—400 penalty units.

(2) In this section—

*sell* means sell by retail, wholesale or auction, and includes—

- (a) offer or agree to sell; and
- (b) invite to treat or expose for sale; and
- (c) cause or permit to be sold; and
- (d) supply under a lease, exchange, hiring or other commercial arrangement.

*supply* includes—

- (a) distribute, give or sell; and
- (b) offer or agree to distribute or give; and
- (c) cause or permit to be distributed or given; and

- (d) attempt to supply or do an act mentioned in paragraphs (a) to (c).

#### **47A Banning of certain radiation practices**

- (1) A person in possession of a prescribed radiation source must not allow a radiation practice to be carried out that exposes another person prescribed under a regulation to radiation emitted from the source in the circumstances prescribed under a regulation.

Maximum penalty—400 penalty units.

- (2) In this section—

*prescribed radiation source* means a radiation source prescribed by regulation for this section.

## **Part 7 Act instruments**

### **Division 1 Preliminary**

#### **48 What is an Act instrument**

An *Act instrument* is—

- (a) a licence; or
- (b) an accreditation certificate; or
- (c) an approval; or
- (d) a radiation safety officer certificate.

#### **49 Who may apply for Act instruments**

- (1) Any person may apply for the following Act instruments—
- (a) a possession licence;
  - (b) a transport licence that allows the transport of a radioactive substance other than by road;

- (c) an approval to dispose.
- (2) An individual, and only an individual, may apply for the following Act instruments—
  - (a) a use licence;
  - (b) a transport licence that allows the transport of a radioactive substance by road;
  - (c) an accreditation certificate;
  - (d) a radiation safety officer certificate.

*Note—*

See also section 103K in relation to persons who are taken to hold a use licence or a transport licence.

- (3) A possession licensee, and only a possession licensee, may apply for the following Act instruments—
  - (a) an approval to acquire;
  - (b) an approval to relocate.

## **50 Act instrument issued jointly to more than 1 person**

If an Act instrument is issued jointly to more than 1 person, a reference in this Act to the holder of the instrument is a reference to each of the persons.

## **50A No Act instruments for banned radiation sources**

A person may not apply for, and the chief executive may not issue, an Act instrument for a banned radiation source.

## **Division 2                    Applications for, and issue of, Act instruments**

### **Subdivision 1            Applications**

#### **51            Procedural requirements for applications**

- (1) An application for an Act instrument must—
  - (a) be made to the chief executive; and
  - (b) be in the approved form; and
  - (c) be accompanied by the following—
    - (i) the fees prescribed under a regulation;
    - (ii) other documents prescribed under a regulation.
- (2) If the application is for an Act instrument prescribed by regulation for this subsection, the application must also be accompanied by—
  - (a) if the applicant is an individual—proof, to the satisfaction of the chief executive, of the individual’s identity; or
  - (b) if the applicant is required to appoint a nominated person—proof, to the satisfaction of the chief executive, of the nominated person’s identity.
- (3) If the application is for a possession licence for a radiation source that is not a security enhanced source, the application must also be accompanied by the proposed radiation safety and protection plan for the radiation practice for which the applicant wants to possess the radiation source.
- (4) If the application is for a possession licence for a radiation source that is a security enhanced source, the application must also be accompanied by—
  - (a) the proposed radiation safety and protection plan for the radiation practice for which the applicant wants to possess the radiation source; and

- (b) the proposed security plan for the radiation source.
- (5) If the application is for an approval to relocate, the application must also be accompanied by the written approval for the proposed relocation given by the regulatory authority responsible for preventing or minimising health risks to any person or harm to the environment, in so far as exposure to radiation is concerned, in the locality to which the applicant proposes to relocate the radiation source concerned.
- (6) If the application is for a possession licence or transport licence for a security enhanced source or a use licence for a portable security enhanced source—
  - (a) the application must also be accompanied by the fee prescribed under a regulation for the security check and criminal history check under division 10; and
  - (b) the approved form must require—
    - (i) the disclosure of the applicant’s criminal history; and
    - (ii) if the applicant is a corporation—
      - (A) the nomination by the corporation of the individual who will oversee the security of the security enhanced source; and
      - (B) the disclosure of that individual’s criminal history.
- (7) The *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to a disclosure under subsection (6)(b).
- (8) The chief executive must consider the application and either grant, or refuse to grant, the application.
- (9) The chief executive may grant the application only if the chief executive is satisfied the applicant is a suitable person to hold the instrument.

## **52 Different types of approval to acquire a radiation source**

- (1) An application for an approval to acquire may be made for—

- (a) a single acquisition of a radiation source; or
- (b) the periodic acquisition of an unsealed radioactive substance or prescribed sealed radioactive substance (a ***continuing approval to acquire***).

*Example for paragraph (a)—*

A hospital may make application for an approval to acquire an x-ray machine.

*Example for paragraph (b)—*

A hospital may make application for an approval to acquire quantities of an unsealed radioactive substance, for use by a person in carrying out diagnostic or therapeutic procedures, on a weekly basis during the term of the possession licence held by the hospital for the substance.

- (2) In this section—

***prescribed sealed radioactive substance*** means a short-lived, low-activity sealed radioactive substance, usually used in carrying out a diagnostic or therapeutic procedure involving the irradiation of another person, prescribed under a regulation.

## Subdivision 2      **Criteria for applications**

### **53      Criteria for applications—possession licences**

- (1) In deciding whether an applicant for a possession licence is a suitable person to hold the licence, the chief executive may have regard to the following—
  - (a) the radiation practice for which the applicant wants to possess the radiation source to which the application relates;
  - (b) for an ionising radiation source—the justification of the practice;

*Note—*

Justification is a radiation safety, protection and security principle under section 5.

- (c) the adequacy of the proposed radiation safety and protection plan for the practice, having regard to section 28;

*Note—*

Under section 51(3) and (4)(a), an application for a possession licence must be accompanied by the proposed radiation safety and protection plan for the radiation practice for which the applicant wants to possess a radiation source.

- (d) the applicant's ability to comply with a possession licensee's obligations under sections 17, 18, 33 34F, 34Q, 43, 44A and 44B;
- (e) if the applicant has been convicted of an indictable offence—the nature, and circumstances of the commission, of the offence;
- (f) whether the applicant has been convicted of an offence against this Act, the repealed Act or a corresponding law;
- (g) the outcome of the security check and criminal history check under division 10 for—
  - (i) the applicant; or
  - (ii) if the applicant is a corporation, the nominated person for the applicant;
- (h) whether the applicant held an Act instrument under this Act, or a similar instrument under the repealed Act or a corresponding law, that was suspended or cancelled;
- (i) if the application relates to a security enhanced source, the adequacy of the proposed security plan for the source, having regard to section 34A;
- (j) anything else relevant to the security of the radiation source to which the application relates;
- (k) anything else relevant to the following in so far as exposure to radiation is concerned—
  - (i) the health or safety of any person;
  - (ii) harm to the environment.

- (2) For subsection (1)(g), the chief executive must have regard to whether—
  - (a) a person mentioned in that provision has been convicted of, or charged with, a relevant offence in Queensland or elsewhere; and
  - (b) it is an unacceptable security risk for the person to possess a security enhanced source.

## **54 Criteria for applications—use licences**

- (1) In deciding whether an applicant for a use licence is a suitable person to hold the licence, the chief executive may have regard to the following—
  - (a) the qualifications, training, skills, competence, knowledge and experience of the applicant that are relevant to the radiation practice to which the application relates;
  - (b) if the applicant is a person registered as a veterinary surgeon under the *Veterinary Surgeons Act 1936* or a health practitioner—any conditions attaching to the applicant’s registration, enrolment or accreditation as a veterinary surgeon or health practitioner limiting the applicant’s ability to carry out the practice;
  - (c) if the applicant has been convicted of an indictable offence—the nature, and circumstances of the commission, of the offence;
  - (d) whether the applicant has been convicted of an offence against this Act, the repealed Act or a corresponding law;
  - (e) the outcome of the security check and criminal history check under division 10 for the applicant;
  - (f) whether the applicant held an Act instrument under this Act, or a similar instrument under the repealed Act or a corresponding law, that was suspended or cancelled;



- (g) anything else relevant to the security of the radiation source to which the application relates;
- (h) anything else relevant to the following in so far as exposure to radiation is concerned—
  - (i) the health or safety of any person;
  - (ii) harm to the environment.
- (2) For subsection (1)(e), the chief executive must have regard to whether—
  - (a) the applicant has been convicted of, or charged with, a relevant offence in Queensland or elsewhere; and
  - (b) it is an unacceptable security risk for the applicant to use a security enhanced source.

## **55 Criteria for applications—transport licences**

- (1) In deciding whether an applicant for a transport licence is a suitable person to hold the licence, the chief executive may have regard to the following—
  - (a) how the radioactive substance, to which the application relates, is to be transported by the applicant;
  - (b) the amount of the substance the licensee is to transport at a time;
  - (c) the applicant's competency in relation to the handling, packing, transportation, storage and delivery of the substance;
  - (d) if the applicant has been convicted of an indictable offence—the nature, and circumstances of the commission, of the offence;
  - (e) whether the applicant has been convicted of an offence against this Act, the repealed Act or a corresponding law;
  - (f) the outcome of the security check and criminal history check under division 10 for—
    - (i) the applicant; and

- (ii) if the applicant is a corporation, the nominated person for the applicant;
- (g) whether the applicant held an Act instrument under this Act, or a similar instrument under the repealed Act or a corresponding law, that was suspended or cancelled;
- (h) anything else relevant to the security of the radioactive substance to which the application relates;
- (i) anything else relevant to the following in so far as exposure to radiation is concerned—
  - (i) the health or safety of any person;
  - (ii) harm to the environment.
- (2) For subsection (1)(f), the chief executive must have regard to whether—
  - (a) a person mentioned in that provision has been convicted of, or charged with, a relevant offence in Queensland or elsewhere; and
  - (b) it is an unacceptable security risk for the person to transport a security enhanced source.

## **56 Criteria for applications—accreditation certificates**

In deciding whether an applicant for an accreditation certificate is a suitable person to hold the certificate, the chief executive may have regard to the following—

- (a) the qualifications, training, skills, knowledge and experience of the applicant that are relevant to the applicant's competency to assess whether the type of radiation source or premises, to which the application relates, complies with the relevant radiation safety standard;
- (b) if the applicant has been convicted of an indictable offence—the nature, and circumstances of the commission, of the offence;

- (c) whether the applicant has been convicted of an offence against this Act, the repealed Act or a corresponding law;
- (d) whether the applicant held an accreditation certificate under this Act, or a similar instrument under a corresponding law, that was suspended or cancelled;
- (e) anything else relevant to the following in so far as exposure to radiation is concerned—
  - (i) the health or safety of any person;
  - (ii) harm to the environment.

## **57 Criteria for applications—approvals to acquire**

In deciding whether an applicant for an approval to acquire is a suitable person to hold the approval, the chief executive may have regard to the following—

- (a) the following particulars of the applicant's possession licence—
  - (i) the radiation source the applicant is allowed to possess;
  - (ii) the radiation practice for which the applicant is allowed to possess the source;
  - (iii) the term of the licence;
  - (iv) any conditions of the licence;
- (b) the applicant's reason for wanting to acquire the radiation source to which the application relates;
- (c) whether the application contains particulars adequate to identify the source;
- (d) the particulars, stated in the application, of how the applicant proposes to eventually dispose of, relocate, sell or give away the source;
- (e) whether the applicant held an approval to acquire under this Act, or a similar instrument under a corresponding law, that was suspended or cancelled;

- (f) whether the radiation source to which the application relates, when aggregated with radiation sources already in the applicant's possession, will result in the applicant being in possession of a security enhanced source;
- (g) if the application relates to a security enhanced source—
  - (i) the adequacy of the approved security plan for the source, having regard to section 34A; and
  - (ii) the adequacy of any approved transport security plan for the source, having regard to section 34H;
- (h) anything else relevant to the security of the radiation source to which the application relates;
- (i) anything else relevant to the following in so far as exposure to radiation is concerned—
  - (i) the health or safety of any person;
  - (ii) harm to the environment.

## **58 Criteria for applications—approvals to dispose**

In deciding whether an applicant for an approval to dispose is a suitable person to hold the approval, the chief executive may have regard to the following—

- (a) the applicant's reason for wanting to dispose of the radioactive material to which the application relates;
- (b) how the applicant proposes to dispose of the material;
- (c) whether the material can be dealt with in another way that is more conducive to ecological health or public amenity or safety;
- (d) whether the disposal would, or is likely to, result in another Act being contravened;
- (e) whether the applicant held an approval to dispose under this Act, or a similar instrument under the repealed Act or a corresponding law, that was suspended or cancelled;
- (f) anything relevant to the security of the radioactive material to which the application relates;

- 
- (g) anything else relevant to the following in so far as exposure to radiation is concerned—
- (i) the health or safety of any person;
  - (ii) harm to the environment.

*Example of dealt with in another way for paragraph (c)—*

the re-encapsulation of a sealed radioactive substance for its re-use, instead of its disposal

*Example for paragraph (d)—*

The disposal of solid radioactive material may result in other substances being released into the environment in contravention of the *Environmental Protection Act 1994*.

## **59 Criteria for applications—approvals to relocate**

- (1) In deciding whether an applicant for an approval to relocate is a suitable person to hold the approval, the chief executive may have regard to the following—
- (a) the applicant's reason for wanting to relocate the radiation source to which the application relates;
  - (b) the ability of the applicant to comply with any intergovernmental agreement or international treaty about the movement of radiation sources;
  - (c) if the purpose of the proposed relocation is the eventual disposal of the source—whether it can be dealt with in another way that is more conducive to ecological health or public amenity or safety;
  - (d) whether the applicant held an approval to relocate under this Act, or a similar instrument under a corresponding law, that was suspended or cancelled;
  - (e) if the application relates to a security enhanced source—
    - (i) the adequacy of the approved security plan for the source, having regard to section 34A; and
    - (ii) the adequacy of the approved transport security plan for the source, having regard to section 34H;

- (f) anything else relevant to the security of the radiation source to which the application relates;
- (g) anything else relevant to the following in so far as exposure to radiation is concerned—
  - (i) the health or safety of any person;
  - (ii) harm to the environment.

*Examples of reason for wanting to relocate the radiation source for subsection (1)(a)—*

- 1 relocate a sealed radioactive substance to a place outside Queensland for re-encapsulation before its re-use in Queensland
- 2 relocate a radioactive substance for safe storage in a purpose-built facility outside Queensland
- 3 relocate a radiation source for use outside Queensland

*Example of dealt with in another way for subsection (1)(c)—*

the re-encapsulation of a sealed radioactive substance for its re-use, instead of its disposal

- (2) In this section—

***intergovernmental agreement*** means an agreement entered into between—

- (a) the State and a government of the locality to which the applicant proposes to relocate the source or through which the applicant proposes to transport the source; or
- (b) the Commonwealth and a government of the locality to which the applicant proposes to relocate the source.

***international treaty*** means a treaty, dealing with the relocation of the source, to which the Commonwealth is a party.

***treaty*** includes a convention, protocol, agreement or arrangement.

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**60 Criteria for applications—radiation safety officer certificates**

In deciding whether an applicant for a radiation safety officer certificate is a suitable person to hold the certificate, the chief executive may have regard to the following—

- (a) the applicant’s knowledge of the legislation, guidelines, codes of practice and standards relevant to the type of radiation practice to which the application relates;
- (b) the applicant’s knowledge and skills in—
  - (i) measuring and monitoring radiation; and
  - (ii) interpreting radiation measurements; and
  - (iii) applying radiation safety, protection and security principles;
- (c) the applicant’s knowledge of the biological effects of radiation;
- (d) the applicant’s competency to perform the functions of a radiation safety officer in relation to the type of practice;
- (e) if the applicant has been convicted of an indictable offence—the nature, and circumstances of the commission, of the offence;
- (f) whether the applicant has been convicted of an offence against this Act, the repealed Act or a corresponding law;
- (g) whether the applicant has held a radiation safety officer certificate under this Act, or a similar instrument under a corresponding law, that was suspended or cancelled;
- (h) anything else relevant to the following in so far as exposure to radiation is concerned—
  - (i) the health or safety of any person;
  - (ii) harm to the environment.

