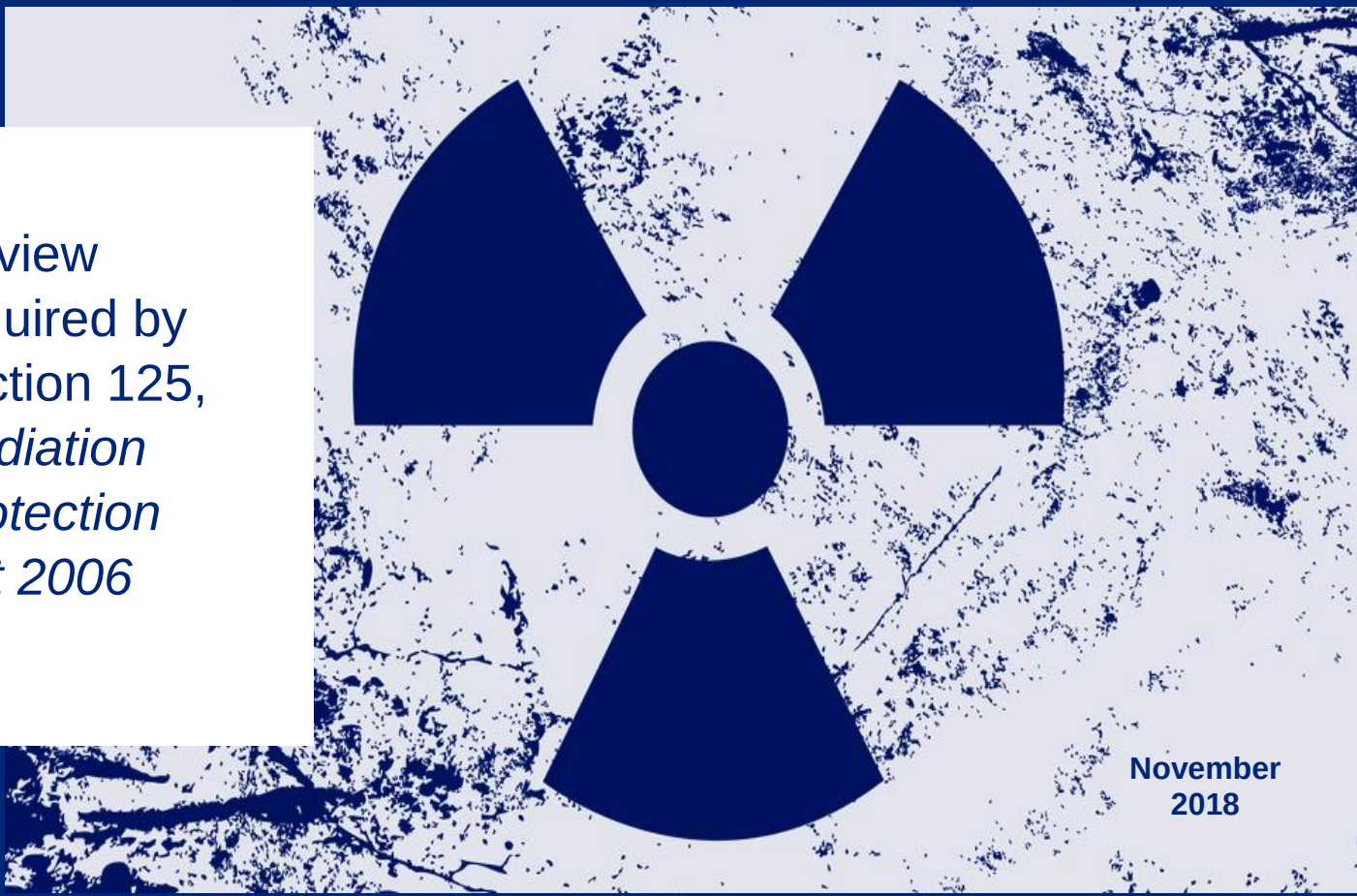
ACT Government | ACT Health

Review of the *Radiation Protection Act 2006*

Review required by section 125, *Radiation Protection Act 2006*



November 2018

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ACKNOWLEDGEMENTS

This publication has been prepared by the Health Protection Service for the Minister for Health and Wellbeing, the ACT Legislative Assembly and the ACT community.

The ACT Government has taken great care to ensure the information in this report is as correct and accurate as possible. Whilst the information is considered to be true and correct at the date of publication, changes in circumstances after the time of publication or collection of information may impact on the accuracy of the report. Differences in statistical methods and calculations, data updates and guidelines may impact the accuracy of the information contained in this report.

ACKNOWLEDGMENT OF COUNTRY

ACT Health acknowledges the Traditional Custodians of the land, the Ngunnawal people. ACT Health respects their continuing culture and connections to the land and the unique contributions they make to the life of this area. ACT Health also acknowledges and welcomes Aboriginal and Torres Strait Islander peoples who are part of the community we serve.

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Abbreviations and Common Terms

AAs	Administrative Arrangements
ACT	Australian Capital Territory
AHPRA	The Australian Health Practitioner Regulation Agency
ANU	Australian National University
ARPANSA	Australian Radiation Protection and Nuclear Safety Agency
CHO	The ACT Chief Health Officer
COP	Codes of Practice
Council	The ACT Radiation Council, established under section 65 of the *Radiation Protection Act 2006*
CSIRO	Commonwealth Scientific and Industrial Research Organisation
EPA	Environment Protection Authority
GPs	General Practitioners
HPS	The Health Protection Service
IPL	Intense Pulsed Light
JACS	The ACT Justice and Community Safety Directorate
MRI	magnetic resonance imaging
MPTGA	The ACT *Medicines, Poisons and Therapeutic Goods Act 2008*
NCP Review	National Competition Policy Review of Radiation Protection Legislation
NDRP	National Directory for Radiation Protection
NSW	New South Wales
NSW Act	NSW *Radiation Control Act 1990*
NSW Reg	NSW Radiation Control Regulation 2013
NT	Northern Territory
NT Act	NT *Radiation Protection Act 2004*
PHA	The ACT *Public Health Act 1997*
RF	Radiofrequency

RHC	The national Radiation Health Committee established under section 22 of the Commonwealth *Australian Radiation Protection and Nuclear Safety Act 1998*.
RIS	Regulatory Impact Statements
RPA	The ACT *Radiation Protection Act 2006*
RPR	The ACT Radiation Protection Regulation 2007
RPS	Radiation Protection Series
SA	South Australia
SA Act	SA *Radiation Protection and Control Act 1982*
TBL	Triple Bottom Line
Territory	The Australian Capital Territory
WA	Western Australia
WA Act	WA *Radiation Safety Act 1975*
WA Regs	WA Radiation Safety (General) Regulations 1983

Executive Summary

The NDRP was intended as a mechanism to deliver nationally consistent radiation protection legislation throughout Australia. When first published in 2004 there were several aspects of the NDRP without content, but there was an express intention to populate these areas in time. Fourteen years on and that expectation has not been met. As such the framework document is still minus critical detail, including such detail as security requirements – despite the past decade's focus on combatting the threat of terrorism.