## **Subdivision 3      Decision on applications**

### **61      Inquiries into applications**

- (1) Before deciding the application, the chief executive—
  - (a) may investigate the applicant; and
  - (b) may, by written notice given to the applicant, require the applicant to give the chief executive, within a reasonable period of at least 30 days stated in the notice, further information or a document the chief executive reasonably requires to decide the application; and
  - (c) if the application is for a use licence, transport licence allowing the transport of a radioactive substance by road, accreditation certificate or radiation safety officer certificate—may, by written notice given to the applicant, require the applicant to undergo a written, oral or practical examination within a reasonable period of at least 30 days stated in the notice.
- (2) The purpose of an examination under subsection (1)(c) must be to assess—
  - (a) for a use licence to use a radiation source to carry out a radiation practice—
    - (i) the applicant's competency to use the source to carry out the practice; and
    - (ii) the applicant's knowledge of issues relevant to the following in so far as exposure to radiation is concerned—
      - (A) the health or safety of any person;
      - (B) harm to the environment; and
    - (iii) the applicant's knowledge of issues relevant to the security of the source; or
  - (b) for a transport licence allowing the transport of a radioactive substance by road—



- (i) the applicant's competency in relation to the handling, packing, transportation, storage and delivery of the substance; and
  - (ii) the applicant's knowledge of issues relevant to the following in so far as exposure to radiation is concerned—
    - (A) the health or safety of any person;
    - (B) harm to the environment; and
  - (iii) the applicant's knowledge of issues relevant to the security of the substance; or
- (c) for an accreditation certificate—
- (i) for a type of radiation source—the applicant's competency to assess whether a radiation source of that type complies with the relevant radiation safety standard; and
  - (ii) for a type of premises—the applicant's competency to assess whether premises of that type comply with the relevant radiation safety standard; and
  - (iii) the applicant's knowledge of issues relevant to the following in so far as exposure to radiation is concerned—
    - (A) the health or safety of any person;
    - (B) harm to the environment; and
  - (iv) the applicant's knowledge of issues relevant to the security of a radiation source; or
- (d) for a radiation safety officer certificate—
- (i) the applicant's knowledge of the legislation, guidelines, codes of practice and standards relevant to the type of radiation practice to which the application relates; and
  - (ii) the applicant's knowledge and skills in—
    - (A) measuring and monitoring radiation; and

- (B) interpreting radiation measurements; and
  - (C) applying radiation safety, protection and security principles; and
- (iii) the applicant's knowledge of the biological effects of radiation; and
- (iv) the applicant's competency to perform the functions of a radiation safety officer in relation to the type of practice; and
- (v) the applicant's knowledge of issues relevant to the following in so far as exposure to radiation is concerned—
  - (A) the health or safety of any person;
  - (B) harm to the environment.
- (3) The applicant is taken to have withdrawn the application if, within the stated period, the applicant—
  - (a) does not comply with a requirement under subsection (1)(b); or
  - (b) does not undergo an examination under subsection (1)(c).
- (4) A notice under subsection (1)(b) or (c) must be given to the applicant within 90 days after the chief executive receives the application.

## **62 Decision**

- (1) If the chief executive decides to grant the application, the chief executive must immediately issue the Act instrument applied for to the applicant.
- (2) If the chief executive decides to refuse to grant the application, the chief executive must immediately give the applicant an information notice about the decision.

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## 63 Failure to decide applications

- (1) Subject to subsections (2) and (3), if the chief executive fails to decide the application within 90 days after its receipt, the failure is taken to be a decision by the chief executive to refuse to grant the application.
- (2) Subsection (3) applies if—
  - (a) a person has made an application for an Act instrument; and
  - (b) the chief executive has—
    - (i) under section 61(1)(b), required the applicant to give the chief executive further information or a document; or
    - (ii) under section 61(1)(c), required the applicant to undergo an examination.
- (3) The chief executive is taken to have refused to grant the application if the chief executive does not decide the application by the later of the following days—
  - (a) the day that is 90 days after the chief executive receives the further information or document;
  - (b) the day that is 90 days after the chief executive receives the results of the examination.
- (4) If the application is an application for a licence, this section is subject to section 64.

## 64 Further consideration of applications for licences

- (1) This section applies if the chief executive considers he or she needs further time to make a decision on an application for a licence because of the complexity of the matters that need to be considered in deciding the application.

*Example of an application likely to raise complex matters—*

an application for a possession licence to possess radioactive substances for the manufacture of radiopharmaceuticals

- (2) The chief executive may at any time before the final consideration day give written notice to the applicant that—
  - (a) because of the complexity of the matters that need to be considered in deciding the application, the chief executive needs further time to decide the application; and
  - (b) the period within which the chief executive must decide the application is extended to a day (the *extended day*) that is 90 days after the final consideration day.
- (3) Also, the applicant and chief executive may at any time before the final consideration day agree in writing on a day (the *agreed extended day*) by which the application is to be decided.
- (4) The chief executive is taken to have refused to grant the application if the chief executive does not decide the application by the latest of the following days—
  - (a) if the chief executive has given a notice to the applicant under subsection (2)—the extended day;
  - (b) if there is an agreement between the applicant and chief executive under subsection (3)—the agreed extended day.
- (5) In this section—

*final consideration day* means the later of the following days—

- (a) the day that is 90 days after receipt of the application;
- (b) if the chief executive has, under section 61(1)(b), required the applicant to give the chief executive further information or a document—the day that is 90 days after the chief executive receives the further information or document;
- (c) if the chief executive has, under section 61(1)(c), required the applicant to undergo an examination—the day that is 90 days after the chief executive receives the results of the examination.

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## **Subdivision 4 Information in Act instruments**

### **65 Forms of Act instruments**

- (1) An Act instrument must be in the approved form.
- (2) The approved form must provide for the inclusion of the following—
  - (a) the name of the holder of the instrument;
  - (b) the term of the instrument;
  - (c) any conditions of the instrument imposed by the chief executive.

### **66 Additional information for possession licences**

- (1) The approved form for a possession licence must also provide for the inclusion of the following—
  - (a) particulars of the radiation source the licensee is allowed to possess;
  - (b) the radiation practice for which the licensee is allowed to possess the source.
- (2) Also, the approved form must identify—
  - (a) the approved radiation safety and protection plan for the radiation practice; and
  - (b) if the licensee is in possession of a security enhanced source—
    - (i) the approved security plan for the source; and
    - (ii) the approved transport security plan for the source if the licensee's security enhanced source is being transported between locations for the licensee's radiation practice.

## **67 Additional information for use licences**

The approved form for a use licence must also provide for the inclusion of the following—

- (a) particulars of the radiation source the licensee is allowed to use;
- (b) the radiation practice the licensee is allowed to carry out using the source.

## **68 Additional information for transport licences**

The approved form for a transport licence must also provide for the inclusion of the following—

- (a) particulars of the radioactive substance the licensee is allowed to transport;
- (b) how the substance is to be transported;
- (c) the amount of the substance the licensee is allowed to transport at a time.

## **69 Additional information for accreditation certificates**

The approved form for an accreditation certificate must also provide for the inclusion of particulars of the type of radiation source or premises for which the holder of the certificate is allowed to issue a certificate of compliance.

*Example of a type of premises—*

premises at which diagnostic radiography is, or is to be, carried out

## **70 Additional information for approvals to acquire**

The approved form for an approval to acquire must also provide for the inclusion of particulars adequate to identify the radiation source allowed to be acquired under the approval.

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**71 Additional information for approvals to dispose**

The approved form for an approval to dispose must also identify—

- (a) the radioactive material the licensee is allowed to dispose of; and
- (b) the amount of the radioactive material the licensee is allowed to dispose of.

**72 Additional information for approvals to relocate**

The approved form for an approval to relocate must also provide for the inclusion of the following—

- (a) particulars adequate to identify the radiation source allowed to be relocated under the approval;
- (b) the location to which the holder of the approval is allowed to relocate the source.

**73 Additional information for radiation safety officer certificates**

The approved form for a radiation safety officer certificate must also provide for the inclusion of particulars adequate to identify the type of radiation practice for which the holder of the certificate may perform the functions of a radiation safety officer.

**Subdivision 5 Terms of Act instruments**

**74 Terms**

- (1) A licence remains in force—
  - (a) for a licence of a kind prescribed under a regulation—for the term, not more than 3 years, stated in the regulation; or

- (b) for a licence held by a prescribed licensee—until the licence is suspended or cancelled; or
  - (c) otherwise—for the term, not more than 3 years, stated in the licence.
- (2) An accreditation certificate remains in force for the term, not more than 3 years, stated in the certificate.
  - (3) An approval remains in force for the term stated in the approval.
  - (4) However, for an approval to acquire or approval to relocate, the term must expire on or before the expiry of the term of the possession licence under which the radiation source the subject of the approval may be possessed.
  - (5) A radiation safety officer certificate remains in force for the term, not more than 3 years, stated in the certificate.

## **Subdivision 6      Conditions of Act instruments**

### **75      Standard conditions for certain Act instruments**

- (1) An approval to relocate is subject to the condition that the holder of the approval must give the chief executive written notice of the relocation of the radiation source to which the approval relates within 7 days after the relocation happens.
- (2) An approval to dispose is subject to the condition that the holder of the approval must give the chief executive written notice of the disposal of the radioactive material to which the approval relates within 7 days after the disposal happens.
- (3) A possession or use licence is subject to the condition that the holder of the licence comply with a code, protocol, standard or document, prescribed under a regulation about the radiation practice to which the licence relates.
- (4) A transport licence is subject to the condition that the holder of the licence comply with a code, protocol, standard or document, prescribed under a regulation about the transport of radioactive substances to which the licence relates.



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## 76 Imposition of conditions by chief executive

- (1) The chief executive may issue an Act instrument on conditions the chief executive considers necessary or desirable—
  - (a) to protect persons, or the environment, from the harmful effects of radiation; or
  - (b) to ensure the security of a radiation source.
- (2) If the chief executive decides to issue an Act instrument on conditions, the chief executive must immediately give the applicant an information notice about the decision.

## 77 Contravention of condition

- (1) A holder of an Act instrument must not contravene a condition of the instrument, including a condition mentioned in section 75.

Maximum penalty—200 penalty units.
- (2) The penalty under subsection (1) may be imposed whether or not the instrument is cancelled or suspended because of the contravention.

## Division 3 Renewal of certain Act instruments

### 78 Application of div 3

This division applies to the following Act instruments (the *renewable Act instruments*)—

- (a) a licence, other than a licence held by a prescribed licensee;
- (b) an accreditation certificate;
- (c) a continuing approval to acquire;
- (d) a radiation safety officer certificate.

## 79 Applications for renewal

- (1) The holder of a renewable Act instrument may apply to the chief executive for the renewal of the instrument within the period starting 60 days before the term of the instrument ends.
- (2) However, the chief executive may accept an application for renewal of a renewable Act instrument made within 30 days after the term of the instrument ended if satisfied it is reasonable to do so in the circumstances.

*Examples of circumstances in which it may be reasonable to accept a late application—*

- a failure or delay in sending the application by post that the holder could not have reasonably foreseen
  - an unforeseen medical condition preventing the holder applying for the renewal before the term of the instrument ends
- (3) The application must—
    - (a) be in the approved form; and
    - (b) be accompanied by—
      - (i) the fee prescribed under a regulation; and
      - (ii) documents prescribed under a regulation.
  - (4) The chief executive must consider the application and renew, or refuse to renew, the instrument.
  - (5) In deciding whether to grant the application, the chief executive may have regard to the matters to which the chief executive may have regard in deciding whether a proposed holder of a renewable Act instrument is a suitable person to hold the instrument.

*Editor's note—*

See section 53, 54, 55, 56, 57 or 60 for a list of the matters.

- (6) If the chief executive decides to refuse to renew the instrument, the chief executive must immediately give the applicant an information notice about the decision.
- (7) A renewable Act instrument may be renewed by—
  - (a) endorsing the existing instrument; or

- (b) cancelling the existing instrument and issuing another renewable Act instrument.

## **80 Inquiries into applications**

- (1) Before deciding the application, the chief executive may, by written notice given to the applicant, require the applicant to give the chief executive, within a reasonable period of at least 30 days stated in the notice, further information or a document the chief executive reasonably considers is needed to decide the application.
- (2) The applicant is taken to have withdrawn the application if, within the stated period, the applicant does not comply with the requirement.

## **81 Renewable Act instrument taken to be in force while application is considered**

- (1) If an application is made under section 79, the holder's renewable Act instrument is taken to continue in force from the day that it would, apart from this section, have expired until the application is decided under section 79 or taken to have been withdrawn under section 80(2).
- (2) However, if the application is refused, the instrument continues in force until the information notice for the decision is given to the applicant.
- (3) Subsection (1) does not apply if the instrument is earlier suspended or cancelled.

## Division 4                    Provisions about suspension and cancellation of Act instruments

### Subdivision 1              Suspension and cancellation of Act instruments

#### 82            Grounds for suspension or cancellation

- (1) Each of the following is a ground for suspending or cancelling an Act instrument—
  - (a) the holder of the instrument is not, or is no longer, a suitable person to hold the instrument;
  - (b) the holder has been convicted of an offence against this Act;
  - (c) the holder has contravened a provision of this Act (being a provision a contravention of which is not an offence against this Act);
  - (d) the holder has contravened a condition of the instrument;
  - (e) the instrument was issued because of a materially false or misleading representation or declaration.
- (2) For forming a belief that the ground mentioned in subsection (1)(a) exists, the chief executive may have regard to the matters to which the chief executive may have regard in deciding whether a proposed holder of an Act instrument is a suitable person to hold the instrument.

*Editor's note—*

See section 53, 54, 55, 56, 57, 58, 59 or 60 for a list of the matters.

#### 83            Show cause notice

- (1) If the chief executive believes a ground exists to suspend or cancel an Act instrument, the chief executive must give the holder of the instrument a written notice under this section (a ***show cause notice***).

- (2) The show cause notice must state the following—
  - (a) the action (the *proposed action*) the chief executive proposes taking under this subdivision;
  - (b) the grounds for the proposed action;
  - (c) an outline of the facts and circumstances forming the basis for the grounds;
  - (d) if the proposed action is suspension of the instrument—the proposed suspension period;
  - (e) an invitation to the holder to show within a stated period (the *show cause period*) why the proposed action should not be taken.
- (3) The show cause period must be a period ending not less than 21 days after the show cause notice is given to the holder.

#### **84 Representations about show cause notices**

- (1) The holder of the instrument may make representations about the show cause notice to the chief executive in the show cause period.
- (2) The chief executive must consider all written representations (the *accepted representations*) made under subsection (1).

#### **85 Ending show cause process without further action**

- (1) This section applies if, after considering the accepted representations for the show cause notice, the chief executive no longer believes a ground exists to suspend or cancel the instrument.
- (2) The chief executive must not take any further action about the show cause notice.
- (3) Notice that no further action is to be taken about the show cause notice must be given to the holder of the instrument by the chief executive.

## **86 Suspension or cancellation**

- (1) This section applies if, after considering the accepted representations for the show cause notice, the chief executive—
  - (a) still believes a ground exists to suspend or cancel the instrument; and
  - (b) believes suspension or cancellation of the instrument is warranted.
- (2) This section also applies if there are no accepted representations for the show cause notice.
- (3) The chief executive may—
  - (a) if the proposed action stated in the show cause notice was to suspend the instrument for a stated period—suspend the instrument for not longer than the stated period; or
  - (b) if the proposed action stated in the show cause notice was to cancel the instrument—either cancel the instrument or suspend it for a period.
- (4) The chief executive must immediately give an information notice about the decision to the holder of the instrument.
- (5) The decision takes effect on—
  - (a) the day the information notice is given to the holder; or
  - (b) if a later day of effect is stated in the information notice—the later day.

## **87 Return of cancelled Act instrument to chief executive**

- (1) This section applies if the chief executive has cancelled an Act instrument and given an information notice for the decision to the holder of the instrument.
- (2) The holder, other than a holder who is a prescribed licensee, must return the instrument to the chief executive within 7 days after receiving the information notice, unless the holder has a reasonable excuse.

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Maximum penalty for subsection (2)—10 penalty units.

**88 Immediate suspension of licence or accreditation certificate pending formal cancellation procedure**

- (1) This section applies if the chief executive believes—
  - (a) a ground exists to cancel a licence; and
  - (b) it is necessary to immediately suspend the licence until the formal cancellation procedure is completed—
    - (i) in the interests of the health or safety of any person who may be exposed to radiation emitted from the radiation source to which the licence relates; or
    - (ii) because the environment may be harmed by exposure to radiation emitted from the radiation source to which the licence relates; or
    - (iii) because the security of a radiation source to which the licence relates is at risk.
- (2) This section also applies if the chief executive believes—
  - (a) a ground exists to cancel an accreditation certificate; and
  - (b) it is necessary, in the interests of the health or safety of any person, to immediately suspend the authority of the holder of the certificate to issue certificates of compliance for radiation sources or premises until the formal cancellation procedure is completed.
- (3) The chief executive may immediately suspend the licence or certificate.
- (4) The chief executive must immediately give an information notice about the decision to the holder of the licence or certificate.
- (5) The suspension takes effect immediately an information notice for the decision is given to the holder.
- (6) If, within 14 days after the chief executive suspends the licence or certificate, the chief executive gives the notice

required by section 83(1), the suspension lasts until the first to happen of the following—

- (a) the chief executive cancels the suspension;
  - (b) a decision to cancel the licence or certificate takes effect;
  - (c) a decision is made not to cancel the licence or certificate.
- (7) However, if the notice required by section 83(1) is not given within the period mentioned in subsection (6), the suspension lapses at the end of the period, unless the chief executive has already cancelled the suspension.