The ACT developed the RPA to strictly adhere to the NDRP, and wherever possible directly reference it. As such, these ongoing gaps from the NDRP have not only undermined national consistency - the framework's core purpose - but also prevent the RPA from being as comprehensive and effective as was envisaged. Other jurisdictions have either acted independently to resolve the gaps left by the NDRP, or relied upon provisions they had which pre-dated the NDRP. As the RPA reaches its tenth year of operation, the ACT should also recognise that the NDRP has not delivered full and true national consistency in radiation protection, and that the Territory will need to identify its own solutions for the present weaknesses in the RPA. This review has identified a range of weaknesses, however a further body of work will be required to determine the best solutions to those problems.

Such work will require establishment of an expert reference group that should be tasked with determining a preferred approach to address each identified gap or deficiency – be it based upon the legislative approach in a particular jurisdiction or a hybrid of the approaches taken elsewhere in the country. Having identified preferred approaches, such an expert reference group should aid the government with the development of any resulting legislative amendments, including production of any RIS or TBL assessments. It is expected that any such expert reference group would need to engage and collaborate closely with key stakeholders in performance of this work.

RECOMMENDATION 1

That an expert reference group be established, tasked with determining whether necessary amendments to address each identified gap or deficiency should be based upon the legislative approach in a particular jurisdiction, or a hybrid of the approaches taken elsewhere in the country, as well as with assisting development of any resulting legislative amendments.

RECOMMENDATION 2

That additional resourcing, in particular additional staff, will be required by the HPS in order to:

a) establish and support an expert reference group;
b) progress identified legislative amendments to the RPA and RPR; and
c) manage any likely increase in regulatory functions that may result from addressing the identified gaps and deficiencies in the RPA and RPR.

Key findings

1. Much of the weaknesses of the RPA are due to a lack of radiation safety detail in the NDRP.

2. The RPA is largely consistent with the NDRP. However areas of inconsistency include requiring the promotion of studies and research, and insufficient detail and content concerning determining an applicant's suitability as a 'fit and proper' person to hold an authority issued under the RPA.

3. Radiation protection in the ACT would benefit from the requirement for independent compliance testing on installation of sources and periodically thereafter by source owners.

4. The requirement of a publicly accessible, and preferably web-based, register of licensees would improve accountability and transparency. This would benefit radiation protection in the ACT as source owners and the public could verify that a person dealing with a radiation source is licensed to do so.

5. Radiation management plans are presently required by the Council. Nevertheless, detailed requirements for radiation source owners to develop and adhere to plans addressing radiation safety, management, security, and shielding of sources should be included in ACT radiation protection legislation. The inclusion of such detail in the legislation ensures it is clear for source owners and others to appreciate what is required for compliance. Having such requirements supported by offence provisions will also strengthen potential enforcement action in instances where plans are not followed.

6. The fees imposed under the RPA require policy revision as their application is generic and limited, and significantly higher than in all other jurisdictions.

7. The ACT needs to urge the RHC to make greater and more immediate strides towards a nationally consistent approach for the regulation of IPL light devices and lasers. In the absence of a nationally consistent approach the ACT should consider developing on its own a program for such devices.

8. When developing any legislative reforms arising out of this review further work should be undertaken to determine whether the function of assessing and deciding applications for licences and registrations should remain with the Council, or whether an alternative arrangement for the exercise of this function (in full or in part) should be implemented.

Requirement for the review

The RPA came into effect in the ACT on 1 July 2007, repealing and replacing the *Radiation Act 1983* on commencement. In keeping with the NDRP the RPA included a review provision found at section 125, which requires that the responsible minister "review the operation of this Act and present a report of the review to the Legislative Assembly as soon as practicable after 1 July 2016".

Under the AAs the responsible minister is the Minister for Health and Wellbeing, and ACT Health has responsibility for the administration of the RPA under the AAs. The review of the RPA was conducted by the HPS, which is the area with operational responsibility for the RPA.

Purpose of the review

In 2005 Cabinet agreed to repeal the *Radiation Act 1983* and replace it with legislation that would implement the NDRP with a view towards achieving national consistency of radiation protection legislation.

Accordingly, the purpose of this review has been to assess the achievement of that objective through:

- identification of any inconsistencies between the RPA and the current edition of the NDRP;
- identification of any inconsistencies between the RPA and radiation safety legislation of other Australian states and territories;
- identification of gaps, deficiencies and regulatory anomalies in the RPA and its subordinate Regulation; and
- assessment of current governance arrangements for the RPA.

Background

In 1999 the State and Territory governments, together with the Commonwealth government, agreed to the development of the NDRP to establish an agreed set of principles that would aid in delivering national consistency in radiation protection legislation throughout Australia. As the NDRP was being developed it was aided by recommendations arising out of the NCP Review. Development of the NDRP was completed and the first version of edition 1 published in 2004.

The ACT government's commitment to adopt the NDRP was met in August 2006 when the ACT Legislative Assembly repealed the *Radiation Act 1983* and enacted the RPA. Whilst the RPA was enacted and notified in August 2006, to allow for transitional and implementation matters full commencement of the RPA was delayed until 1 July 2007.

It was anticipated that the NDRP would evolve over time, with amendments made when necessary to address new issues, clarify contentious aspects, or to resolve identified flaws. It is for this reason that one of the principles of the NDRP was that jurisdictions should review their operation roughly every ten years. To that end, section 125 of the RPA was included which required that a review of the RPA be conducted, and a report presented to the Legislative Assembly, as soon as practicable after 1 July 2016.

Review focus

In Scope

The purpose of the review of the RPA includes:

- identification of any inconsistencies between the RPA and the current edition of the NDRP;
- identification of any inconsistencies between the RPA and radiation safety legislation of other Australian states and territories;
- identification of gaps, deficiencies and regulatory anomalies in the RPA and its subordinate Regulation; and
- assessment of current governance arrangements for the RPA.

The basis for fees imposed under the RPA and the fee levels set were initially regarded as out of scope of the review. This position was adopted on the basis that fees are not matters of national consistency covered by the NDRP, and the determination of fees is a matter for the ACT government, influenced by ACT government policies and relevant administrative costs. Nevertheless, as the cost of fees and therefore operating in the ACT was repeatedly and strongly commented upon by stakeholders when surveyed, it was determined that some commentary on fees was necessary within this review report.

Out of Scope

The following factors were considered out of scope for the review:

- Council appointments and composition;
- Subordinate legislation, other than the Radiation Protection Regulation;
- Offence construction and penalty levels set for specific offences; and
- Operational matters, including staffing, and delegations.

Whilst the role and functions of the Council are relevant and were within the scope of the review, the size and composition of the Council was considered irrelevant. The appointments of persons as members of the Council was also treated as out of scope not only because the appointments are irrelevant to national consistency and the purpose of the review, but also because these are decisions made by the Minister following consideration by Cabinet. As such appointments to the Council are matters solely for the ACT.

The construction of offence provisions and the assigning of penalty levels are determined by ACT legal drafting methodologies, ACT government policies, and the need for compatibility with the ACT *Human Rights Act 2004*. These considerations will therefore take precedence over consistency with the NDRP and the legislation of other jurisdictions.

Matters pertaining to ACT Health resourcing, delegations and appointments are operational in nature and as such are matters for the ACT government, and are not relevant to consistency with the NDRP or national uniformity of laws.

The Council

Prior to self-government in the ACT, laws for the territory were either made by the Commonwealth Parliament, or by the Governor-General exercising delegated powers. Laws made by the latter were referred to as ordinances. One such piece of legislation was the Radiation Ordinance 1983, which regulated radiation owners and operators through a licensing regime, and radiation sources which required registration. Under this ordinance the licensing authority, being the decision-maker on applications for licences and registrations, was an independent Radiation Council consisting of persons with radiation expertise from several Commonwealth associated agencies, such as the CSIRO, the ANU, and the Commonwealth agency responsible for health care in the Territory.

In May 1989 self-government commenced and the ACT Legislative Assembly was created. Shortly afterwards many of the ordinances created prior to self-government were converted into Acts. Through this approach the Radiation Ordinance 1983 became the *Radiation Act 1983*.

In 1999 the governments in Australia agreed to the development of the NDRP to establish an agreed set of principles that would aid in delivering national consistency in radiation protection legislation. Development of the NDRP was completed in 2004. In 2006 the ACT government delivered on its commitment to adopt the NDRP by repealing the *Radiation Act 1983* and enacting the RPA.

Paragraph 2.4 of the NDRP states that the legislation should provide for the establishment of an advisory body to provide the "Authority and the Minister with policy and technical advice on radiation protection and nuclear safety matters". The NDRP also advocates for each jurisdiction to have a licensing authority, but offers no guidance as to whether the licensing authority and the advisory body should be separate and distinct, and leaves AAs and organisational resourcing as operational matters for jurisdictions to determine.

Under the now repealed *Radiation Act 1983* the Council functioned not only as the advisory body but also fulfilled some roles of what the NDRP refers to as "the Authority". The RPA was developed with a specific intention to retain this arrangement as the prevailing view was, as expressed by the then Minister for Health Katy Gallagher during debate of the Bill in August 2006, that it had "served the territory well for over 20 years".

Whilst retention of the radiation council as the licensing and registration authority in the ACT maintained the *status quo* locally, the approach amounted to a departure from national consistency. This is because in all other Australian jurisdictions, with the exception of WA, the licensing and registration authority is vested in the same administrative unit that is also the inspectorate, and the role of the appointed radiation council is only to provide advice to that administrative unit and to the relevant Minister. In WA all responsibilities are exercised by or on behalf of the Radiological Council, including enforcement.

The unique attributes of the ACT can generate challenges in regulatory service delivery due to the size of the territory, its limited resources, and the delivery of both state and local government functions. For a specialised area such as radiation protection the manifestation of these challenges has been an extremely small number of dedicated staff, and when necessary significant difficulty in recruiting personnel with the required qualifications. The small size of the dedicated unit also reduces diversity in the skills, experience and expertise of the unit.

As such, the key strength of the Council serving as the licensing authority has been that it has compensated for these challenges through the provision of additional specialist knowledge and expertise in the processing of licences and registrations. The arrangement provides that the decision-making authority for licences and registration has at its disposal a variety of expertise in a range of radiation fields, without the need for the government to employ such persons fulltime. It also enables new expertise to be easily introduced should new requirements be introduced into the legislation; a situation likely to occur if there is an increase in non-ionsing radiation sources to be regulated.

Nevertheless, the arrangement also has significant weaknesses beyond national consistency. The current arrangement means that the licensing authority (the Council) and the inspectorate (the HPS) are separate entities. This limits flexibility, discretion and responsiveness in circumstances which may warrant enforcement action, disciplinary action, or both. This also risks disagreement between the Council as the decision-maker on licences and registrations and the Directorate as the inspectorate on what might be the appropriate regulatory response to be taken, and delays in taking action.

Having more immediate impact is the effect on service delivery that results from the Council being essentially part-time; meeting every six weeks. Based on the survey of stakeholders conducted as part of this review, this was of particular concern to affected businesses and professionals. Those stakeholder views are acknowledged, however in recent years the Council has taken steps to mitigate the impacts of the Council's meeting frequency upon applicants. To reduce the potential for delays in processing, and to manage the increasing workload demands upon it, the Council has delegated a range of functions. Under the current delegation instruments, at Appendix 3, responsibility for a range of decisions on licence applications has been delegated to the regulatory agency; the HPS. Nevertheless, complex or technical matters must still be thoroughly considered by the Council as the decision-maker, and the composition and operation of the Council is not dissimilar to other committees or bodies comprising members with diverse expertise.

Whilst the delegation of the more routine licensing applications is a pragmatic decision, it raises the policy question of whether a reversal of arrangements would be better for service delivery. Under such a revised arrangement the licensing authority, being the decision-maker for licences and registrations, would be the administrative agency for the RPA. However, a shift to a model of this nature would require additional resourcing, particularly in regard to staff numbers.

Another option would be for the function to be assigned to the CHO; a statutory position created under the PHA which already oversees legislation protecting public health. Under arrangements of this nature more complicated applications would be referred to the Council for advice and recommendations. This approach would arguably be more responsive to the needs of regulated persons and businesses, as well as to the government, and would definitely be more consistent with arrangements in other jurisdictions.

Together with issuing licences and registering radiation sources, the provision of advice to the Minister on radiation protection issues is a core function of the Council under section 66 of the RPA. In regard to its advisory function, to date the Council's preferred approach has instead been to inform the HPS of gaps and deficiencies identified, and to work with HPS personnel to address such issues administratively.

The options to resolve the workload of the Council are limited. Increasing the meeting frequency or duration may not be a plausible solution because of the required composition of the Council under section 68 of the RPA. To have a Council with the necessary relevant qualifications and expertise means reliance upon various professionals whose participation at Council meetings is in addition to the busy demands of their normal professional position. As such, an expectation of a greater time commitment would likely result in reduced interest in Council membership. Under current arrangements the potential consequence of such a risk could be failure to achieve a quorum for meetings, or even a Council with full membership. This in turn would threaten the functionality of the Council and delay determinations of applications.

It is anticipated that when progressing development of any legislative reforms that may arise from the recommendations of this review, an associated part of that work will be preparation of implementation plans. As part of that work, consideration should be given to a comprehensive examination of the whether the Council should retain, in full or in part, the function of assessing and deciding on applications for licences and registrations. Such an examination would need to consider the strengths and weaknesses of the current arrangements and those of any viable alternatives identified.

RECOMMENDATION 3

When developing any legislative reforms arising out of this review further work should be undertaken to determine the most appropriate mechanism for assessing and deciding applications for licences and registrations, including whether an alternative arrangement for the exercise of this function (in full or in part) should be implemented.