## **Subdivision 2      Effect of suspension or cancellation of possession licences on certain other Act instruments**

### **89      Effect of suspension or cancellation of possession licences—approvals to acquire**

- (1) If the possession licence of the holder of an approval to acquire is suspended, the approval is taken to be suspended for the period of the suspension.
- (2) If the possession licence of the holder of an approval to acquire is cancelled, the approval is taken to be cancelled.

### **90      Effect of suspension or cancellation of possession licences—approvals to relocate**

- (1) If the possession licence of the holder of an approval to relocate is suspended, the approval is taken to be suspended for the period of the suspension.
- (2) If the possession licence of the holder of an approval to relocate is cancelled, the approval is taken to be cancelled.



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### **Subdivision 3      Effect of suspension or cancellation of radiation safety officer certificates on radiation safety officer appointments**

#### **91      Effect of suspension or cancellation**

- (1) This section applies if—
  - (a) a person is a radiation safety officer for a radiation practice; and
  - (b) the person's radiation safety officer certificate is suspended or cancelled by the chief executive.
- (2) The person's appointment as a radiation safety officer for the practice is taken to be rescinded.
- (3) The person must as soon as practicable give written notice of the suspension or cancellation to the possession licensee who appointed the person as a radiation safety officer for the practice.

Maximum penalty for subsection (3)—10 penalty units.

### **Division 5              Change in circumstances of holders of certain Act instruments**

#### **92      Notification of change in circumstances**

- (1) This section applies to the following Act instruments—
  - (a) a licence;
  - (b) an accreditation certificate;
  - (c) a continuing approval to acquire;
  - (d) a radiation safety officer certificate.
- (2) The holder of the instrument must, within 14 days after the happening of a change in the holder's circumstances prescribed under a regulation, give the chief executive written

notice of the change and return the instrument to the chief executive.

Maximum penalty for subsection (2)—10 penalty units.

### **93 Endorsement of change on Act instrument**

- (1) This section applies if—
  - (a) the change affects a particular stated in the instrument; and
  - (b) the chief executive is satisfied the change is correct and does not affect the instrument in a way that makes it desirable the instrument be suspended or cancelled.
- (2) The chief executive must note the change on the instrument and return it to the holder.

## **Division 6 Changing conditions of certain Act instruments**

### **94 Application of div 6**

This division applies to the following Act instruments (the *conditional Act instruments*)—

- (a) a licence, other than a licence held by a prescribed licensee;
- (b) an accreditation certificate;
- (c) a continuing approval to acquire;
- (d) a radiation safety officer certificate.

### **95 Changing conditions of conditional Act instruments—chief executive acting on own initiative**

- (1) The chief executive may decide to change the conditions of a conditional Act instrument imposed by the chief executive if

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the chief executive considers it necessary or desirable to make the change—

- (a) to protect persons, or the environment, from the harmful effects of radiation; or
  - (b) to ensure the security of a radiation source.
- (2) Before deciding to change the conditions, the chief executive must—
- (a) give written notice to the holder of the instrument—
    - (i) of the particulars of the proposed change; and
    - (ii) that the holder may make written submissions to the chief executive about the proposed change within a reasonable period of at least 21 days stated in the notice; and
  - (b) have regard to written submissions made to the chief executive by the holder before the stated day.
- (3) If the chief executive decides to change the conditions of a conditional Act instrument, the chief executive must immediately give the holder of the instrument an information notice about the decision.
- (4) The change of conditions takes effect when the information notice is given to the holder and does not depend on the instrument being amended to record the change or a replacement instrument being issued.
- (5) The power of the chief executive under subsection (1) includes the power to add conditions to a conditional Act instrument that is not subject to conditions imposed by the chief executive.

## **96 Changing conditions of conditional Act instruments—application by holders**

- (1) The holder of a conditional Act instrument may apply to the chief executive to change the conditions of the instrument imposed by the chief executive.
- (2) The application must—

- (a) be in the approved form; and
  - (b) be accompanied by the fee prescribed under a regulation.
- (3) In deciding whether to grant the application, the chief executive may have regard to the matters, relevant to the application, to which the chief executive may have regard in deciding whether a proposed holder of a conditional Act instrument is a suitable person to hold the instrument.

*Editor's note—*

See section 53, 54, 55, 56, 57 or 60 for a list of the matters.

- (4) If the chief executive decides to grant the application, the chief executive must immediately give the holder notice of the decision.
- (5) The change of conditions takes effect when the notice is given to the holder and does not depend on the instrument being amended to record the change or a replacement instrument being issued.
- (6) If the chief executive decides not to grant the application, the chief executive must immediately give the holder an information notice about the decision.
- (7) If the chief executive fails to decide the application within 90 days after its receipt, the failure is taken to be a decision by the chief executive to refuse to grant the application.

## **97 Recording change of conditions**

- (1) This section applies if a holder of a conditional Act instrument receives an information notice under section 95(3), or a notice under section 96(4), about a change to the conditions of the instrument.
- (2) The holder must return the instrument to the chief executive within 7 days after receiving the notice, unless the holder has a reasonable excuse.

Maximum penalty—10 penalty units.

- (3) On receiving the instrument, the chief executive must—

- (a) amend the instrument in an appropriate way and return the amended instrument to the holder; or
- (b) if the chief executive does not consider it practicable to amend the instrument—issue another instrument, incorporating the changed conditions, to the holder to replace the instrument returned to the chief executive.

## **98 Further consideration of applications under s 96**

- (1) This section applies if the chief executive considers he or she needs further time to make a decision on an application under section 96 because of the complexity of the matters that need to be considered in deciding the application.
- (2) The chief executive may at any time before the final consideration day give written notice to the applicant that—
  - (a) because of the complexity of the matters that need to be considered in deciding the application, the chief executive needs further time to decide the application; and
  - (b) the period within which the chief executive must decide the application is extended to a day (the *extended day*) that is 90 days after the final consideration day.
- (3) Also, the applicant and chief executive may at any time before the final consideration day agree in writing on a day (the *agreed extended day*) by which the application is to be decided.
- (4) The chief executive is taken to have refused to grant the application if the chief executive does not decide the application by the latest of the following days—
  - (a) if the chief executive has given a notice to the applicant under subsection (2)—the extended day;
  - (b) if there is an agreement between the applicant and chief executive under subsection (3)—the agreed extended day.
- (5) In this section—

*final consideration day* means the day that is 90 days after receipt of the application.

## **Division 7                      Surrender of Act instruments**

### **99                      Surrender of Act instruments**

- (1) The holder of an Act instrument may surrender the instrument by written notice given to the chief executive.
- (2) The surrender takes effect—
  - (a) on the day the notice is given to the chief executive; or
  - (b) if a later day of effect is stated in the notice—on the later day.
- (3) The holder, other than a holder who is a prescribed licensee, must return the instrument to the chief executive within 7 days after the day the surrender takes effect, unless the holder has a reasonable excuse.

Maximum penalty for subsection (3)—10 penalty units.

### **100                      Obligations on surrender of radiation safety officer certificates**

- (1) Subsection (2) applies if—
  - (a) a person surrenders the person's radiation safety officer certificate under section 99; and
  - (b) immediately before the surrender takes effect the person is a radiation safety officer for a radiation practice; and
  - (c) at the time of surrender, the person is not also the possession licensee who, under the licence, possesses a radiation source for the practice.
- (2) The person must as soon as practicable after the surrender takes effect give written notice of the surrender to the possession licensee who appointed the person as a radiation safety officer for the practice.

Maximum penalty for subsection (2)—10 penalty units.

## **Division 8                    General provisions about Act instruments**

### **101    Replacement of Act instruments**

- (1) The holder of an Act instrument may apply to the chief executive for the replacement of the instrument if it has been lost, stolen, destroyed or damaged.
- (2) The chief executive must consider the application and either grant, or refuse to grant, the application.
- (3) The chief executive must grant the application if the chief executive is satisfied the instrument has been lost, stolen or destroyed, or damaged in a way to require its replacement.
- (4) If the chief executive grants the application, the chief executive must, on payment of the fee prescribed under a regulation, issue another instrument to the applicant to replace the lost, stolen, destroyed or damaged instrument.
- (5) If the chief executive refuses to grant the application, the chief executive must immediately give the applicant an information notice about the decision.

### **102    Transfer of Act instrument prohibited**

An Act instrument may not be transferred.

## **Division 9                    False or misleading statements by applicants**

### **103    False or misleading statements**

A person must not, for an application made under this part, state anything the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

## **Division 10            Security and criminal history checks for applicants for Act instruments**

### **103A   Persons for whom security and criminal history checks may be conducted**

- (1) The chief executive may conduct a security check and criminal history check for the following—
  - (a) an applicant for a possession licence for a security enhanced source;
  - (b) an applicant for a transport licence for a security enhanced source;
  - (c) if an applicant mentioned in paragraph (a) or (b) is a corporation, the nominated person for the applicant;
  - (d) an applicant for a use licence for a portable security enhanced source;
  - (e) a person who is to have access to a security enhanced source under the approved security plan for the source if—
    - (i) requested in the approved form by the possession licensee for the source; and
    - (ii) the request is accompanied by the written consent of the person who is to have access to the source;
  - (f) a person who is to have access to a security enhanced source under the approved transport security plan for the transport of the source if—
    - (i) requested in the approved form by the transport security plan holder for the source; and
    - (ii) the request is accompanied by the written consent of the person who is to have access to the source.



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- (2) The chief executive may conduct a criminal history check for an applicant for an Act instrument if the chief executive knows, or reasonably suspects, that the applicant has been convicted of an indictable offence.
  - (3) A regulation may prescribe a fee for a security check or criminal history check and the person by whom the fee must be paid.

### **103B Criminal history check etc.**

- (1) The chief executive may ask the commissioner of police or other entity for a written report about the criminal history of a person for section 103A(1) or (2).
- (2) Also, the chief executive may ask the commissioner of police or other entity for a brief description of the circumstances of a conviction or charge mentioned in the person's criminal history.
- (3) For subsections (1) and (2), the chief executive's request may include the following information—
  - (a) the person's name and any other name the chief executive believes the person may use or have used;
  - (b) the person's residential address;
  - (c) the person's gender and date and place of birth.
- (4) After receiving the written report about the criminal history of the person, the chief executive may request further information about the person's criminal history from the commissioner of police or other entity.
- (5) Further information provided under subsection (4) is taken to be part of the person's criminal history check.
- (6) Subject to subsection (7), the commissioner of police must comply with a request under this section.
- (7) The commissioner of police's obligation to comply with the request applies only to information in the possession of the commissioner or to which the commissioner has access.

- (8) The *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to the asking for, or giving of, the information mentioned under this section.

### **103C Security check**

- (1) The chief executive may ask the commissioner of police or other entity to—
- (a) conduct a security check for a person for section 103A(1); and
  - (b) advise the chief executive of the outcome of the security check for the person.
- (2) After receiving the outcome of the security check for the person, the chief executive may request further information about the security check from the commissioner of police or other entity.
- (3) Further information provided under subsection (2) is taken to be part of the person's security check.
- (4) Subject to subsection (5), the commissioner of police must comply with a request under this section.
- (5) The commissioner of police's obligation to comply with the request applies only to information in the possession of the commissioner or other entity or to which the commissioner or other entity has access.
- (6) The *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to the asking for, or giving of, the information mentioned in this section.

### **103D Commissioner of police must notify changes in criminal history**

- (1) This section applies if a person who is charged with an offence is a person for whom a security check or criminal history check has been conducted under this division.
- (2) The commissioner of police must notify the chief executive about the change in the person's criminal history.

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- (3) The notice must state the following—
    - (a) the person's name and address;
    - (b) the person's date of birth;
    - (c) the offence the person is charged with;
    - (d) particulars of the offence;
    - (e) the date of the charge.
  - (4) On receiving a notice under subsection (2) about the person, the chief executive may write to the person to inform the person of their obligation under section 103H.
  - (5) The *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to the giving of a notification under subsection (2).

**103E When chief executive must give a person details of information received about the person**

- (1) This section applies to information about a person received by the chief executive under sections 103B, 103C or 103D.
- (2) Before using the information to make a decision under this Act the chief executive must give written notice to the person stating—
  - (a) details of the information received; and
  - (b) that the person may, within a stated period of not less than 28 days, make representations to the chief executive about the information.
- (3) However, subsection (2) does not apply if under a law of the Commonwealth—
  - (a) the person has already been given the opportunity to make representations about the information; or
  - (b) a decision has been made that the information should not be given to the person because it would be prejudicial to the interests of national security.

### **103F Representations about information in notice**

- (1) The person receiving a notice under section 103E may make written representations about the information contained in the notice within the period stated in the notice.
- (2) The chief executive must consider all representations made under subsection (1).

### **103G When chief executive may give information to possession licensee or transport security plan holder**

- (1) Subsection (2) applies if the chief executive has conducted a security check and criminal history check for a person at the request of a possession licensee or transport security plan holder under section 103A(1)(e) or (f).
- (2) The chief executive may advise the possession licensee or transport security plan holder of the outcome of the security check and criminal history check for the person.

### **103H Changes in criminal history**

- (1) This section applies if there is a change in the criminal history of a person for whom a criminal history check has been, or is being, conducted under this division.
- (2) The person must immediately disclose the details of the change to the chief executive.
- (3) For a person who does not have a criminal history, there is taken to be a change in the person's criminal history if the person acquires a criminal history.
- (4) The *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to disclosure under this section.

### **103I Requirements for disclosure of changes in criminal history**

- (1) To comply with section 103H, the person must give the disclosure in the approved form.

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- (2) The information disclosed by the person about a conviction or charge for an offence in the person's criminal history must include each of the following—
- (a) the existence of the conviction or charge;
  - (b) when the offence was committed or alleged to have been committed;
  - (c) details adequate to identify the offence or alleged offence;
  - (d) for a conviction—
    - (i) whether or not a conviction was recorded; and
    - (ii) the sentence imposed on the person.

### **103J Failure to disclose changes in criminal history**

A person must not fail to give the chief executive a disclosure required under section 103H unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

## **Division 11 Particular persons taken to hold use and transport licences**

### **103K Regulation may prescribe persons who are taken to hold use or transport licence**

- (1) A regulation may prescribe a person (a *prescribed licensee*) or a class of persons (also each a *prescribed licensee*) who is taken to hold—
- (a) a use licence; or
  - (b) a transport licence.
- (2) A regulation made under subsection (1)(a) must state—
- (a) the qualifications, professional registration or training that must be held by the prescribed licensee; and

- (b) particulars of the radiation source the prescribed licensee is allowed to use under the use licence; and
  - (c) the radiation practice the prescribed licensee is allowed to carry out under the use licence using the source.
- (3) A regulation made under subsection (1)(b) may state the following matters—
- (a) particulars of the radioactive substance the prescribed licensee is allowed to transport under the transport licence;
  - (b) how the substance must be transported under the transport licence;
  - (c) the amount of the substance the prescribed licensee is allowed to transport under the transport licence.
- (4) A regulation made under this section may prescribe conditions the chief executive considers necessary or desirable to—
- (a) protect persons, or the environment, from the harmful effects of radiation; or
  - (b) ensure the security of a radiation source.

### **103L Considerations before making a regulation**

Before a regulation is made under section 103K(1), the Minister must—

- (a) consult with and consider any recommendations made by the council; and
- (b) be satisfied the regulation will be consistent with the radiation safety, protection and security principles.

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## **Part 8                      Monitoring, investigation and enforcement**

### **Division 1                Inspectors**

#### **104    Functions of inspectors**

An inspector has the function of conducting investigations and inspections to monitor and enforce compliance with this Act.

#### **105    Powers of inspectors**

- (1) For this Act, an inspector has the powers given to the inspector under this Act.
- (2) The powers of an inspector may be limited under a condition of appointment.

### **Division 2                Appointment of inspectors and other matters**

#### **106    Appointments**

- (1) The chief executive may appoint a person as an inspector.
- (2) The chief executive may appoint a person as an inspector only if the chief executive considers the person has the necessary expertise or experience to be an inspector.

#### **107    Appointment conditions**

- (1) An inspector holds office on the conditions stated in the instrument of appointment.
- (2) An inspector ceases holding office—
  - (a) if the appointment provides for a term of appointment—at the end of the term; or

- (b) if the conditions of appointment provide—on ceasing to hold another office (the *main office*) stated in the appointment conditions.
- (3) An inspector may resign by signed notice of resignation given to the chief executive.
- (4) However, an inspector who is a health service employee or public service officer may not resign from the office of inspector (the *secondary office*) if a condition of the inspector's employment to the main office requires the inspector to hold the secondary office.