Government Administrative Arrangements and Portfolio allocation

In the ACT the AAs determined by the Chief Minister establish which Minister and associated ACT government administrative unit (Directorate or agency) are to have responsibility for various Acts and functions. Both the RPA and its predecessor, the *Radiation Act 1983*, have always been assigned to the Health Minister and ACT Health.

However, not all jurisdictions have assigned radiation protection legislation to their health ministers and their health departments. The NSW Act is overseen by the Minister for the Environment and administered by the NSW EPA. The same approach is also taken in SA, with the SA Act administered by the SA EPA reporting to the Minister for Environment and Water.

In the ACT the determination of AAs is done by notifiable instruments, which do not require explanatory statements. As such the reasons of the Chief Ministers, past and present, for assigning responsibility for radiation legislation to the Health Minister and ACT Health is not declared. Nevertheless, it is reasonable to conclude that one reason for this would be simply a continuation of historical arrangements. Prior to self-government in the ACT the then Radiation Ordinance 1983 was administered by the Commonwealth agency responsible for health care in the Capital. Another likely reason is that the AAs were drafted to be consistent with the objectives of the RPA (and before it, the *Radiation Act 1983*) which includes protection “of the health and safety of people”. A further reason may be that the majority of radiation use in the Territory is associated with medical devices.

However, it should be noted that if assigning administrative responsibility is based solely on consistency with the Act's objectives the RPA could also have been treated in a similar way to Workplace Health and Safety legislation. Alternatively, as the objects of the RPA also include protection of "property and the environment" it would have been legitimate for the RPA to be treated in a similar way to Environment Protection legislation. With either approach, it would be reasonable to expect that the RPA would have been administered by Access Canberra reporting to the Minister for Regulatory Services. Nevertheless, the protection of human health focus of the RPA aligns better with other public health legislation, and with the focus of the ACT Health Directorate.

Prior to 1 October 2018 roughly 1,500 radiation licences issued under the RPA, or approximately 7%, were identifiable as being associated with the ACT Health Directorate. Furthermore, the ACT Health Directorate was the listed owner of around 12% of the roughly 700 registered radiation sources in the ACT. Although these percentages were not significant, they nevertheless still amounted to potential conflicts for ACT Health if regulatory action were to have ever been necessary. As such, prior to 1 October 2018 a risk associated with the Health Directorate being vested with responsibility for the enforcement of the RPA was 'regulatory capture'; the risk that the regulator is too closely associated with one or more entities that it is tasked with regulating, enabling direct or indirect influence to occur.

The potential conflicts that previously existed have however, been largely negated as of 1 October 2018 when the ACT Health Directorate became two agencies; ACT Health and Canberra Health Services. This division into two agencies has delivered a beneficial segregation of the health protection regulatory functions, which will be exercised by ACT Health, from the hospital and operational functions which are regulated under the RPA which now sit under the banner of Canberra Health Services.

Review of Act requirements in other jurisdictions

It was expected that all jurisdictions would adopt the principles contained in Part A of the NDRP, which sets out the agreed overall framework for radiation protection in Australia. However, despite Clause 2.5 in Part A of the NDRP requiring that jurisdictions review their legislation "at intervals not exceeding ten years", only the ACT, NT and NSW incorporated a review provision into their radiation protection legislation.

The ACT has been the first jurisdiction to formally review its radiation protection legislation since the agreed adoption of the NDRP.

The NT Act commits to a review in accordance with the provisions of the NDRP, however as the NT Act did not commence until October 2009 the NT Act has yet to reach its tenth anniversary of operation, and as such is yet to be reviewed.

In August 2002 a review provision was inserted into the NSW Act which required a review to "determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives". The review clause required that the review be undertaken after 10 years of operation from the date that the review provision commenced (1 August 2002). However, in 2010 NSW made further amendments to its radiation legislation, and as a result restarted the clock on its review. As such, the required review of the NSW Act is to commence in late 2020.

Although the other jurisdictions did not include within their legislation a formal review requirement, most have nonetheless updated their respective legislation since the publication of the NDRP. Victoria passed a new Regulation in 2017, and Tasmania did the same the year prior (2016), whereas WA has made eight (8) amendments to the WA Regs in the years following the NDRP's inception and is reviewing the WA Act.

The National Directory for Radiation Protection

Purpose of the NDRP

As the foreword to the NDRP explains, the purpose of the NDRP was to provide "an agreed framework for radiation safety", and was to be a "means of achieving uniformity in radiation protection practices between jurisdictions". Being faithful to that objective, the RPA was developed to implement the principles in the NDRP, and was drafted so that wherever possible provisions of the NDRP were directly referenced.

Content gaps within the NDRP

This intended approach, and in particular the direct referencing of NDRP provisions, should have ensured that the ACT legislation was perpetually current, comprehensive and consistent with the rest of the country. This legislative approach should have been a strength, but because the NDRP remains incomplete and in key areas devoid of content, the reliance on the NDRP has instead resulted in weaknesses and deficiencies in the ACT legislation. Of greatest concern is the absence of content in Schedules:

- Schedule 8
  (Nationally agreed security requirements for persons applying for authorisation to possess, store or use a radiation source),

- Schedule 10
  (Minimum set of nationally agreed accreditation requirements for third-party service providers); and

- Schedule 12
  (National adoption of extracts from codes and standards).

The lack of detail in Schedule 2 (Categories of non-ionising radiation) and the absence of content in Schedule 3 (Radiation facilities) has a lesser impact on the ACT, but nevertheless undermines the nationally consistency objective of the NDRP.

Deficiencies of the RPA as a result of content gaps in the NDRP

Due to the absence of detail in the NDRP the RPA is also devoid of detail concerning management obligations such as safety management plans or training, or regular safety and compliance testing, or technical requirements such as security and shielding.

A lack of specificity in various aspects of the NDRP also undermines the desired objective of national uniformity. Consistency in regard to the functions of radiation councils in each jurisdiction have already been discussed.

RPA Deficiency: No public access to register of licences

Clause 2.3(k) of the NDRP directs that the legislation in each jurisdiction is to provide for the maintenance of "a register of radiation sources, including requirements for amendment of the register", but is silent as to whether such a register should be publicly accessible, and if it is, whether the register should be accessible and searchable electronically. As a result the approaches around Australia vary. The ACT and WA require the maintenance of a register, but are silent as to public access. Accordingly, in the absence of express legislative authority to share such details with the public, the legislation in the ACT and WA should be interpreted as not permitting public access. Tasmania is the only jurisdiction to expressly deny public access.

The remaining jurisdictions all expressly permit public access in varying forms. Queensland requires a register of licensees, accredited persons, qualified persons, inspectors and radiation analysts. In Victoria, the legislation requires the keeping of a range of details in a register, but the information that may be published on the internet is confined to select details concerning licensees. NSW's legislation requires the keeping of a register only in relation to select details about licences issued, but expressly requires that the register be accessible both at the offices of the regulatory authority during business hours and on the regulatory authority's website.