## **108 Identity cards**

- (1) The chief executive must give an identity card to each inspector.
- (2) The identity card must—
  - (a) contain a recent photograph of the inspector; and
  - (b) be signed by the inspector; and
  - (c) identify the person as an inspector for this Act; and
  - (d) include an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other Acts.

## **109 Failure to return identity card**

A person who ceases to be an inspector must return the person's identity card to the chief executive within 7 days after the person ceases to be an inspector, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

## **110 Production or display of inspector's identity card**

- (1) An inspector may exercise a power in relation to someone else (the *other person*) only if the inspector—



- (a) first produces the inspector's identity card for the other person's inspection; or
  - (b) has the identity card displayed so it is clearly visible to the other person.
- (2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the inspector must produce the identity card for the other person's inspection at the first reasonable opportunity.

## **Division 3            Powers of inspectors**

### **Subdivision 1        Entry of places**

#### **111    Power to enter places**

- (1) An inspector may enter a place if—
- (a) its occupier consents to the entry; or
  - (b) it is a public place and the entry is made when the place is open to the public; or
  - (c) the entry is authorised by a warrant.
- (2) Also, an inspector may enter a place if—
- (a) a possession licensee, under a possession licence, possesses a radiation source for a radiation practice; and
  - (b) the inspector reasonably believes the source is at the place for carrying out the practice; and
  - (c) the place is—
    - (i) open for carrying on business; or
    - (ii) otherwise open for entry.
- (3) For entering a place within premises under subsection (2), an inspector may enter any other part of the premises to an extent that is reasonable for entry to the place.

- (4) However, an inspector may not enter a place under subsection (2) or (3) if—
  - (a) a person is undergoing a procedure conducted by a health practitioner, or consulting a health practitioner, at the place; or
  - (b) the place is a place where a person resides.
- (5) For the purpose of asking the occupier of a place for consent to enter, an inspector may, without the occupier's consent or a warrant—
  - (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
  - (b) enter part of the place the inspector reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

## **Subdivision 2 Procedure for entry**

### **112 Consent to entry**

- (1) This section applies if an inspector intends to ask an occupier of a place to consent to the inspector or another inspector entering the place.
- (2) Before asking for the consent, the inspector must tell the occupier—
  - (a) the purpose of the entry; and
  - (b) that the occupier is not required to consent.
- (3) If the consent is given, the inspector may ask the occupier to sign an acknowledgement of the consent.
- (4) The acknowledgement must state—
  - (a) the occupier has been told—
    - (i) the purpose of the entry; and
    - (ii) that the occupier is not required to consent; and

- (b) the purpose of the entry; and
  - (c) the occupier gives the inspector consent to enter the place and exercise powers under this division; and
  - (d) the time and date the consent was given.
- (5) If the occupier signs an acknowledgement, the inspector must immediately give a copy to the occupier.
- (6) A court must find the occupier did not consent to an inspector entering the place under this division if—
- (a) an issue arises in a proceeding before the court whether the occupier of the place consented to the entry; and
  - (b) an acknowledgement is not produced in evidence for the entry; and
  - (c) it is not proved by the person relying on the lawfulness of the entry that the occupier consented to the entry.

### **113 Application for warrant**

- (1) An inspector may apply to a magistrate for a warrant for a place.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

*Example—*

The magistrate may require additional information supporting the application to be given by statutory declaration.

### **114 Issue of warrant**

- (1) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—

- (a) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against this Act; and
  - (b) the evidence is at the place, or may be at the place within the next 7 days.
- (2) The warrant must state—
- (a) that a stated inspector may, with necessary and reasonable help and force—
    - (i) enter the place and any other place necessary for entry; and
    - (ii) exercise the inspector's powers under this division; and
  - (b) the offence for which the warrant is sought; and
  - (c) the evidence that may be seized under the warrant; and
  - (d) the hours of the day or night when the place may be entered; and
  - (e) the date, within 14 days after the warrant's issue, the warrant ends.

## 115 Special warrants

- (1) An inspector may apply for a warrant (a *special warrant*) by phone, fax, radio or another form of communication if the inspector considers it necessary because of—
  - (a) urgent circumstances; or
  - (b) other special circumstances, including, for example, the inspector's remote location.
- (2) Before applying for the warrant, the inspector must prepare an application stating the grounds on which the warrant is sought.
- (3) The inspector may apply for the warrant before the application is sworn.

- (4) After issuing the warrant, the magistrate must immediately fax a copy to the inspector if it is reasonably practicable to fax the copy.
- (5) If it is not reasonably practicable to fax a copy to the inspector—
  - (a) the magistrate must tell the inspector—
    - (i) what the terms of the warrant are; and
    - (ii) the date and time the warrant was issued; and
  - (b) the inspector must complete a form of warrant (a **warrant form**) and write on it—
    - (i) the magistrate's name; and
    - (ii) the date and time the magistrate issued the warrant; and
    - (iii) the terms of the warrant.
- (6) The facsimile warrant, or the warrant form properly completed by the inspector, authorises the entry and the exercise of the other powers stated in the warrant issued by the magistrate.
- (7) The inspector must, at the first reasonable opportunity, send to the magistrate—
  - (a) the sworn application; and
  - (b) if the inspector completed a warrant form—the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the warrant.
- (9) A court must find the exercise of the power by an inspector was not authorised by a special warrant if—
  - (a) an issue arises in a proceeding before the court whether the exercise of the power was authorised by a special warrant; and
  - (b) the warrant is not produced in evidence; and

- (c) it is not proved by the person relying on the lawfulness of the entry that the inspector obtained the warrant.

## **116 Warrants—procedure before entry**

- (1) This section applies if an inspector named in a warrant issued under this division for a place is intending to enter the place under the warrant.
- (2) Before entering the place, the inspector must do or make a reasonable attempt to do the following—
  - (a) identify himself or herself to a person present at the place who is an occupier of the place by producing a copy of the inspector's notice of appointment or other document evidencing the appointment;
  - (b) give the person a copy of the warrant or, if the entry is authorised by a facsimile warrant or warrant form mentioned in section 115(6), a copy of the facsimile warrant or warrant form;
  - (c) tell the person the inspector is permitted by the warrant to enter the place;
  - (d) give the person an opportunity to allow the inspector immediate entry to the place without using force.
- (3) However, the inspector need not comply with subsection (2) if the inspector believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

## **Subdivision 3 Powers after entry**

### **117 General powers after entering places**

- (1) This section applies to an inspector who enters a place.
- (2) However, if an inspector enters a place to get the occupier's consent to enter a place, this section applies to the inspector

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only if the consent is given or the entry is otherwise authorised.

- (3) For monitoring or enforcing compliance with this Act, the inspector may—
- (a) search any part of the place; or
  - (b) inspect, measure, test, photograph or film any part of the place or anything at the place; or
  - (c) take a thing, or a sample of or from a thing, at the place for analysis, measurement or testing; or
  - (d) take an extract from, or copy, a document at the place or take the document to another place to copy it; or
  - (da) if a video surveillance device is installed at the place to monitor the security of a security enhanced source—take a tape, disc or other thing from the device for checking compliance with the approved security plan for the source; or
  - (e) conduct recordings, measurements, tests or analyses to assess—
    - (i) the degree of exposure of any person, or the environment, to radiation emitted from radioactive material or a radiation apparatus; or
    - (ii) the amount of radiation emitted from radioactive material or a radiation apparatus during a particular period; or
    - (iii) the levels of health risks to persons, or the levels of risk of harm to the environment, associated with a radiation practice carried out at the place; or
    - (iv) the adequacy of measures put into effect at the place to deal with the risks; or
    - (v) if there is a security risk concerning a radiation source, the level of the risk; or
  - (ea) test a security device or other thing at the place to assess the adequacy of measures to deal with the security of a radiation source at the place; or

- (f) inquire into the circumstances and probable causes of the following at the place—
    - (i) a radiation hazard;
    - (ii) a security risk, or a security breach, concerning a radiation source;
    - (iii) a risk of harm to the environment concerning a radiation source; or
  - (g) if, because of the amount of radiation being emitted from radioactive material or a radiation apparatus during a particular period, the health or safety of any person at or near the place is likely to be endangered—
    - (i) require a person not to enter, or remain at or near, the place; or
    - (ii) direct the actions of a person at or near the place; or
  - (ga) if there is or has been an increased security risk, or a security breach, concerning a radiation source at the place—
    - (i) require a person not to enter, or remain at or near, the place; or
    - (ii) direct the actions of a person at or near the place; or
  - (h) take into or onto the place any person, equipment and materials the inspector reasonably requires for exercising a power under this division; or
  - (i) require the occupier of the place, or a person at the place, to give the inspector reasonable help to exercise the inspector's powers under paragraphs (a) to (h); or
  - (j) require the occupier of the place, or a person at the place, to give the inspector information to help the inspector ascertain whether this Act is being complied with.
- (4) When making a requirement, or giving a direction, under subsection (3)(g), (ga), (i) or (j), the inspector must warn the



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person it is an offence not to comply with the requirement or direction, unless the person has a reasonable excuse.

- (5) If an inspector takes a document from a place to copy it, the document must be copied and returned to the place as soon as practicable.
- (6) If an inspector takes a tape, disc or other thing from a video surveillance device, it must be copied and returned to the place as soon as practicable.

### **118 Additional power after entering public place under s 111(1)(b)**

- (1) This section applies to an inspector who enters a public place under section 111(1)(b).
- (2) The inspector may install and maintain any equipment and materials in or at the place the inspector reasonably requires for conducting a monitoring program to assess—
  - (a) the degree of exposure of any person to radiation emitted from radioactive material or a radiation apparatus; or
  - (b) the amount of radiation emitted from radioactive material or a radiation apparatus during a particular period.
- (3) A person must not interfere with the installed equipment or materials without the consent of an inspector.

Maximum penalty for subsection (3)—100 penalty units.

### **119 Failure to comply with requirement not to enter or remain at a place**

A person of whom a requirement is made, or to whom a direction is given, under section 117(3)(g) or (ga) must comply with the requirement or direction, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

## **120 Failure to help inspector**

- (1) A person required to give reasonable help under section 117(3)(i) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) If an individual is required under section 117(3)(i) to give information or produce a document, it is a reasonable excuse for the individual not to comply with the requirement that complying with the requirement might tend to incriminate the individual.

## **121 Failure to give information**

- (1) A person of whom a requirement is made under section 117(3)(j) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) It is a reasonable excuse for an individual not to comply with the requirement that complying with the requirement might tend to incriminate the individual.

## **Subdivision 4 Restrictions on exercise of powers**

### **122 Restrictions—places where persons are irradiated during a diagnostic or therapeutic procedure**

In exercising a power under subdivision 1 or 3 at a place where persons are irradiated during a diagnostic or therapeutic procedure, an inspector must not do anything that adversely affects—

- (a) the privacy of a person undergoing, or waiting to undergo, a diagnostic or therapeutic procedure; or
- (b) the result of a diagnostic or therapeutic procedure for a person.

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## **123 Restrictions—inspection of health records**

- (1) If an inspector has entered a place, without a warrant, where persons are irradiated during a diagnostic or therapeutic procedure, the inspector may not—
  - (a) inspect records at the place recording the health history or diagnoses of a patient of a health practitioner made in the course of the practitioner's practice (*health records*); or
  - (b) photograph or film, take extracts from, or copy, the records.
- (2) However, if an inspector has entered the place with the occupier's consent under section 112 and the occupier has also consented, in the approved form, to the inspector inspecting health records or types of health records at the place, the inspector may—
  - (a) inspect the records or types of records; or
  - (b) photograph or film, take extracts from, or copy, the records or types of records.

*Example of a type of health record—*  
radiographs

- (3) The approved form must state that if the occupier consents to the inspector inspecting the records or types of records, the inspector may also photograph or film, take extracts from, or copy, the records or types of records.

## **Subdivision 5 Vehicles**

### **124 Stopping vehicle**

- (1) This section applies if an inspector suspects on reasonable grounds, or is aware, that—
  - (a) a vehicle is being, or has been used, in relation to the commission of an offence against this Act; or

- (b) a thing in or on a vehicle may provide evidence of the commission of an offence against this Act; or
  - (c) any person's health and safety, or the environment, may be adversely affected by exposure to radiation because of the transport of radioactive material in or on a vehicle; or
  - (d) the security of radioactive material is at risk because of the way the material is being transported in or on a vehicle.
- (2) For the purpose of exercising the powers of an inspector under this division, an inspector may—
- (a) if the vehicle is moving—ask or signal the person in control of the vehicle to stop the vehicle; and
  - (b) whether or not the vehicle is moving—ask or signal the person in control of the vehicle to bring the vehicle to a convenient place within a reasonable distance to allow the inspector to exercise the inspector's powers under this division.
- (3) Despite section 110, for the purpose of exercising a power under subsection (2)(a), the inspector must—
- (a) have with him or her the inspector's identity card; and
  - (b) produce the identity card for the person's inspection immediately after the vehicle is stopped.
- (4) The person must comply with the inspector's request or signal, unless the person has a reasonable excuse.
- Maximum penalty—50 penalty units.
- (5) If the vehicle is stopped, the inspector may direct the person—
- (a) not to move the vehicle until the inspector has exercised the inspector's powers under this division; or
  - (b) to move the vehicle to, and keep it at, a stated reasonable place to allow the inspector to exercise the inspector's powers under this division.

- (6) When giving the direction, the inspector must warn the person it is an offence not to comply with the direction, unless the person has a reasonable excuse.
- (7) The person must comply with the inspector's direction, unless the person has a reasonable excuse.

Maximum penalty for subsection (7)—50 penalty units.

## **Subdivision 6      Power to seize evidence and dangerous things**

### **125      Seizing evidence at a place that may be entered without consent or warrant**

An inspector who enters a place that may be entered under this division without the consent of the occupier and without a warrant, may seize a thing at the place if the inspector reasonably believes the thing is evidence of an offence against this Act.

### **126      Seizing evidence at a place that may only be entered with consent or warrant**

- (1) This section applies if—
  - (a) an inspector is authorised to enter a place under this division only with the consent of the occupier or a warrant; and
  - (b) the inspector enters the place after obtaining the necessary consent or warrant.
- (2) If the inspector enters the place with the occupier's consent, the inspector may seize a thing at the place if—
  - (a) the inspector reasonably believes the thing is evidence of an offence against this Act; and
  - (b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.

- (3) However, if an inspector has entered a place, without a warrant, where persons are irradiated during a diagnostic or therapeutic procedure, the inspector may not seize health records at the place.
- (4) If the inspector enters the place with a warrant, the inspector may seize the evidence for which the warrant was issued.
- (5) The inspector also may seize anything else at the place if the inspector reasonably believes—
  - (a) the thing is evidence of an offence against this Act; and
  - (b) the seizure is necessary to prevent the thing being—
    - (i) hidden, lost or destroyed; or
    - (ii) used to continue, or repeat, the offence.
- (6) Also, the inspector may seize a thing at the place if the inspector reasonably believes it has just been used in committing an offence against this Act.

## **127 Inspector's power to seize dangerous things**

- (1) This section applies if—
  - (a) an inspector enters a place under this division and finds a thing the inspector reasonably believes—
    - (i) is the cause of a radiation hazard at the place; or
    - (ii) is likely to cause a radiation hazard at the place; and
  - (b) the inspector reasonably believes the radiation hazard can not be managed in a way to ensure no person will receive a radiation dose from the thing higher than the radiation dose limit prescribed under a regulation.
- (2) The inspector may seize the thing.

## **128 Waiver of requirement for possession licence or transport licence**

- (1) This section applies if—

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- (a) an inspector seizes a thing under section 125, 126 or 127; and
  - (b) the thing is a radiation source.
- (2) The inspector is not required to have—
- (a) an approval to acquire to obtain possession of the thing; or
  - (b) a possession licence for the thing while it is in the possession of the inspector; or
  - (c) if the thing is a radioactive substance—a transport licence for the transport of the thing.

## 129 Securing seized things

Having seized a thing, an inspector may—

- (a) move the thing from the place where it was seized (the *place of seizure*); or
- (b) leave the thing at the place of seizure but take reasonable steps to restrict access to it; or
- (c) if the thing is equipment—make it inoperable.

*Examples of restricting access to a thing—*

- 1 sealing a thing and marking it to show access to it is restricted
- 2 sealing the entrance to a room where the seized thing is situated and marking it to show access to it is restricted

*Example of making equipment inoperable—*

dismantling equipment or removing a component of equipment without which the equipment is not capable of being used

## 130 Tampering with seized things

- (1) If an inspector restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without an inspector's approval.

Maximum penalty—100 penalty units.

- (2) If an inspector makes seized equipment inoperable, a person must not tamper, or attempt to tamper, with the equipment, without an inspector's approval.

Maximum penalty—100 penalty units.

### **131 Powers to support seizure**

- (1) To enable a thing to be seized, an inspector may require the person in control of it—
- (a) to take it to a stated reasonable place by a stated reasonable time; and
  - (b) if necessary, to remain in control of it at the stated place for a stated reasonable period.

*Editor's note—*

If the thing is a radioactive substance, a transport licence is required for its transport to the stated place.

- (2) The requirement—
- (a) must be made by notice in the approved form; or
  - (b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by notice in the approved form as soon as practicable.
- (3) A further requirement may be made under this section about the thing if it is necessary and reasonable to make the further requirement.
- (4) A person of whom a requirement is made under subsection (1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (4)—50 penalty units.

### **132 Receipts for seized things**

- (1) As soon as practicable after an inspector seizes a thing, the inspector must give a receipt for it to the person from whom it was seized.



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- (2) However, if for any reason it is not practicable to comply with subsection (1), the inspector must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.
  - (3) The receipt must describe generally each thing seized and its condition.
  - (4) Also, if the thing is seized under section 127, the receipt must state—
    - (a) the radiation hazard identified by the inspector under section 127(1)(a) at the time of seizure; and
    - (b) the thing will be forfeited to the State if its owner does not, in the period of 90 days after the seizure, demonstrate to the reasonable satisfaction of an inspector that the radiation hazard can be managed in a way that ensures no person will receive a radiation dose from the thing higher than the radiation dose limit prescribed under a regulation.
  - (5) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt (given the thing's nature, condition and value).

### **133 Forfeiture of seized things**

- (1) A seized thing is forfeited to the State if the inspector who seized the thing—
  - (a) can not find its owner, after making reasonable inquiries; or
  - (b) can not return it to its owner, after making reasonable efforts; or
  - (c) reasonably believes it is necessary to retain the thing to prevent it being used to commit an offence against this Act.
- (2) Also, a seized thing is forfeited to the State if—
  - (a) the thing was seized by an inspector under section 127; and

- (b) a receipt for the thing was issued under section 132; and
  - (c) the owner of the thing does not, in the period of 90 days after the seizure, demonstrate to the reasonable satisfaction of an inspector that the radiation hazard stated in the receipt can be managed in a way that ensures no person will receive a radiation dose from the thing higher than the radiation dose limit prescribed under a regulation.
- (3) In applying subsection (1)—
- (a) subsection (1)(a) does not require the inspector to make inquiries if it would be unreasonable to make inquiries to find the owner; and
  - (b) subsection (1)(b) does not require the inspector to make efforts if it would be unreasonable to make efforts to return the thing to its owner.
- Example for paragraph (b)—*
- The owner of the thing has migrated to another country.
- (4) If the inspector makes a decision under subsection (1)(c) or (2), resulting in the seized thing being forfeited to the State, the inspector must immediately give the owner an information notice for the decision.
- (5) Subsection (4) does not apply if—
- (a) the inspector can not find the owner, after making reasonable inquiries; or
  - (b) it is impracticable or would be unreasonable to give the notice.
- (6) Regard must be had to a thing's nature, condition and value—
- (a) in deciding—
    - (i) whether it is reasonable to make inquiries or efforts; and
    - (ii) if making inquiries or efforts—what inquiries or efforts, including the period over which they are made, are reasonable; or

- (b) in deciding whether it would be unreasonable to give the notice.

### **134 Forfeiture on conviction**

- (1) On the conviction of a person for an offence against this Act, the court may order the forfeiture to the State of—
  - (a) anything used to commit the offence; or
  - (b) anything else the subject of the offence.
- (2) The court may make the order—
  - (a) whether or not the thing has been seized; or
  - (b) if the thing has been seized—whether or not the thing has been returned to its owner.
- (3) The court may make any order to enforce the forfeiture it considers appropriate.
- (4) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

### **135 When forfeited thing is a radiation source**

- (1) This section applies if—
  - (a) a thing is forfeited to the State; and
  - (b) the thing is a radiation source.
- (2) The State does not contravene a provision of this Act merely because it obtains possession of, or possesses, the thing.

### **136 Dealing with forfeited things etc.**

- (1) On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the chief executive as the chief executive considers appropriate.
- (2) Without limiting subsection (1), the chief executive may destroy or dispose of the thing.

- (3) For subsection (2), if the thing is a radioactive substance, the chief executive must have regard to the matters stated in section 58(c), (d) and (f) in deciding how to exercise a power under the subsection.
- (4) Despite subsection (1), the chief executive must not deal with the thing in a way that could prejudice the outcome of a review applied for under part 10 of which the chief executive is aware.

### **137 Return of seized things**

- (1) If a thing seized under section 127 is not forfeited under section 133(2), the inspector must return it to its owner at the end of the period of 90 days after the seizure.
- (2) If another seized thing is not forfeited, the inspector must return it to its owner—
  - (a) at the end of 6 months; or
  - (b) if a proceeding for an offence involving the thing is started within 6 months—at the end of the proceeding and any appeal from the proceeding.
- (3) Despite subsection (2), unless the thing is forfeited, the inspector must immediately return a thing seized as evidence to its owner if the inspector stops being satisfied its continued retention as evidence is necessary.

### **138 Access to seized things**

- (1) Until a seized thing is forfeited or returned, an inspector must allow its owner to inspect it and, if it is a document, to copy it.
- (2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

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## Subdivision 7      **Improvement and prohibition notices**

### 139      **Improvement notices**

- (1) This section applies if an inspector reasonably believes a person—
  - (a) is contravening a provision of this Act; or
  - (b) has contravened a provision of this Act in circumstances that make it likely the contravention will continue or be repeated.
- (2) The inspector may, by written notice (an *improvement notice*) given to the person, require the person to remedy—
  - (a) the contravention or likely contravention; or
  - (b) the things or operations causing the contravention or likely contravention.
- (3) The improvement notice must state—
  - (a) that the inspector believes the person—
    - (i) is contravening a provision of this Act; or
    - (ii) has contravened a provision of this Act in circumstances that make it likely that the contravention will continue or be repeated; and
  - (b) the provision the inspector believes is being, or has been, contravened; and
  - (c) briefly, how the provision is being, or has been, contravened; and
  - (d) the reasonable steps the person must take to remedy the contravention or likely contravention; and
  - (e) that the person must take the steps within a stated reasonable period.
- (4) The person must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty for subsection (4)—100 penalty units.

## 140 Prohibition notices

- (1) This section applies if an inspector reasonably believes that circumstances causing, or likely to cause, immediate health risks to any person or immediate risks to the environment have arisen, or are likely to arise, in relation to the carrying out of a radiation practice.
- (2) The inspector may, by written notice (a *prohibition notice*) given to the person carrying out, or in charge of carrying out, the practice, direct the person to stop carrying out the practice or allowing it to be carried out.
- (3) The prohibition notice must state the following—
  - (a) that the inspector believes that circumstances causing, or likely to cause, immediate health risks to any person or immediate risks to the environment have arisen, or are likely to arise, in relation to the carrying out of the practice;
  - (b) the reasons for the belief;
  - (c) if the inspector believes the circumstances involve a contravention, or likely contravention, of this Act—the provision contravened or likely to be contravened.
- (4) The notice may impose any reasonable requirements in relation to the person stopping—
  - (a) the carrying out of the practice; or
  - (b) the practice being allowed to be carried out.
- (5) Despite subsection (2), the notice may be oral if the inspector considers on reasonable grounds that it is not practicable to give a written notice.
- (6) If the notice is given orally, it ceases to have effect on the expiration of 72 hours from the time it was given, unless, before the expiration of the 72 hours, it is confirmed by a written notice given by the inspector to the person.

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- (7) The person must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (8) For this section, a person is *in charge* of carrying out a radiation practice if the person has, or reasonably appears to have, authority to direct the carrying out of the practice.

### **141 Orders to secure compliance with notices**

- (1) This section applies if the chief executive considers a person to whom an inspector has issued an improvement or prohibition notice has not complied with the notice.

- (2) The chief executive may make application to the District Court for an order that the person comply with the notice.

- (3) The court may make the order sought or any other order it considers appropriate in the circumstances.

- (4) The person must comply with the court's order, unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

- (5) Subsection (4) does not limit any other liability a person may incur for a contravention of the order.

## **Subdivision 8 Power to obtain information**

### **142 Power to require name and address**

- (1) This section applies if—
- (a) an inspector finds a person committing an offence against this Act; or
  - (b) an inspector finds a person in circumstances that lead, or has information about a person that leads, the inspector to reasonably suspect the person has just committed an offence against this Act.

- (2) The inspector may require the person to state the person's name and residential address.
- (3) When making the requirement, the inspector must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse.
- (4) The inspector may require the person to give evidence of the correctness of the stated name or residential address if the inspector reasonably suspects the stated name or address is false.
- (5) A requirement under subsection (2) or (4) is called a *personal particulars requirement*.

#### **143 Failure to give name or address**

- (1) A person of whom a personal particulars requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) A person does not commit an offence against subsection (1) if—
  - (a) the person was required to state the person's name and residential address by an inspector who suspected the person had committed an offence against this Act; and
  - (b) the person is not proved to have committed the offence.

#### **144 Power to require production of documents**

- (1) An inspector may require a person to make available for inspection by an inspector, or produce to the inspector for inspection, at a reasonable time and place nominated by the inspector—
  - (a) a document issued to the person under this Act; or
  - (b) a document required to be kept by the person under this Act.
- (2) The inspector may keep the document to copy it.



- (3) If the inspector copies a document mentioned in subsection (1)(b), or an entry in the document, the inspector may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.
- (4) The inspector must return the document to the person as soon as practicable after copying it.
- (5) However, if a requirement (a *document certification requirement*) is made of a person under subsection (3), the inspector may keep the document until the person complies with the requirement.
- (6) A requirement under subsection (1) is called a *document production requirement*.

#### **145 Failure to produce document**

- (1) A person of whom a document production requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) It is a reasonable excuse for an individual not to comply with a document production requirement that complying with the requirement might tend to incriminate the individual.

#### **146 Failure to certify copy of document**

A person of whom a document certification requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

#### **147 Power to require information**

- (1) This section applies if an inspector reasonably believes—
  - (a) an offence against this Act has been committed; and

- (b) a person may be able to give information about the offence.
- (2) The inspector may, by written notice given to the person, require the person to give information about the offence to the inspector at a stated reasonable time and place.
- (3) The person must comply with a requirement under subsection (2), unless the person has a reasonable excuse.  
Maximum penalty—50 penalty units.
- (4) It is a reasonable excuse for an individual to fail to give information if giving the information might tend to incriminate the individual.

## **Subdivision 9      Emergency powers of inspectors**

### **148      Emergency powers**

- (1) This section applies if an inspector is satisfied on reasonable grounds—
  - (a) there is at a place a radiation source; and
  - (b) it is necessary to exercise powers under this section—
    - (i) to avoid or minimise an imminent risk of death of, serious illness of, or serious injury to, any person from radiation emitted from the source; or
    - (ii) to avoid imminent serious environmental harm from the source; or
    - (iii) for a source that has been lost or stolen, to recover the source because it poses, or may pose, a threat to national security.
- (2) The inspector may, without a warrant or the consent of the occupier of the place, enter the place.
- (3) Also, the inspector may in relation to the source—

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- (a) direct a person at the place to take stated reasonable steps within a stated reasonable period in relation to the source; or
  - (b) take the reasonable steps; or
  - (c) authorise another person to take the reasonable steps.

*Editor's note—*

A person who fails to comply with the direction contravenes section 149, unless the person has a reasonable excuse.

- (4) The direction may be given orally or by written notice.
- (5) However, if the direction is given orally, the inspector must as soon as practicable confirm the direction by written notice given to the person.
- (6) When giving a direction under subsection (3)(a), the inspector must warn the person it is an offence not to comply with the direction, unless the person has a reasonable excuse.
- (7) If the inspector takes the steps, the inspector may also exercise any of the powers of an inspector under this division.
- (8) The inspector may exercise the powers mentioned in subsections (2), (3)(b) and (7) (the **emergency powers**) with the help, and using the force, that is necessary and reasonable in the circumstances.
- (9) In exercising or attempting to exercise emergency powers, an inspector must take all reasonable steps to ensure the inspector causes as little inconvenience to any person at the place, and does as little damage, as is practicable in the circumstances.
- (10) This section does not limit any power an inspector has apart from this section.
- (11) If an inspector authorises a person to take steps under subsection (3)(c)—
  - (a) the person may exercise the powers mentioned in subsection (7); and
  - (b) the inspector must inform the person—

- (i) of the steps the person is authorised to take; and
- (ii) of the person's powers under this section.

#### **149 Failure to comply with authorised person's direction in emergency**

A person to whom a direction is given under section 148(3)(a) must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

### **Division 4 General enforcement matters**

#### **150 Notice of damage**

- (1) This section applies if—
  - (a) an inspector damages property when exercising or purporting to exercise a power; or
  - (b) a person (the *other person*) acting under the direction or authority of an inspector damages property.
- (2) The inspector must immediately give written notice of particulars of the damage to the person who appears to the inspector to be the owner of the property.
- (3) If the inspector believes the damage was caused by a latent defect in the property or circumstances beyond the inspector's or other person's control, the inspector may state the belief in the notice.
- (4) If, for any reason, it is impracticable to comply with subsection (2), the inspector must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.
- (5) This section does not apply to damage the inspector reasonably believes is trivial.
- (6) In this section—

*owner*, of property, includes the person in possession or control of it.

## 151 Compensation

- (1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under any of the following subdivisions of division 3—
  - subdivision 1 (Entry of places)
  - subdivision 3 (Powers after entry)
  - subdivision 5 (Vehicles)
  - subdivision 6 (Power to seize evidence and dangerous things)
  - subdivision 9 (Emergency powers of inspectors).
- (2) Without limiting subsection (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under the subdivision.
- (3) Compensation may be claimed and ordered to be paid in a proceeding—
  - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
  - (b) for an offence against this Act brought against the person claiming compensation.
- (4) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (5) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.

## 152 False or misleading statements

A person must not state anything to an inspector the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

## 153 False or misleading documents

- (1) A person must not give an inspector a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving the document—
- (a) tells the inspector, to the best of the person's ability, how it is false or misleading; and
  - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

## 154 Obstructing inspectors

- (1) A person must not obstruct an inspector in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) If a person has obstructed an inspector and the inspector decides to proceed with the exercise of the power, the inspector must warn the person that—
- (a) it is an offence to obstruct the inspector, unless the person has a reasonable excuse; and
  - (b) the inspector considers the person's conduct is an obstruction.

- (3) In this section—

**obstruct** includes hinder and attempt to obstruct or hinder.

## **155 Impersonation of inspectors**

A person must not pretend to be an inspector.

Maximum penalty—50 penalty units.

## **Division 5 State radiation analysts**

### **156 Functions of State radiation analysts**

A State radiation analyst has the following functions—

- (a) certifying the concentration or activity of a radionuclide in radioactive material;
- (b) certifying that radioactive material is a radioactive substance;
- (c) certifying that an apparatus is a radiation apparatus;
- (d) certifying the results of analyses, measurements or tests conducted by or on behalf of the State radiation analyst—
  - (i) to decide the type, concentration or activity of a radionuclide present in a thing or a sample of, or from, a thing; or
  - (ii) to decide the type, and energy spectrum, of the radiation being emitted, and the rate at which the radiation is being emitted, from a radiation apparatus or radioactive material.

### **157 Appointment of State radiation analysts**

- (1) The chief executive may appoint a person as a State radiation analyst.
- (2) The chief executive may appoint a person as a State radiation analyst only if the chief executive considers the person has the necessary expertise or experience to be a State radiation analyst.

## **158 State radiation analyst's appointment conditions**

- (1) A State radiation analyst holds office on the conditions stated in the instrument of appointment.
- (2) A State radiation analyst ceases holding office—
  - (a) if the appointment provides for a term of appointment—at the end of the term; or
  - (b) if the conditions of appointment provide—on ceasing to hold another office stated in the appointment conditions (the *main office*).
- (3) A State radiation analyst may resign by signed notice of resignation given to the chief executive.
- (4) However, a State radiation analyst who is a health service employee or public service officer may not resign from the office of State radiation analyst (the *secondary office*) if a condition of the State radiation analyst's employment to the main office requires the State radiation analyst to hold the secondary office.

## **159 Measurements, tests and analyses**

- (1) If an inspector who takes a thing or sample of or from a thing at a place under section 117(3)(c) is not also a State radiation analyst, the inspector must, as soon as practicable, give it to a State radiation analyst for analysis, measurement or testing.
- (2) The State radiation analyst must, as soon as practicable, complete a certificate of analysis, measurement or testing for the thing or sample and give the certificate to the inspector.
- (3) If an inspector who takes a thing or sample of or from a thing at a place under section 117(3)(c) is also a State radiation analyst, the inspector must, as soon as practicable, complete a certificate of analysis, measurement or testing for the thing or sample.