Based on the survey of stakeholders there would be support for the ACT to adopt a publically accessible register of radiation licences, provided that it was limited to the extent appropriate for privacy and security. Such an approach would also be in keeping with the ACT Government's commitment to transparency in process and information.

RECOMMENDATION 4

That the RPA be amended so that information in the register of licences, limited to the extent appropriate for privacy and security, be accessible by the public through an online portal/website.

RPA Deficiency: Non-ionising radiation

Whilst the focus of radiation protection legislation has always been ionising radiation, as a result of a recommendation from the NCP Review the NDRP was drafted with the intention that it would also apply to select forms or sources of non-ionising radiation to be listed in Schedule 2. When the NDRP was first published in 2004 Schedule 2 contained no content, but there was a clear intention that the Schedule would be progressively populated over time.

Schedule 2 of the NDRP was updated in April 2010 to add tanning units "used for cosmetic purposes within a solarium". As the ACT was aware that this amendment to the NDRP was scheduled the ACT had begun work early to adopt this NDRP amendment, and as a result the Radiation Protection (Tanning Units) Amendment Regulation 2010 (No 1) was notified in July 2010 and commenced on 17 November 2010. The ACT has since gone further and banned tanning units used for cosmetic purposes within a solarium in line with the majority of the other jurisdictions.

Since 2010 no further content has been added to Schedule 2, even though concerns have been repeatedly express nationally about Class 3B and Class 4 lasers, and the use of IPL devices in the beauty and cosmetic industry. It is also arguable that at the very least guidelines and exposure limits should be introduced for the use of RF technologies (such as MRI devices), as well as occupational exposure limits to artificial ultraviolet radiation in laboratory and industrial applications.

RECOMMENDATION 5

That the ACT urge the RHC to make greater strides towards addressing the regulation of non-ionising radiation apparatus that have the potential to cause harm, such as Class 3B and Class 4 lasers, and IPL devices.

RPA Deficiency: Monitoring of occupational and public exposure

The NDRP lacks specific content regarding the monitoring of occupational and public exposures. Instead such detail is left to COP and Standards published as part of the RPS. Although some of these COP and Standards are listed in Schedule 11 of the NDRP, and as such should have been adopted by each jurisdiction, their inclusion as separate documents has resulted in the RPA lacking specific provisions in this area. In contrast, most other jurisdictions, including NSW, have specific detail within their legislation concerning radiation workers, the usage of personal dosimeters, and monitoring of exposure.

RECOMMENDATION 6

That the RPA and/or RPR be amended to include either specific provisions concerning radiation monitoring or addressed as part of required plans for radiation safety, shielding and security.

Deficiencies of the RPA as a result of inadequately adopting or referencing the NDRP

There are few instances where the NDRP has content that the RPA failed to replicate, or adopt adequately.

RPA Deficiency: Functions of the regulatory authority

Under clause 2.3 (o), a function that the NDRP proposes should be conferred on the 'authority' is to:

> promote or conduct studies, investigations and research associated with radiation protection and nuclear safety, including public health and safety and environmental considerations

At present there is nothing within the RPA that gives full effect to this component of the NDRP. Some jurisdictions such as WA, Queensland and Victoria have regarded the promotion and conduct of studies and research as being consistent with the advisory functions of their radiation advisory council. Others have treated this as being connected to the functions of the administrating agency, assigning this role to the relevant head of agency or in some cases the CHO.

RPA Deficiency: Fit and proper persons

The NDRP at clause 2.8 specifies that an 'authority' must be able to refuse an authorisation (a licence, registration or accreditation) if, amongst other things, the "applicant is not a fit and proper person".

Most jurisdictions utilise the phrase "fit and proper person" expressly. Those that do not use the express phrase instead detail factors that an applicant must be able to satisfy in order to essentially be 'fit and proper'. This often includes convictions or breaches of the legislation or comparable legislation, but can also include bankruptcy and insolvency. It also not uncommon for legislation to regard family members, or other so called 'close associates' or 'influential persons' to be considered when determining an applicant's fitness.

At present, when determining an application for a licence under section 17 of the RPA, the Council is to refuse a licence if the applicant lacks the capacity to satisfy requirements in Schedules 6, 7 and 8 of the NDRP, or if "it is not in the public interest to issue the licence". However, as previously noted Schedule 8 of the NDRP is devoid of content, and the RPA gives no guidance as to what matters the Council may validly consider to be relevant to 'the public interest'. As such, the Council's ability to effectively consider an applicant's suitability is limited due to the limitations of the current legislative provisions.

Accordingly, the licensing provisions of the RPA could be significantly improved if greater detail were included about matters relevant to an applicant being regarded as 'fit and proper'. To that end, a robust and well drafted model exists in the licensing provisions of the ACT MPTGA; for which ACT Health is already accustomed to administering.

RECOMMENDATION 7

That the RPA be amended to enhance the provisions about determination of licences, adopting similar provisions and requirements to those within the ACT MPTG Act.

RECOMMENDATION 8

That amendments be made to Division 3.2 (Licensing) and Division 3.3 (Registration of radiation sources) of the RPA to include detail about matters that may be validly taken into consideration by the decision-maker concerning whether the applicant is 'fit and proper', and their overall suitability.

RPA Deficiency: Codes of Practice

One of the requirements that radiation protection legislation in each jurisdiction set out in the NDRP is, as per Clause 5.1, that COP and standards referenced in Schedule 11 of the NDRP "must be adopted". The clause goes on to indicate that adoption by direct referencing is preferable, but also contemplates an alternative approach of applying a code or standard as a standard condition on a licence or registration. At present Schedule 11 lists ten COP and three Standards. However, Schedule 11 is already out of date as one of the Standards listed, RPS1, has been superseded by three more recent publications.

RPS 1 consisted of *Recommendations for Limiting Exposure to Ionizing Radiation (1995)* and a *National Standard for Limiting Occupational Exposure to Ionizing Radiation (1995)*. Those documents are now superseded by:

- Fundamentals for Protection Against Ionising Radiation (2014) (RPS F-1)
- Code for Radiation Protection in Planned Exposure Situations (2016) (RPS C-1)
- *Guide for Radiation Protection in Existing Exposure Situations (2017) (RPS G-2)*

The COP and Standards referenced in the NDRP are developed to be regulatory in nature. As such they are constructed using mandatory or compelling language such as “must’ and “shall”, as opposed to “should” as is more common with ordinary COP and Standards. Accordingly, in adopting these COP and Standards mechanisms are required in order to support and compel compliance.

Section 116 of the RPA provides the Minister the power to approve COP or Standards, but the section did not provide for direct referencing or automatic adoption. As such, to adopt under the RPA COP or Standards listed in Schedule 11 of the NDRP, each document would need to be specifically approved by the Minister. No COP or Standards have been approved under section 116 to date. As such, the Council has made compliance with relevant COP appearing in Schedule 11 conditions on licences and registrations.