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**160 Certificates must indicate methodology used**

The certificate of analysis, measurement or testing must include information about the methodology used to conduct the analysis, measurement or testing.

## **Part 9 Radiation Advisory Council**

### **Division 1 Establishment and functions**

**161 Establishment of council**

The Radiation Advisory Council is established.

**162 Functions of council**

- (1) The council has the following functions—
  - (a) examining, and making recommendations to the Minister about, the following—
    - (i) the operation and application of this Act;
    - (ii) proposed amendments of this Act;
    - (iii) radiation safety standards;
    - (iv) issues relating to radiation;
    - (v) research into radiation practices carried out, and the transport of radioactive materials, in the State;
  - (b) advising the chief executive about the merits of an application for review of an original decision made under section 183 referred to it by the chief executive under section 185;
  - (c) overseeing the operation of the council's committees.
- (2) If asked by the Minister, the council must give the Minister a written report about the performance of its functions.

## **Division 2                      Membership**

### **163      Membership of council**

- (1) The council consists of at least 8, but not more than 15, members, made up of—
  - (a) the chief health officer; and
  - (b) at least 6, but not more than 13, persons (the *appointed members*) who have experience in, or knowledge of—
    - (i) the carrying out of radiation practices; or
    - (ii) the transportation of radioactive material; or
    - (iii) ways of preventing or minimising health risks to any person, or harm to the environment, in so far as exposure to radiation is concerned; and
  - (c) at least 1 representative from the community (also an *appointed member*).
- (2) The appointed members are to be appointed by the Minister.

### **164      Term of appointment for appointed members**

An appointed member is to be appointed for a term of not more than 3 years.

### **165      Chairperson and deputy chairperson of council**

- (1) The Minister is to appoint an appointed member to be the chairperson, and another appointed member to be the deputy chairperson, of the council.
- (2) The chairperson or deputy chairperson holds office for the term decided by the Minister (the *chairperson's term*), unless the person's term of office as a member ends sooner than the chairperson's term.
- (3) A vacancy occurs in the office of chairperson or deputy chairperson if the person holding the office resigns the office

by signed notice of resignation given to the Minister or ceases to be an appointed member.

- (4) However, a person resigning the office of chairperson or deputy chairperson may continue to be a member.

## **166 Disqualification from membership**

- (1) A person can not become, or continue as, an appointed member if the person—
- (a) is affected by bankruptcy action; or
  - (b) is convicted of an offence against this Act.
- (2) For subsection (1)(a), a person is affected by bankruptcy action if the person—
- (a) is bankrupt; or
  - (b) has compounded with creditors; or
  - (c) has otherwise taken, or applied to take, advantage of any law about bankruptcy.

## **167 Vacation of office**

An appointed member is taken to have vacated office if the member—

- (a) resigns by signed notice of resignation given to the Minister; or
- (b) can not continue as an appointed member under section 166.

## **168 When notice of resignation takes effect**

A notice of resignation under section 165(3) or 167(a) takes effect when the notice is given to the Minister or, if a later time is stated in the notice, the later time.

## **169 Remuneration of members**

A member is entitled to be paid the fees and allowances decided by the Governor in Council.

## **Division 3 Council business**

### **170 Conduct of business**

Subject to this division, the council may conduct its business, including its meetings, in the way it considers appropriate.

### **171 Time and place of meetings**

- (1) Council meetings are to be held at the times and places the chairperson decides.
- (2) However, the chairperson must call a meeting if asked, in writing, to do so by the Minister or at least the number of members forming a quorum for the council.
- (3) If the office of chairperson is vacant, subsections (1) and (2) apply in relation to the deputy chairperson as though he or she were the chairperson.

### **172 Quorum**

A quorum for the council is the number equal to one-half of the number of its members or, if one-half is not a whole number, the next highest whole number.

### **173 Presiding at meetings**

- (1) The chairperson is to preside at all meetings of the council at which the chairperson is present.
- (2) If the chairperson is not present at a meeting of the council, but the deputy chairperson is present, the deputy chairperson is to preside.

- (3) If the chairperson and deputy chairperson are both absent from a meeting of the council or the offices are vacant, a member chosen by the members present is to preside.

## **174 Conduct of meetings**

- (1) A question at a council meeting is decided by a majority of the votes of the members present.
- (2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.
- (3) A member present at the meeting who abstains from voting is taken to have voted for the negative.
- (4) The council may hold meetings, or allow members to take part in its meetings, by using any technology allowing reasonably contemporaneous and continuous communication between members taking part in the meeting.
- (5) A member who takes part in a council meeting under subsection (4) is taken to be present at the meeting.
- (6) A resolution is validly made by the council, even if it is not passed at a council meeting, if—
  - (a) a majority of the council members gives written agreement to the resolution; and
  - (b) notice of the resolution is given under procedures approved by the council.

## **175 Minutes**

The council must keep minutes of its meetings.

## **176 Disclosure of interests by council members**

- (1) This section applies to a member (the *interested member*) if—

- (a) the interested member has a direct or indirect financial interest in an issue being considered, or about to be considered, by the council; and
  - (b) the interest could conflict with the proper performance of the member's duties about the consideration of the issue.
- (2) As soon as practicable after the relevant facts come to the interested member's knowledge, the member must disclose the nature of the interest to a council meeting.
- (3) Unless the council otherwise directs, the interested member must not—
- (a) be present when the council considers the issue; or
  - (b) take part in a decision of the council about the issue.
- (4) The interested member must not be present when the council is considering whether to give a direction under subsection (3).
- (5) If there is another member who must, under subsection (2), also disclose an interest in the issue, the other member must not—
- (a) be present when the council is considering whether to give a direction under subsection (3) about the interested member; or
  - (b) take part in making the decision about giving the direction.
- (6) If—
- (a) because of this section, a member is not present at a council meeting for considering or deciding an issue, or for considering or deciding whether to give a direction under subsection (3); and
  - (b) there would be a quorum if the member were present, the remaining members present are a quorum of the council for considering or deciding the issue, or for considering or deciding whether to give the direction, at the meeting.

- (7) A disclosure under subsection (2) must be recorded in the council's minutes.

## **Division 4 Council committees**

### **177 Committees**

- (1) The council may establish committees of the council for effectively and efficiently performing its functions.
- (2) The council may appoint persons to be members of a committee.
- (3) At least 1 of the members of a committee must be a council member.
- (4) The council is to decide the terms of reference of a committee.
- (5) The function of a committee is to advise and make recommendations to the council about matters, within the scope of the council's functions, referred by the council to the committee.
- (6) The council may decide matters about a committee that are not provided for under this Act, including, for example, the way a committee must conduct meetings.

### **178 Remuneration of committee members**

A committee member is entitled to be paid the fees and allowances decided by the Governor in Council.

## **Division 5 Other provisions about the council**

### **179 Administrative support for council**

The chief executive must ensure the council has the administrative support services reasonably required for the council to carry out its functions effectively and efficiently.

## **180 Giving information to council**

- (1) This section applies if—
  - (a) the council asks the chief executive for information the council reasonably believes it needs to perform its functions; and
  - (b) the information is available to the chief executive; and
  - (c) the chief executive may give the information to the council without contravening a provision of another Act.
- (2) The chief executive must give the information to the council as soon as practicable.

## **181 Annual report**

- (1) As soon as practicable after the end of each financial year, the council must give the Minister a written report about the performance of its functions during the year.
- (2) The Minister may publish the report in the way the Minister considers appropriate.

# **Part 10 Reviews**

## **Division 1 Internal review of decisions**

### **182 Review process starts with internal review**

- (1) Subject to this division, a person who is given, or is entitled to be given, an information notice for a decision (the *original decision*) may apply for review of the decision under this part.
- (2) The review must be, in the first instance, by way of an application for internal review under section 183.
- (3) To help users of this Act, schedule 1 identifies the decisions for which an information notice must be given under this Act.



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**183 Application for review to be made to the chief executive**

The person may apply to the chief executive for a review of the original decision.

**184 Applying for review**

- (1) The application must be made within 28 days after—
  - (a) if the person is given an information notice for the decision—the day the person is given the information notice; or
  - (b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the decision.
- (2) The chief executive may, at any time, extend the time for applying for the review.
- (3) The application must be in writing and state fully the grounds of the application.

**185 Referral of application for review to council for advice**

The chief executive must refer the application to the council for its advice as to the merits of the application.

**186 Review decision**

- (1) After reviewing the original decision, the chief executive must make a further decision (the *review decision*) to—
  - (a) confirm the original decision; or
  - (b) amend the original decision; or
  - (c) substitute another decision for the original decision.
- (2) The chief executive must immediately give the applicant written notice of the review decision.
- (3) If the review decision is not the decision sought by the applicant, the notice must be a QCAT information notice for the decision.

- (4) If the chief executive does not give the notice mentioned in subsection (2) within 60 days after the application is made, the chief executive is taken to have made a review decision confirming the original decision.
- (5) If the review decision confirms the original decision, for the purpose of a review of the review decision by QCAT, the original decision is taken to be the review decision.
- (6) If the review decision amends the original decision, for the purpose of a review of the review decision by QCAT, the original decision as amended is taken to be the review decision.

### **187 Stay of operation of original decision**

- (1) If an application is made for a review of an original decision, the applicant may immediately apply, as provided under the QCAT Act, to QCAT for a stay of the decision.
- (2) QCAT may stay the decision to secure the effectiveness of the review and any later review.
- (3) The stay—
  - (a) may be given on conditions QCAT considers appropriate; and
  - (b) operates for the period fixed by QCAT; and
  - (c) may be revoked or amended by QCAT.
- (4) The period of the stay must not extend past the time when the chief executive makes a review decision about the original decision and any later period QCAT allows the applicant to enable the applicant to apply for a review of the review decision.
- (5) An application under subsection (1) affects the original decision, or carrying out of the original decision, only if the original decision is stayed.

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## **Division 2                      External review of decisions**

### **188      Who may apply for external review**

A person who has applied for the review of an original decision under division 1 and is dissatisfied with the review decision may apply, as provided under the QCAT Act, to QCAT for a review of the review decision.

## **Part 11                              Legal proceedings**

### **Division 1                      Evidence**

#### **195      Application of division**

This division applies to a proceeding under this Act.

#### **196      Appointments and authority**

It is not necessary to prove—

- (a) the chief executive's appointment; or
- (b) the appointment of an inspector or State radiation analyst; or
- (c) the authority of the chief executive, an inspector or a State radiation analyst to do anything under this Act.

#### **197      Signatures**

A signature purporting to be the signature of the Minister, the chief executive, an inspector or a State radiation analyst is evidence of the signature it purports to be.

## **198 Evidentiary aids**

- (1) A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—
  - (a) a stated document is one of the following things made, given, issued or kept under this Act—
    - (i) an appointment, approval or decision;
    - (ii) a notice, direction or requirement;
    - (iii) a licence;
    - (iv) a record or an extract from a record;
    - (v) the register or an extract from the register;
  - (b) a stated document is another document kept under this Act;
  - (c) a stated document is an approved radiation safety and protection plan for a radiation practice for which a possession licensee possesses a radiation source;
  - (d) a stated document is an approved security plan for a security enhanced source;
  - (e) a stated document is an approved transport security plan for the transport of a security enhanced source;
  - (f) a stated document is a copy of a thing mentioned in paragraph (a), (b), (c), (d) or (e);
  - (g) on a stated day, or during a stated period, a stated person was or was not the holder of an Act instrument;
  - (h) on a stated day, or during a stated period, an Act instrument—
    - (i) was or was not in force; or
    - (ii) was or was not subject to a stated condition;
  - (i) on a stated day, an Act instrument was suspended or cancelled;

- (j) on a stated day, or during a stated period, an appointment as an inspector or State radiation analyst was, or was not, in force for a stated person;
  - (k) on a stated day, a stated person was given a stated notice or direction under this Act;
  - (l) on a stated day, a stated requirement was made of a stated person;
  - (m) a stated amount is payable under this Act by a stated person and has not been paid.
- (2) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of the matter stated.
- (3) A certificate purporting to be that of a State radiation analyst in relation to a thing, or sample of or from a thing, taken by an inspector at a place under section 117(3)(c) stating any of the following matters is evidence of the matters—
- (a) the analyst's qualifications;
  - (b) the analyst took, or received from a stated person, the thing or sample;
  - (c) the thing or sample was analysed, measured or tested at a stated place on a stated day or during a stated period;
  - (d) the methodology used to analyse, measure or test the thing or sample;
  - (e) the results of the analysis, measurement or test.
- (4) In a proceeding in which the chief executive applies under section 200 or 202 to recover costs incurred by the chief executive, a certificate by the chief executive stating that stated costs were incurred and the way in which, and purpose for which, they were incurred is evidence of the matters stated.

## **Division 2                      Proceedings**

### **199      Summary proceedings for offences**

- (1) Proceedings for an offence against this Act are to be taken in a summary way under the *Justices Act 1886*.
- (2) The proceeding must start—
  - (a) within 1 year after the commission of the offence; or
  - (b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

### **200      Recovery of costs of avoiding or minimising adverse effects**

- (1) This section applies—
  - (a) if in a proceeding for an offence against this Act—
    - (i) the court finds the defendant caused a situation that resulted, or could have resulted, in either of the following being adversely affected by committing the offence—
      - (A) the health or safety of any person;
      - (B) the environment; and
    - (ii) the chief executive applies to the court for an order against the defendant for the payment of the costs the chief executive has incurred in taking action to avoid or minimise the adverse effect; and
    - (iii) the court finds the chief executive has reasonably incurred the costs; and
  - (b) whether or not the defendant has been convicted of the offence.
- (2) The court may order the defendant to pay the chief executive an amount equal to the costs if it is satisfied it would be just to make the order in the circumstances of the particular case.

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- (3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

## 201 Court may order payment of compensation etc.

- (1) This section applies if a court convicts a person of an offence against this Act.
- (2) The court may order the person to do either or both of the following—
- (a) pay to another person who, because of the commission of the offence has suffered loss or damage to property or incurred costs in avoiding or minimising, or attempting to avoid or minimise, loss or damage, an amount of compensation it considers appropriate for the loss or damage suffered or the costs incurred;
  - (b) pay to another person who, because of the commission of the offence has incurred costs in cleaning-up radioactive contamination, an amount of compensation it considers appropriate for the costs incurred.
- (3) An order under subsection (2) may be made on the application of the prosecution or the person who has suffered loss or damage to property or incurred costs.
- (4) An order under subsection (2) is in addition to the imposition of a penalty and any other order.
- (5) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

- (6) In this section—

***radioactive contamination*** means the lodgement, attachment or incorporation of radioactive material on, to or in a thing.

## 202 Recovery of costs of investigation

- (1) This section applies if—
- (a) a court convicts a person of an offence against this Act;
- and

[s 203]

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- (b) the chief executive applies to the court for an order against the person for the payment of the costs the chief executive has incurred in taking any thing or sample or conducting any analysis, inspection, measurement or test during the investigation of the offence; and
  - (c) the court finds the chief executive has reasonably incurred the costs.
- (2) The court may order the person to pay the chief executive an amount equal to the costs if it is satisfied it would be just to make the order in the circumstances of the particular case.
  - (3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

### **203 Application for order for payment of costs or compensation under s 200, 201 or 202**

- (1) An application to a court under section 200, 201 or 202 is, and any order made by the court on the application is a judgment, in the court's civil jurisdiction.
- (2) Any issue on the application is to be decided on the balance of probabilities.

### **204 Responsibility for acts or omissions of representatives**

- (1) This section applies in a proceeding for an offence against this Act.
- (2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—
  - (a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and
  - (b) the representative had the state of mind.
- (3) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the



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person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.

(4) In this section—

*representative* means—

- (a) for a corporation—an executive officer, employee or agent of the corporation; or
- (b) for an individual—an employee or agent of the individual.

*state of mind* of a person includes—

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

## **205 Liability of executive officer—particular offences committed by corporation**

(1) An executive officer of a corporation commits an offence if—

- (a) the corporation commits an offence against an executive liability provision; and
- (b) the officer did not take all reasonable steps to ensure the corporation did not engage in the conduct constituting the offence.

Maximum penalty—the penalty for a contravention of the executive liability provision by an individual.

(2) In deciding whether things done or omitted to be done by the executive officer constitute reasonable steps for subsection (1)(b), a court must have regard to—

- (a) whether the officer knew, or ought reasonably to have known, of the corporation's conduct constituting the offence against the executive liability provision; and
- (b) whether the officer was in a position to influence the corporation's conduct in relation to the offence against the executive liability provision; and

- (c) any other relevant matter.
- (3) The executive officer may be proceeded against for, and convicted of, an offence against subsection (1) whether or not the corporation has been proceeded against for, or convicted of, the offence against the executive liability provision.
- (4) This section does not affect any of the following—
- (a) the liability of the corporation for the offence against the executive liability provision;
  - (b) the liability, under section 205A, of the executive officers for the corporation's offence against the executive liability provision;

*Note for paragraph (b)—*

Section 205A concerns an offence against section 25, 26(1) or 27A(1) to the extent the offence relates to a radiation source other than a security enhanced source.

- (c) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the offence against the executive liability provision.
- (5) In this section—

*executive liability provision* means any of the following provisions, to the extent that the conduct constituting the offence relates to a security enhanced source—

- section 25
- section 26(1)
- section 27A(1).

## **205A Executive officer may be taken to have committed offence**

- (1) If a corporation commits an offence against a deemed executive liability provision, each executive officer of the corporation is taken to have also committed the offence if—

- (a) the officer authorised or permitted the corporation's conduct constituting the offence; or
  - (b) the officer was, directly or indirectly, knowingly concerned in the corporation's conduct.
- (2) The executive officer may be proceeded against for, and convicted of, the offence against the deemed executive liability provision whether or not the corporation has been proceeded against for, or convicted of, the offence.
- (3) This section does not affect either of the following—
- (a) the liability of the corporation for the offence against the deemed executive liability provision;
  - (b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the offence against the deemed executive liability provision.
- (4) In this section—
- deemed executive liability provision* means any of the following provisions, to the extent that the conduct constituting the offence relates to a radiation source other than a security enhanced source—
- section 25
  - section 26(1)
  - section 27A(1).

## **206 Allegations of false or misleading information or statements**

In any proceeding for an offence against this Act defined as involving false or misleading information, or a false or misleading statement, it is enough for a charge to state that the information or statement was, without specifying which, 'false or misleading'.

## **Part 12**                      **Register and information**

### **Division 1**                      **Register**

#### **207**      **Register to be kept**

- (1) The chief executive must keep a register about—
  - (a) licensees, other than prescribed licensees; and
  - (b) accredited persons; and
  - (c) qualified persons; and
  - (d) inspectors; and
  - (e) State radiation analysts; and
  - (f) prescribed licensees whose licences have been suspended or cancelled.
- (2) The register must contain the information prescribed under a regulation.
- (3) The register may be kept in any way the chief executive considers appropriate.

#### **208**      **Inspection of register**

The chief executive must—

- (a) keep the register open for inspection, free of charge, by members of the public during office hours on business days at the department's office dealing with radiation health and safety; and
- (b) allow a person to take extracts, free of charge, from the register; and
- (c) give a person a copy of the register, or a part of it, on payment of the fee prescribed under a regulation.

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## Division 2                      Information

### 209      Confidentiality of information

- (1) This section applies to—
  - (a) a person who is, or was, the chief executive, an inspector or a State radiation analyst; and
  - (b) another person who is, or was, involved in the administration of this Act, including, for example, as a health service employee or public service employee; and
  - (c) a member or a member of a committee.
- (2) The person must not disclose protected information if—
  - (a) the disclosure of the information would be likely to damage the commercial activities, or adversely affect the intellectual property rights, of the person to whom the information relates; or
  - (b) the information is personal health information for a person; or
  - (c) the information is personal monitoring information for a person.

Maximum penalty—50 penalty units.

- (3) However, subsection (2) does not apply if—
  - (a) the protected information is disclosed—
    - (i) in the performance of functions under this Act; or
    - (ii) with the written consent of the person to whom the protected information relates; or
    - (iii) to the person to whom the protected information relates; or
    - (iv) to a board established under the Health Practitioner Regulation National Law to perform its functions under that Law; or

- (b) the protected information is otherwise publicly available; or
  - (c) the disclosure of the protected information is authorised or permitted under an Act or is required by law.
- (4) Also, subsection (2)(a) and (c) do not apply if the protected information is disclosed by the chief executive to the Commonwealth or another State, or an entity of the State, the Commonwealth or another State, for a purpose prescribed under a regulation for this subsection.
- (5) For subsection (3)(a)(i), the giving of protected information by the chief executive to the council under section 180 is taken to be disclosed in the performance by the chief executive of functions under this Act.
- (6) The Commonwealth, other State or entity that receives protected information under subsection (4)—
- (a) must not give it to anyone else; and
  - (b) must ensure the information is used only for the purpose for which it was given.
- (6A) However, subsection (6)(a) does not prevent the Commonwealth or another State or entity giving the protected information to someone else if the Commonwealth, State or entity reasonably considers the giving of the information is necessary to protect national security.
- (7) The *Hospital and Health Boards Act 2011*, section 142(1) does not apply to a person to whom this section applies in relation to protected information.

*Editor's note—*

As a specific offence is created under subsection (2), subsection (7) provides that the more general provision in the *Hospital and Health Boards Act 2011*, section 142 (Confidential information must not be disclosed) does not apply.

- (8) In this section—
- commercial activities*** means activities conducted on a commercial basis.
- information*** includes a document.

***personal health information***, for a person, means information about the person's health that identifies, or is likely to identify, the person.

***personal monitoring information***, for a person, means—

- (a) information contained in personal monitoring records kept for the person that identifies, or is likely to identify, the person; or
- (b) the results of assessments of personal monitoring devices worn by the person that identifies, or is likely to identify, the person.

***protected information*** means information disclosed to, or obtained by, a person to whom this section applies in the course of, or because of, the person's functions under this Act.

## Part 13 Miscellaneous

### 210 Limited exemption for radioactive material and radiation apparatus

- (1) Subject to subsection (2), a regulation may exempt radioactive material or a radiation apparatus from this Act or a provision of this Act.
- (2) The exemption must not be one that could reasonably be expected to pose any, or more than negligible, health risks to any person or adverse effects on the environment.

### 211 Protecting officials from liability

- (1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State.
- (3) In this section—  
***official*** means—

[s 212]

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- (a) the Minister; or
- (b) the chief executive; or
- (c) a State radiation analyst; or
- (d) an inspector; or
- (e) a person acting under the direction or authority of an inspector; or
- (f) a member; or
- (g) a member of a committee.

## **212 Impersonation of accredited person**

A person must not pretend to be an accredited person.

Maximum penalty—50 penalty units.

## **213 Delegation by chief executive**

- (1) The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified public service employee or health service employee.
- (2) However, the chief executive may not delegate the power to review an original decision under part 10, division 1.
- (3) In this section—

*appropriately qualified* includes having the qualifications, experience or standing appropriate to exercise the power.

*Example of standing—*

a person's classification level in a department

## **214 Approval of forms**

The chief executive may approve forms for use under this Act.



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## 215 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made about the following—
  - (a) the setting of radiation dose limits;
  - (b) accreditation certificates, radiation safety officer certificates, approvals or licences;
  - (c) certificates of compliance for—
    - (i) radiation sources; or
    - (ii) premises at which radioactive substances are stored; or
    - (iii) premises at which radiation sources are used to carry out radiation practices;
  - (d) the disposal of—
    - (i) radiation sources or radioactive material; or
    - (ii) containers that have been used for the transport or storage of radioactive material; or
    - (iii) apparatus that once contained a sealed radioactive substance;
  - (e) the irradiation of persons for diagnostic and therapeutic purposes;
  - (f) the way in which the concentration or activity of the radionuclide in radioactive material is to be decided;
  - (fa) matters relating to the security of radiation sources to prevent or minimise risks to any person or harm to the environment;
  - (g) fees, including the refunding of fees, for this Act;
  - (h) the keeping of the register for this Act;
  - (i) imposing a penalty of not more than 20 penalty units for a contravention of a provision of a regulation.

- (3) For the definition *radioactive substance* in schedule 2, different prescriptions of the concentration or activity of a radionuclide may be made, having regard to the provision in which the term is used or is relevant.

*Example for subsection (3)—*

A particular prescription of the concentration or activity of a radionuclide may be made in relation to the term *radioactive substance* for the operation of section 14.

- (4) Subsection (3) does not limit the operation of the *Statutory Instruments Act 1992*, sections 24 and 25.

## **Part 14                      Repeal, saving and transitional provisions**

### **Division 1                      Repeal**

#### **216      Repeal of Radioactive Substances Act 1958**

The *Radioactive Substances Act 1958* is repealed.

### **Division 2                      Saving of certain regulation**

#### **217      Exemption from expiry of Radioactive Substances Regulation 1961**

Despite the *Statutory Instruments Act 1992*, part 7, the *Radioactive Substances Regulation 1961* does not expire at midnight on 30 June 1999 but remains in force until the earliest of the following, when it ceases to have effect—

- (a) the commencement of section 216;
- (b) the end of 31 December 1999;
- (c) the repeal or expiry of the regulation, other than under the part or as mentioned in paragraph (a) or (b).

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## Division 3                      Transitional provisions for Act No. 20 of 1999

### 218      Definitions for div 3

In this division—

*column 1 licence* see section 220(1).

*column 2 licence* see section 220(2).

*commencement* means commencement of this section.

*deemed possession licence* means a licence to possess a radiation source under the repealed Act that is taken under section 220 to be a possession licence.

### 219      References to repealed Act

In an Act or document, a reference to the repealed Act may, if the context permits, be taken as a reference to this Act.

### 220      Existing licences

- (1) This section applies to a person who, immediately before the commencement held, under the repealed Act, a licence mentioned in column 1 of the following table (a *column 1 licence*)—

#### Table

column 1	column 2
licence to possess a radioactive substance	possession licence
licence to use a radioactive substance	use licence
licence to transport a radioactive substance	transport licence
licence to possess an irradiating apparatus	possession licence
licence to use an irradiating apparatus	use licence.

- (2) The person is taken to be the holder of a licence mentioned in column 2 of the table (a **column 2 licence**) shown opposite the column 1 licence.
- (3) If the column 1 licence held by the person immediately before the commencement was subject to a condition, the column 2 licence the person is taken to hold is taken to be subject to the condition.
- (4) The person holds the column 2 licence until the later of the following days—
  - (a) the day that is 3 months after the commencement;
  - (b) the day the term of the column 1 licence ends;
  - (c) if, before the later of the days mentioned in paragraphs (a) and (b), the person applies to the chief executive for the same type of licence and the application is successful—the day the person is given written notice of the decision about the application.
- (5) However, subsection (4) stops applying if the column 2 licence is surrendered, cancelled or suspended.
- (6) The person may not apply for a renewal of the column 2 licence the person is taken to hold.

## **221 Existing applications for column 1 licences**

- (1) An application for a column 1 licence made under the repealed Act and not decided at the commencement must be decided under this Act.
- (2) The application is taken to be about the column 2 licence shown opposite the column 1 licence.
- (3) Subject to subsection (4), the provisions of this Act about issuing licences apply to the application.

*Example of provision that applies to the application—*

section 53 (Criteria for applications—possession licences)

- (4) The provisions of this Act dealing with making the application in the approved form and paying the application fee do not apply to the application.

## **222 Carrying out radiation practice—holder of deemed possession licence**

Sections 17, 18 and 33 do not apply to a person in possession of a radiation source under a deemed possession licence in relation to the carrying out of a radiation practice, with the source, to which the licence relates.

## **223 Successful application by holder of deemed possession licence for new possession licence**

- (1) This section applies if—
- (a) a person is in possession of a radiation source under a deemed possession licence; and
  - (b) the person, while holding the licence, applies to the chief executive for a possession licence for the source; and
  - (c) the chief executive grants the application.
- (2) Sections 17, 18 and 33 do not apply to the person during the period of 6 months commencing on the day the person is given written notice of the decision to grant the application.

## **224 Radiation safety officers**

- (1) This section applies in relation to a deemed possession licence during the currency of the licence.
- (2) Part 6, division 2 does not apply to the holder of the licence or the radiation practice for which the licensee is allowed, under the licence, to possess a radiation source.
- (3) If, immediately before the commencement, there was a radiation safety officer appointed under the repealed Act for the practice (the *appointed person*), the appointed person is

taken to be a radiation safety officer, under this Act, for the practice.

- (4) If for any reason there is not an appointed person, or a radiation safety officer appointed under this subsection, for the practice, the holder of the licence must as soon as practicable appoint a qualified person as a radiation safety officer for the practice.

Maximum penalty—100 penalty units.

- (5) An appointed person, or a radiation safety officer appointed under subsection (4), has the following functions—
- (a) to identify ways of minimising the radiation doses received by persons from the source;
  - (b) to provide, or arrange for the provision of, training about radiation hazards and safe working practices, in relation to the carrying out of the practice, to—
    - (i) persons carrying out the practice; and
    - (ii) the holder's employees, and other persons working for the holder, who may be exposed to radiation emitted from the source; and
    - (iii) other persons prescribed under a regulation;
  - (c) to provide, or arrange for the provision of, training to the persons mentioned in paragraph (b) about precautions that need to be taken to ensure radiation doses received by the persons and other persons from the source, are—
    - (i) for ionising radiation—below the radiation dose limit prescribed under a regulation and as low as reasonably achievable; or
    - (ii) for non-ionising radiation—below the radiation dose limit prescribed under a regulation and minimised as far as is practicable.
- (6) If the appointed person, or radiation safety officer appointed under subsection (4), is not also the holder of the licence, the person or officer also has the following functions—

- (a) to advise the holder of the ways, identified under subsection (5)(a), of minimising the radiation doses received by persons from the source;
- (b) to advise the holder if any conditions of the licence, of which the person or officer is aware, are not being complied with and make recommendations to the holder as to what action needs to be taken to ensure compliance.

## 225 Existing exemptions

- (1) Subsection (2) applies if—
  - (a) immediately before the commencement, a person was exempted from a provision of the repealed Act for which there is an equivalent provision under this Act; and
  - (b) at the commencement, the equivalent provision would, apart from subsection (2), apply to the person.
- (2) The person is taken to be exempted from the equivalent provision for the period ending 6 months after the commencement (the *6 months period*).
- (3) If the exemption under the repealed Act was subject to a condition, the exemption from the equivalent provision is also subject to the condition.
- (4) Subsection (5) applies if—
  - (a) the person makes application for a column 2 licence during the 6 months period; and
  - (b) the application is relevant to the equivalent provision.
- (5) The exemption from the equivalent provision is taken to continue from the day that it would, apart from this subsection, have ended until the person is given written notice of the decision about the application.

## **226 Appeals**

- (1) Subsection (2) applies if—
  - (a) a person has appealed to the Supreme Court under the repealed Act before the commencement against a decision of the Minister; and
  - (b) the appeal has not been decided before the commencement.
- (2) The Supreme Court may hear, or continue to hear, and decide the appeal under the repealed Act as if it had not been repealed.
- (3) Subsection (4) applies if—
  - (a) immediately before the commencement a person could have appealed to the Supreme Court under the repealed Act against a decision of the Minister; and
  - (b) the person has not appealed before the commencement.
- (4) The person may appeal, and the Supreme Court may hear and decide the appeal, under the repealed Act as if this Act had not commenced.
- (5) For giving effect to its decision under subsection (2) or (4), the Supreme Court may make the orders it considers necessary having regard to the provisions of this Act.

*Example for subsection (5)—*

On an appeal by a person against a decision of the Minister to refuse to grant a licence to possess a radioactive substance under the repealed Act, the Supreme Court may order that the chief executive issue a possession licence to the person under this Act.

## **227 Offences**

- (1) Proceedings for an offence against the repealed Act may be started or continued, and the provisions of the repealed Act necessary or convenient to be used in relation to the proceedings continue to apply, as if this Act had not commenced.



- (2) For subsection (1), the *Acts Interpretation Act 1954*, section 20 applies, but does not limit the subsection.

## **228 Things seized**

A thing seized under the repealed Act, and in relation to which proceedings for an offence under that Act were not finalised or started at the commencement, is taken to have been properly seized under this Act.

## **229 Suspended licences**

- (1) This section applies if a column 1 licence has been suspended under the repealed Act and the period of suspension has not ended on the commencement.
- (2) The suspension is taken to continue as a suspension of a column 2 licence shown opposite the column 1 licence.

## **230 Substances**

- (1) This section applies if—
- (a) a substance has been taken, seized or obtained by an inspector under the repealed Act; and
  - (b) an analyst has not given a certificate of analysis or test of the substance under that Act.
- (2) The provisions of the repealed Act relating to the analysis or testing of the substance continue to apply.

# **Division 4 Transitional provisions for Radiation Safety Amendment Act 2010**

## **231 Definitions for div 4**

*commencement* means the commencement of this section.

*transitional period* means the period ending 6 months after the commencement.

### **232 Transitional provision relating to security plans for possession licensees**

- (1) This section applies to a possession licensee who, at the commencement, is in possession of a security enhanced source under the licensee's licence (the *existing licence*).
- (2) The provisions of this Act relating to security plans do not apply to the possession licensee's existing licence while it remains in force during the transitional period.
- (3) However, the provisions of the Act relating to security plans apply to the existing licence if it is renewed during the transitional period.
- (4) The possession licensee may, within the transitional period, apply to have a new possession licence issued by the chief executive.
- (5) The licensee's existing licence expires on the earliest of the following—
  - (a) the expiry of the existing licence;
  - (b) the issue of a new licence to the licensee;
  - (c) the end of the transitional period.
- (6) Subsection (5) applies subject to section 81.