Under Division 3.4 of the RPA disciplinary action can be taken against a person should they fail to adhere to a condition on their licence or registration, and for contravening a law of the Territory, which would include approved COP or Standards. However, such disciplinary actions are confined to administrative sanctions such as reprimands, further conditions, suspension or cancellation. As there are no associated offences, prosecution is not an available option. The creation of an offence for failing to comply with requirements in COP (or Standards) similar to that in section 20 of the PHA would add an additional enforcement option, and provide a greater indication to regulated persons of the importance of compliance with such instruments.

RECOMMENDATION 9

That the RPA be amended to include a provision similar to section 20 of the PHA which would make non-compliance with a COP an offence.

RECOMMENDATION 10

That COP and Standards listed in Schedule 11 of the NDRP be approved as COP under section 116 of the RPA (noting that the Standard that was RPS 1 has been superseded by RPS F-1, RPS C-1 and RPS G-2).

RPA Deficiency: Provisions concerning disposal

Although dealing with a radiation source under the RPA includes disposal, the RPA currently only contains specific provisions concerning the disposal of prohibited radiation sources. There are no specific provisions addressing disposal of regulated radiation sources or radioactive waste, despite requirements being set out in Schedule 14 of the NDRP (Requirements and limits for the disposal of radioactive waste by the user).

RECOMMENDATION 11

That the RPA and/or RPR be amended to include either specific provisions concerning disposal of radiation sources and/or material or addressed as part of required plans for radiation safety, shielding and security plans.

Comparison with legislation in other jurisdictions

Third-party Service Providers

Despite the absence of content in Schedule 10 of the NDRP (Minimum set of nationally agreed accreditation requirements for third-party service providers), the ACT is the only jurisdiction that doesn't have provisions governing the role and accreditation of third-party service providers. This is a significant weakness as the main function of third-party service providers in all other jurisdictions is certifying compliance of radiation sources.

Having approved third-party service providers audit and certify compliance at the expense of source owners has numerous benefits. It reduces the burden of routine inspections on the licensing authority. This reduces the costs to government as the number of skilled and qualified inspectors to be employed is reduced without incurring a reduction in compliance audits; and by extension safety.

Furthermore, the administrative burden and cost of having a radiation source checked for compliance is transferred to the source owner. In effect routine auditing of radiation source compliance is outsourced, but without a corresponding cost to government. Critically, the onus and the expense of ensuring a source is compliant upon installation, and periodically checked thereafter throughout the operating life of the source, is the responsibility of the source owner.

Queensland and Tasmania confine the scope of work of third-party service providers to certifying compliance. Victoria goes further, approving persons to provide testing services and assessment of security plans. Similarly, NSW has two types of accredited third-party service providers; security assessors whose accreditation is confined to reviewing, amending and endorsing security plans, and 'radiation experts' who may certify compliance, assessing shielding of sources and advise and assess radiation safety requirements. WA also approves radiation 'experts', who in addition to surveying compliance and calibration of sources may also be engaged by owners of registered sources or facilities to provide advice on radiation safety matters and shielding.

Accredited third party-service providers in SA have perhaps the widest array of functions, with accreditation authorising providers to conduct tests on sources, assess compliance with the SA legislation and issue certificates of compliance, as well as conducting training for the purposes of the Act and any other functions approved by the Minister.

The irony is that the ACT is currently reliant on third-party providers anyway. In order to compensate for its limited resourcing and operational capacity, ACT Health has been outsourcing compliance auditing for several years. However, due to a limited budget auditing has only been conducted of new sources, ensuring they are properly installed and calibrated before becoming operational.

Radiation Protection, Security and Shielding Plans

A similar situation exists in relation to security plans. Despite the absence of content in Schedule 8 of the NDRP (Nationally agreed security requirements for persons applying for authorisation to possess, store or use a radiation source) the majority of the other jurisdictions have generated their own requirements. Queensland, Victoria and NSW have specific provisions concerning security plans, whereas Tasmania and NT have detailed provisions requiring radiation plans generally. As was the case with third-party service providers, WA and the ACT have no provisions at all.

It should be a fundamental duty imposed upon owners of radiation sources to have given due consideration to, documented, and had approved, a range of key matters governing the safe management and security of the source. This was clearly contemplated when the NDRP was first developed, but no agreed content has yet been added to the NDRP. In the absence of NDRP guidance on content most jurisdictions have developed their own requirements. For the ACT, amending the RPA to require that source owners develop and adhere to plans addressing radiation management and security will assist greatly in ensuring that source owners understand and comply with a range of obligations, included around matters such as the safe and proper relocation or disposal of sources.

RECOMMENDATION 12

That amendments be made to the RPA requiring registration applications to be accompanied by plans addressing radiation safety (including shielding) and security matters.

Radiation Safety Officers

The legislation in SA and Queensland imposes a requirement upon some licenses to appointment of 'radiation safety officers', whereas in NSW the licensing authority has the power to direct an employer to appoint a 'radiation safety officer'. Under Victoria's Act provisions concerning radiation safety officers can be included in Regulation, but at present no such requirements are imposed.

In many respects the functions of a 'radiation safety officer' under the SA and Queensland legislation are a lot like a Health and Safety Representative (HSR) under the Work Health and Safety legislation in that their purpose is to bring issues of safety to the attention of the employer, and to assist the employer and other employees with overall radiation safety compliance. The obvious difference from that of a HSR is that a 'radiation safety officer' must hold specified radiation qualifications in order to be appointed. A further key difference is that unlike a HSR, a 'radiation safety officer' is chosen by the employer.

From a risk regulation perspective, radiation safety officers are a logical requirement for several reasons. Requiring radiation safety officers is consistent with, and advances the philosophy that responsibility for workplace safety is shared by government as legislator and regulator, owners of radiation sources, employers and managers of persons that deal with radiation sources, and by radiation workers themselves. Indeed, the SA legislation even defines a 'radiation worker' and imposes safety duties on such persons in much the same way that Work Health and Safety legislation also places duties on workers.

Furthermore, the requirement for 'radiation safety officers' is a recognition that regulators have finite resources which places limitations on the regulator's ability to monitor compliance, and to become aware of safety issues, incidents or 'near misses'. Accordingly, for a jurisdiction such as the ACT a requirement for 'radiation safety officer' embedded in the RPA is likely to be of significant benefit in overall radiation safety compliance in the Territory.

RECOMMENDATION 13

That the RPA and/or RPR and subordinate legislation be amended to:

a) require owners of radiation sources to appoint radiation safety officers,
b) specify appropriate qualifications of radiation safety officers; and
c) specify the role and responsibilities of radiation safety officers.

Penalty levels under Regulations

As the *Guide for Framing Offences* published by JACS in 2010 explains, it is ACT government policy that subordinate laws such as the RPR should not contain serious offences, and that minor offences can be included provided that "the penalty does not exceed 20 penalty units (30 penalty units in exceptional cases). In the ACT the value of penalty units is specified as $150 for an individual and $750 for a corporation by section 133 of the *Legislation Act 2001*. These penalty unit values have not changed since 23 August 2014.

There are examples of offences in ACT Regulations that are greater than 30 penalty units; many of which post-date the *Guide for Framing Offences* document. All of the offences in the Unit Titles Regulation 2001 carry a maximum penalty of 60 penalty units, and those offences were all inserted by SL2010-37 which was notified in September 2010. Similarly, section 34 of the Building (General) Regulation 2008 carries a maximum penalty of 50 penalty units, and this offence was inserted by SL2016-44. Also carrying a 50 penalty unit maximum is section 24X (4) of the Waste Management and Resource Recovery Regulation 2017.

In contrast, the Regulation-making power contained in section 122 of the RPA permits the RPR to create offences, but restricts the maximum penalty to an offence under the RPR at 10 penalty units. Accordingly, the maximum penalty that can be imposed upon an individual for an offence under the RPR is a monetary penalty of $1,500, and for a corporation it is $7,500.

In comparison, the maximum penalties that can imposed upon corporations is dramatically higher in NSW, NT, SA and Tasmania. In regard to the maximum penalties that can be imposed upon an individual, only WA imposes a lower maximum penalty than the ACT ($1,000 in WA vs $1,500 in the ACT).

In dollar amounts, Tasmania has the highest maximum penalties in the country for offences under radiation protection regulations, with both corporations and individuals subject to a maximum penalty of $79,500. However, SA has perhaps the toughest maximum penalties for offences under its Regulation. Like Tasmania, the same maximum penalty applies to both individuals and corporations. Whilst in dollar amounts it is less than Tasmania, at $50,000, SA is the only jurisdiction in Australia for which a term of imprisonment (of up to 5 years) is possible for an offence in its Regulation.

Unfortunately the ACT's maximum penalty for an offence under the RPR is also significantly less than that across the border in NSW. In NSW individuals face a maximum penalty of $22,000 and corporations double that amount. Even if the maximum penalties in the RPR were elevated to 30 penalty units, the potential maximum penalty faced for an offence in the ACT would still be significantly less than that under the NSW Reg.

As a consequence, the current restrictions in section 122 of the RPA weaken the value of the subordinate legislation, and in particular requirements supported by offence provisions. This in turn serves as disincentive to including in the RPR provisions and requirements for which offences provisions are needed. The result is a choice between inclusion in the RPR with an inadequate penalty level, and including in the RPA a level of detail that would be better contained in the RPR.

RECOMMENDATION 14

That section 122 of the RPA be amended so that maximum penalties connected to offences in the RPR are at a level more comparable to those in NSW.

Other improvements

Exemptions by Authority in emergencies or special circumstances

Section 38A of the NSW Act assigns to the Authority an extremely useful power to grant exemptions (for not greater than 5 years) to certain persons in select special and unusual circumstances. Emergencies are expressly addressed. Also contemplated are circumstances in which the Authority accepts it is not practicable for a person to comply with a specific requirement, and that non-compliance will not have any significant adverse effects. The provisions of the NDRP regarding exemptions did not contemplate such a provisions, but such a provision is also not inconsistent with the general criteria for exemptions outlined in the NDRP.

Emergency powers are provided in Division 3.7 of the RPA, which include at section 47 a ministerial power to make a range of emergency orders, which include detaining persons and requiring persons to undergo a decontamination procedure. Section 47(f) also permits an order for "any other requirement necessary to protect the health or safety of people or to prevent damage to property or the environment". The breadth of the power in section 47(f) is likely sufficient to address matters such as ordering a person without a licence to handle or transport a radiation source in an emergency situation.

Nevertheless, what is not provided for is a power to grant an emergency exemption. As such, if an exemption were more appropriate the minister would need to utilise the exemption power in section 114. However, an exemption under section 114 is a disallowable instrument and as such is subject to the normal processes for such instruments (although some processes, such as the need for a RIS, could be waived because it is in response to an emergency).

The distinction between an order and exemption in an emergency is potentially important. An order would require much more specificity; for an entity or entities to do a range of actions. In contrast, an exemption is better suited to addressing uncertainty; exempting entities from all or some requirements of the RPA necessary to respond adequately to the fluid nature of an emergency situation. As such, a potentially valuable inclusion for the RPA would be provisions enabling in emergency situations temporary exemptions, for which the requirements are more flexible that those presently in section 114 of the RPA.

Also deserving of consideration is the power provided by section 38A of the NSW Act to provide for time-limited, temporary exemptions. Under the NSW Act such exemptions can be used in emergency situations, but also to address rare and unusual circumstances in which full compliance with a requirement, or requirements, of the legislation is not reasonably practicable. For example, under section 60 of the RPA a person commits an offence if they fail to apply to register a radiation source within seven days of acquiring the source. In most instances seven days should be sufficient. However, in a few rare instances a greater amount of time may be required, and on those occasions it would be preferable for the licensing authority to have the ability to grant a temporary exemption to enable such works to be completed.

RECOMMENDATION 15

That amendments modelled on section 38A of the NSW Act be made to the RPA to give an exemption power, limited to specific circumstances, to the decision-making authority for licences and registrations.

General drafting improvements

After ten years of operation the RPA and RPR would benefit from an overall audit of terminology, references and currency. One such example of a section requiring revision is section 14 of the RPA which addresses diagnostic or therapeutic procedures involving a radiation source "at the request of a doctor". The limitation to a "doctor" does not adequately reflect the reality that such a request can come from some other categories of health professionals, such as by nurse practitioners. Indeed in relation to the categories of health professionals that can make certain types of diagnostic and therapeutic requests involving use of a radiation source, the approach taken in the Queensland legislation is one that could be considered, with modification for local factors.

RECOMMENDATION 16

That an audit of terminology and references within the RPA and RPR be conducted for minor and consequential improvements.

RECOMMENDATION 17

That references to a 'doctor' in Division 3.1 of the RPA be removed and replaced with "authorised person"

Guidance material

The understanding of persons regulated under the RPA of their roles and responsibilities under the legislation would be aided significantly through the preparation of a range of fact sheets and guidance material. For example, there is a lack of awareness that in order to relocate a radiation source the source's owner must first apply for, and have approved, an amendment to the registration. Similarly, there the level of understanding of disposal requirements and processes could be improved through easy to find and follow fact sheets. A further area that could benefit from fact sheets and guidance material is the reporting of dangerous events and radiation incidents, particularly as most of the relevant provisions of the RPA reference the NDRP without additional context or detail.

RECOMMENDATION 18

That ACT Health and the Council develop fact sheets and guidance documents aimed at improving radiation safety understanding and regulatory compliance.

Fees under the RPA

The basis for fees imposed under the RPA and the fee levels set are not issues addressed by the NDRP as these are extraneous to a nationally consistent regulatory regime for radiation protection. Furthermore, the determination of fees for the ACT is based on factors unique to the ACT, such as ACT government policies and administrative costs for ACT Health. These considerations will therefore take precedence over consistency with the NDRP and the legislation of other jurisdictions.