### **233 Transitional provision for use licensees**

- (1) This section applies to a use licensee who, at the commencement, is authorised to use a radiation source that is a portable security enhanced source under the licensee's licence (the *existing licence*).
- (2) The use licensee may, within the transitional period, apply to have a new use licence issued by the chief executive.
- (3) The licensee's existing licence is taken to expire on the earlier of the following—

- (a) the issue of a new licence to the licensee;
- (b) the end of the transitional period.

### **234 Transitional provision for transport licensees**

- (1) This section applies to a transport licensee who, at the commencement, is authorised to transport a radioactive substance that is a security enhanced source under the licensee's licence (the *existing licence*).
- (2) The transport licensee may, within the transitional period, apply to have a new transport licence issued by the chief executive.
- (3) The licensee's existing licence is taken to expire on the earlier of the following—
  - (a) the issue of a new licence to the licensee;
  - (b) the end of the transitional period.

### **235 Transitional provision for transport security plans**

- (1) Section 34I does not apply to the transport of a security enhanced source by a person if the transport happens during the transitional period.
- (2) However, nothing prevents the following during the transitional period—
  - (a) a person applying for approval of a transport security plan; or
  - (b) the chief executive deciding the application.
- (3) Also, the provisions of part 6, division 1B apply to the following—
  - (a) an application made for an approval of a transport security plan during the transitional period;
  - (b) a transport security plan approved by the chief executive during the transitional period.

## **Division 5**                      **Transitional provision for Health and Other Legislation Amendment Act 2014**

### **236**      **Transitional provision for records of Radiological Advisory Council**

- (1) This section is taken to have applied from the repeal of the Radioactive Substances Act 1958 on the commencement of section 216.
- (2) The records of the Radiological Advisory Council of Queensland under the repealed Radioactive Substances Act 1958 are the records of the council.

## **Division 6**                      **Transitional provision for Health and Other Legislation Amendment Act 2019**

### **237**      **Expiry of particular existing licences**

- (1) This section applies to a use licence (the *existing licence*) or a transport licence (also the *existing licence*)—
  - (a) in effect immediately before the commencement; and
  - (b) held by a person who is, on the commencement, a prescribed licensee.
- (2) The existing licence is taken to have expired on the commencement.

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## **Schedule 1      Decisions for which information notices must be given**

section 182(3)

<b>Section</b>	<b>Description of decision</b>
30	changing an approved radiation safety and protection plan for a radiation practice
31	refusing to grant an application to change an approved radiation safety and protection plan for a radiation practice
34C	changing an approved security plan for a security enhanced source
34D	refusing to grant an application to change an approved security plan for a security enhanced source
34L	decision to refuse to grant an application for approval of a transport security plan
34N	changing an approved transport security plan for the transport of a security enhanced source
34O	refusing to grant an application to change an approved transport security plan for the transport of a security enhanced source
62	refusing to grant an application for an Act instrument
76	issuing an Act instrument on conditions
79	refusing to renew a renewable Act instrument

<b>Section</b>	<b>Description of decision</b>
86	suspending or cancelling an Act instrument
88	immediately suspending an Act instrument
95	changing conditions of a conditional Act instrument or subjecting a conditional Act instrument to conditions
96	refusing to grant an application to change conditions of a conditional Act instrument
101	refusing to grant an application for the replacement of an Act instrument
133(1)(c) or (2)	decision resulting in a thing being forfeited to the State

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## Schedule 2      Dictionary

## section 7

*accepted representations* see section 84(2).

*accreditation certificate* means an accreditation certificate issued under section 62.

*accredited person* means the holder of an accreditation certificate.

*Act instrument* see section 48.

*amend*, an assessment report, includes prepare another assessment report.

*appointed member* see section 163(1)(b) and (c).

*approval* means an approval to acquire, approval to dispose or approval to relocate.

*approval to acquire* means an approval to acquire a radiation source issued under section 62.

*approval to dispose* means an approval to dispose of radioactive material issued under section 62.

*approval to relocate* means an approval to relocate a radiation source issued under section 62.

*approved form* means a form approved by the chief executive.

*approved radiation safety and protection plan*, for a radiation practice, means a radiation safety and protection plan approved by the chief executive for the practice, and includes the plan as changed under section 30 or 31.

*approved security plan*, for a security enhanced source, means a security plan approved by the chief executive for the source, and includes the plan as changed under section 34C or 34D.

*approved transport security plan* for a security enhanced source, means a transport security plan approved by the chief

executive for the transport of the source, and includes the plan as changed under section 34N or 34O.

**assessment**, of a personal monitoring device, means—

- (a) the quantification of the radiation dose the device has received during a particular period; and
- (b) the estimation of the radiation dose received by the person who wore the device during the period.

**assessment report** see section 20(3).

**banned radiation source** means a radiation source prescribed under section 47(1) to be a banned radiation source.

**carry out**, in relation to a radiation practice, see section 10.

**certificate of compliance**, for a radiation source, includes—

- (a) for a sealed radioactive substance—a certificate of compliance relating to the sealing of the substance; and
- (b) for a sealed radioactive substance incorporated in a sealed source apparatus—a certificate of compliance for the apparatus.

**certificate of compliance**, for a radiation source or premises, means a certificate of compliance issued by an accredited person for the source or premises under part 3, division 3.

**chairperson** means the chairperson of the council appointed under section 165(1).

**chief health officer** see the *Hospital and Health Boards Act 2011*, schedule 2.

**column 1 licence**, for part 14, division 3, see section 218.

**column 2 licence**, for part 14, division 3, see section 218.

**commencement**, for part 14, division 3, see section 218.

**commissioner of police** means the commissioner of the police service appointed under the *Police Service Administration Act 1990*.

**committee** means a committee of the council established under section 177.



***conditional Act instrument*** see section 94.

***continuing approval to acquire*** see section 52.

***convicted***, of an offence, means being found guilty of the offence, on a plea of guilty or otherwise, whether or not a conviction is recorded.

***conviction*** means a finding of guilt by a court, or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

***corresponding law*** means a law of another State, the Commonwealth or a foreign country that provides for the same matter as this Act or a provision of this Act.

***council*** means the Radiation Advisory Council.

***criminal history***, of a person, means all the following—

- (a) every conviction of the person for an offence, in Queensland or elsewhere, and whether before or after the commencement of this Act;
- (b) every charge made against the person for an offence, in Queensland or elsewhere, and whether before or after the commencement of this Act.

***criminal history check***, for a person, means a check of the person's criminal history.

***deemed possession licence***, for part 14, division 3, see section 218.

***deputy chairperson*** means the deputy chairperson of the council appointed under section 165(1).

***dispose***, of a radiation apparatus, means make the apparatus permanently inoperable as a radiation apparatus.

***dispose***, of radioactive material, means—

- (a) release the material into the environment; or
- (b) release a thing containing the material into the environment.

***document certification requirement*** see section 144(5).

***document production requirement*** see section 144(6).

***environment*** see the *Environmental Protection Act 1994*, section 8.

***executive officer***, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

***firearm*** see the *Weapons Act 1990*, schedule 2.

***health practitioner*** means—

- (a) a person registered under the Health Practitioner Regulation National Law; or
- (b) a person practising in a health-related field who is accredited by a professional body representing practitioners in the field.

***health records*** see section 123(1).

***health risks***, in relation to any person, includes risks to the safety of any person.

***health service employee*** see the *Hospital and Health Boards Act 2011*, schedule 2.

***improvement notice*** see section 139(2).

***information notice***, for a decision of the chief executive or an inspector, is a written notice stating the following—

- (a) the decision;
- (b) the reasons for the decision;
- (c) the person to whom the notice is given may have the decision reviewed within 28 days;
- (d) how the person may have the decision reviewed;
- (e) if the decision is that an Act instrument be suspended or cancelled—a direction to the person to surrender the instrument to the chief executive within 7 days after receiving the notice;
- (f) if the decision is that the conditions of a conditional Act instrument be changed—a direction to the person to

- return the instrument to the chief executive within 7 days after receiving the notice;
- (g) if the decision is that an approved radiation safety and protection plan be changed—a direction to the person to return the following documents to the chief executive, within 14 days after receiving the notice—
- (i) the plan, incorporating the change;
  - (ii) the person's possession licence in which the plan is identified;
- (h) if the decision is that an approved security plan be changed—a direction to the person to return the following documents to the chief executive, within 14 days after receiving the notice—
- (i) the plan, incorporating the change;
  - (ii) the person's possession licence in which the plan is identified;
- (i) if the decision is that an approved transport security plan be changed—a direction to the person to return the plan incorporating the change to the chief executive, within 14 days after receiving the notice.

***inspector*** means a person who is appointed as an inspector under section 106.

***ionising radiation*** means electromagnetic or particulate radiation capable of producing ions, but does not include electromagnetic radiation of a wavelength greater than 100 nanometres.

***licence*** means a possession licence, transport licence or use licence.

***licensee*** means a possession licensee, use licensee or transport licensee.

***member*** means a member of the Radiation Advisory Council.

***monitored person*** see section 38(1).

***nominated person***, for an applicant or a licensee that is a corporation, means the individual nominated by the applicant

or licensee as the individual who will oversee the security of a security enhanced source.

***non-ionising radiation*** means—

- (a) electromagnetic radiation of a wavelength greater than 100 nanometres; or
- (b) sonic radiation.

***occupier***, of a place, includes a person who reasonably appears to be an occupier, or in charge, of the place.

***original decision*** see section 182(1).

***other entity*** means an entity authorised to conduct a criminal history check or security check under a law of a State or the Commonwealth.

***personal monitoring device*** means a device designed to be worn by a person to monitor any radiation dose received by the person.

***personal monitoring record*** see section 38(4).

***personal particulars requirement*** see section 142(5).

***place*** includes premises and vacant land.

***place of seizure*** see section 129(a).

***portable security enhanced source*** means a security enhanced source that—

- (a) is able to be carried by a person from place to place; and
- (b) is used, or intended for use, to carry out a radiation practice; and
- (c) if the source is a radioactive substance, is incorporated in a sealed source apparatus designed to allow the source to be carried by the person safely.

*Example of portable security enhanced source—*

An industrial radiography gamma camera that is used to test for defects in pipelines at different locations.

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

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***possession licence*** means a licence, issued under section 62, to possess a radiation source for a radiation practice.

***possession licensee*** means a person who holds a possession licence.

***premises*** includes—

- (a) a building or other structure; and
- (b) a part of a building or other structure; and
- (c) land where a building or other structure is situated; and
- (d) a vehicle.

***prescribe***, a therapeutic procedure, means issue an order, in written or electronic form, for the intentional irradiation of a person for therapeutic purposes, stating—

- (a) particulars of the radiation source to be used; and
- (b) the amount, and method of delivery, of the radiation.

***prescribed activity*** means an activity that is or is associated with—

- (a) the use, handling or transport of a drug, chemical, explosive, radiation source or biological agent; or
- (b) the storage, collection or manufacture of a drug, chemical, explosive, radiation source or biological agent; or
- (c) the sale, import or export of a drug, chemical, explosive, radiation source or biological agent.

***prescribed licensee*** see section 103K(1).

***prohibition notice*** see section 140(2).

***proposed action*** see section 83(2)(a).

***public place*** means a place the public is entitled to use, open to the public or used by the public, whether or not on payment of money.

***QCAT information notice*** means a notice complying with the QCAT Act, section 157(2).

**qualified person** means a person who holds a radiation safety officer certificate.

**radiation** means ionising radiation or non-ionising radiation.

**radiation apparatus** means—

- (a) an apparatus that, when energised, emits an amount of ionising radiation during a particular period higher than the amount prescribed, for the period, under a regulation; or
- (b) an apparatus that would if assembled or repaired, and when energised, be capable of emitting an amount of ionising radiation during a particular period higher than the amount prescribed, for the period, under a regulation; or
- (c) an apparatus, prescribed under a regulation, that when energised emits an amount of non-ionising radiation during a particular period higher than the amount prescribed, for the period, under a regulation; or
- (d) an apparatus, prescribed under a regulation, that would if assembled or repaired, and when energised, be capable of emitting an amount of non-ionising radiation during a particular period higher than the amount prescribed, for the period, under a regulation.

**radiation dose**, received by a person or thing, means the amount of energy from radiation absorbed by the person or thing exposed to the radiation.

**radiation dose limit** means—

- (a) for ionising radiation—a limit on the radiation dose a person may receive during a particular period; or
- (b) for radioactive material—a limit on the amount of the radionuclide in the material that may be inhaled, ingested or introduced into the body of a person during a particular period; or
- (c) for non-ionising radiation—a limit on the radiation dose a person may receive during a particular period.

***radiation hazard*** means risks to the health or safety of any person, or the environment, arising from exposure to radiation.

***radiation practice*** see section 11.

***radiation safety and protection plan***, for a radiation practice, see section 28(1).

***radiation safety officer***, for a radiation practice, means a person appointed as a radiation safety officer for the practice under section 36.

***radiation safety officer certificate*** means a radiation safety officer certificate issued under section 62.

***radiation safety, protection and security principles*** see section 5.

***radiation safety standard***, about a radiation source, includes—

- (a) for a sealed radioactive substance—a radiation safety standard about the sealing of the substance made under section 16(1)(b); and
- (b) for a sealed radioactive substance incorporated in a sealed source apparatus—a radiation safety standard about the apparatus made under section 16(1)(c).

***radiation safety standard*** means a radiation safety standard made by the Minister under section 16.

***radiation source*** means—

- (a) a radioactive substance; or
- (b) a radiation apparatus.

***radioactive material*** means material that spontaneously emits ionising radiation as a result of the radioactive decay of a radionuclide in it, but does not include a mineral within the meaning of the *Mineral Resources Act 1989* situated within the boundaries of land the subject of a mining lease, mineral development licence or exploration permit within the meaning of that Act.

**radioactive substance** means radioactive material (whether or not it is sealed)—

- (a) containing more than the concentration or activity of a radionuclide prescribed under a regulation; or
- (b) prescribed under a regulation to be a radioactive substance.

**register** means the register kept under section 207.

**relevant offence** means—

- (a) an offence involving a prescribed activity; or
- (b) an offence involving violence or threatened violence; or
- (c) an offence involving the use, carriage, discharge or possession of a firearm; or
- (d) another offence prescribed under a regulation.

**relevant radiation safety standard**, for a radiation source or premises, means a radiation safety standard that applies to the source or premises.

**relevant radiation safety standard**, for a type of radiation source or premises, means a radiation safety standard that applies to the type of source or premises.

**renewable Act instrument** see section 78.

**repealed Act** means the *Radioactive Substances Act 1958*.

**request**, a diagnostic procedure, means make a request or issue an order, in written or electronic form, for the intentional irradiation of a person for diagnostic purposes, stating—

- (a) particulars of the radiation source to be used; and
- (b) particulars of the diagnostic information sought from the procedure.

**requirements**, for sections 20, 21 and 22, see section 20(3)(b).

**review decision** see section 186(1).

**sealed radioactive substance** means a radioactive substance sealed in a way that—

- (a) minimises the possibility of its escape or dispersion; and



- (b) allows the emission or transmission of ionising radiation.

***sealed source apparatus*** means equipment or a gauge, instrument or device incorporating a sealed radioactive substance, but does not include a container used solely for the transport or storage of a sealed radioactive substance.

***security check*** means a check of a person's background and activities to assess whether a person is, or may be, a threat to national security.

***security enhanced source*** means a radiation source, or an aggregation of radiation sources, prescribed under a regulation to be a security enhanced source.

***security plan*** see section 34A(1).

***serious environmental harm*** see *Environmental Protection Act 1994*, section 17.

***show cause notice*** see section 83(1).

***show cause period*** see section 83(2)(e).

***special warrant*** see section 115(1).

***State radiation analyst*** means a person who is appointed as a State radiation analyst under section 157.

***transport***, a radioactive substance, does not include transport the substance from a part of premises to another part of the same premises.

***transport***, a security enhanced source, includes the following—

- (a) prepare the source for transport;
- (b) load and unload the source before, during and at the end of its transport;
- (c) temporarily store the source before, during and at the end of its transport.

***transport licence*** means a licence, issued under section 62, to transport a radioactive substance.

***transport licensee*** means a person who holds a transport licence.

***transport security plan*** see section 34H(1).

***transport security plan holder*** means a person who has had a transport security plan approved by the chief executive.

***treated person*** see section 41(3).

***unsealed radioactive substance*** means a radioactive substance that is not a sealed radioactive substance.

***use***, in relation to a radiation source, see section 9(1).

***use***, in relation to the carrying out of a radiation practice, see section 9(2).

***use licence*** means a licence, issued under section 62, to use a radiation source to carry out a radiation practice.

***use licensee*** means a person who holds a use licence.

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

***warrant form*** see section 115(5)(b).