Nevertheless, fees are part of the regulatory burden. Beyond simply adding an operating cost to regulated entities, fees also serve as a regulatory tool. With careful assessment and a sound policy rationale, the setting of fees can be used to incentivise or deter behaviour. The unnecessary proliferation of nuclear material or the retention of surplus radiation apparatus can be influenced by the fee burden associated with registration. However, setting a fee too high can be a disincentive to compliance, as the cost burden can risk some persons choosing to instead operate without registration and risk potential enforcement action. Similarly, if fees constitute too great a cost burden it can discourage operators from coming to, or remaining within, the ACT.

For these reasons the fee levels set are of significant concern to persons and businesses operating under the RPA, and those concerns are exacerbated for those that may operate and be regulated in several jurisdictions. This was very much evident through the feedback received from the stakeholder survey conducted as part of this review. Of particular concern to those subject to regulation under the RPA was the fee levels in the ACT in comparison to the other jurisdictions.

In the ACT fees for the RPA are determined by the Minister by disallowable instrument, and are usually adjusted annually to account for inflation. The current determination, the Radiation Protection (Fees) Determination 2017 (No 1) commenced on 1 January 2018 and set the fee for a one year term of a licence at $251, and the same amount for a one year term for a registration. Both licences and registrations can be issued for two or three years, but there is no discount or penalty for the longer duration licences. The fee is simply the one year term fee multiplied by the corresponding number of years. For example, a two year licence is $502 and three year registration is $753. There isn't a separate fee for applications.

Under the RPA any person that 'deals' with a radiation source requires a licence, and dealing is framed as to include manufacture, possession, supply, use, and disposal, as well as storing, packing and transporting radioactive materials. A licence may be issued, with or without conditions, to authorise one or more these forms of dealing which will incur the prescribed fee. However, in the ACT there is no scaling of licence fees based on the type of dealing, the type of source to be dealt with, or the applicant's profession.

Similarly, any radiation source to which the legislation applies requires registration. The associated fee payable for that registration does not differ irrespective of the size, age or purpose of the source, nor the risks associated with that source. There is also no variation in the fee based on the intended purpose of the source or profession of its owner, and a source owner must pay the registration fee for each and every source owned, and does not qualify for a discount for registration of multiple sources.

There were numerous comments provided through the stakeholder survey asserting with frustration that the fees in the ACT are much greater than those in the other jurisdictions. In some respects these assertions are valid. The majority of licensees obtain a licence primarily in order to legally use a radiation source which they do not own. The fees imposed in such circumstances around the country differ greatly. As mentioned above, in the ACT the fee for a one year licence is currently $251. A comparable one year licence will cost $195.84 in Tasmania, $156.50 in Queensland, $115 in SA and just $75 in WA and $71.10 in Victoria. In NSW the corresponding fee is subject to what (basis) that the licensee is subject, with the cheapest being $176 and the most expensive being $235.

The comparisons are more severe for multiple year licences. Other than the ACT, the only other jurisdictions granting multiple year licences are NSW, Queensland, WA and Victoria. However, each of those states essentially incentivises multi-year licences, with longer licences being proportionally cheaper than single year licences. In Victoria the difference is minimal, whereas in Queensland an applicant that opts for a three year licence will pay approximately 40% less than an applicant renewing year to year. In WA only one year or three terms are available, but a three year licence is precisely twice that of a one year licence, making the longer licence term more financially beneficial. In the ACT licences can be issued for two or three years, but there is no discount or penalty for the longer duration licences. The fee is simply the one year term fee multiplied by the corresponding number of years. For example, a two year licence is $502 and three year registration is $753.

Victoria, SA and Tasmania impose an application for new licences. Victoria's application fee is a modest $64, whereas new applicants pay $195.84 in Tasmania and $258 in SA. The ACT does not impose a separate fee for applications.

However, when drawing comparisons it is necessary to note that the ACT, WA and Victoria are the only jurisdictions that impose the same fee for all licence types, whereas the others impose a much higher fee for licences that authorise possession and use. For example, a one year licence to possess a radiation source in Queensland is $718.50, or $1176 if the source is deemed "security-enhanced". The fee in Tasmania depends on the number of apparatus to which the licence relates. A one year possession and use licence costs $315.18 for a single source, $439.11 for two sources, $752.76 for three sources, and four or more will cost $862.92. Again, new applicants in Tasmania must also pay an application fee, adding a further $195.84 to the cost of a first time licence.

Another factor that makes comparisons difficult is that not every jurisdiction imposes a fee for registration of radiation sources. Despite clause 4.6.1 of the NDRP clearly stipulating that "[a]ll apparatus, sources and premises in the categories specified in this Directory must be registered", Queensland, NSW and Victoria do not have registration requirements. Tasmania has taken a different approach as it only requires a once off registration of places associated with radiation equipment or facilities, for which it charges $325.48.

In the jurisdictions that require registration of sources, the fees imposed vary greatly. In the NT an annual registration fee for an apparatus, place, or sealed source costs $118. In WA registrations are for one year or three terms, but the registration costs cover multiple sources. Fees are charged for two or less, three to five, five to ten, or eleven or more sources, with the cost burden essentially reducing as the number of sources registered increases.

In SA radiation sources are categorised into levels each with a different corresponding application fee and registration fee, with registrations limited to one year terms. The cheapest registration in SA, being for a level 1 apparatus, is $739 (comprised of a $501 application fee and $238 registration fee), whereas a level 3 apparatus has the highest cost at $1067 (consisting of a $651 application fee and a $416 registration fee).

Further complicating comparisons is that despite it being inconsistent with the NDRP, and thereby undermining national consistency, some jurisdictions have granted select professions exemptions from licensing. In WA there are some limited exclusions for the need for a licence applying to dentists. In the NT chiropractors, dental practitioners, nuclear medicine technologists, GPs, registered nurses and radiation therapists all require a licence. However, diagnostic radiographers are treated differently and do not require a licence, provided that they are registered with AHPRA.

Indeed the national registration of health professionals by AHPRA, which did not exist when the NDRP was developed in 2004, gives rise to questions about potential regulatory duplication of many radiation licence-holders.

Ultimately, there is however enough evidence to suggest that the policy basis for the fees imposed under the RPA is overly simplistic. Consideration could be given to fee variations based on the level of risk, which would be aided by requirements concerning plans for security, shielding and/or radiation management plans. Furthermore, consideration should be given to whether the ACT wishes to incentivise registrations and/or licences of either a shorter or longer duration.

RECOMMENDATION 19

That the ACT consider whether or not there is justification for reducing the regulatory burden under radiation protection legislation for any or all categories of health professional registered with AHPRA, and engage with the RHC as appropriate.

RECOMMENDATION 20

That a review of the fee arrangements under the RPA be conducted, having regard to the associated level of risk of licence and registration types and the cost burden on ACT professionals and businesses.

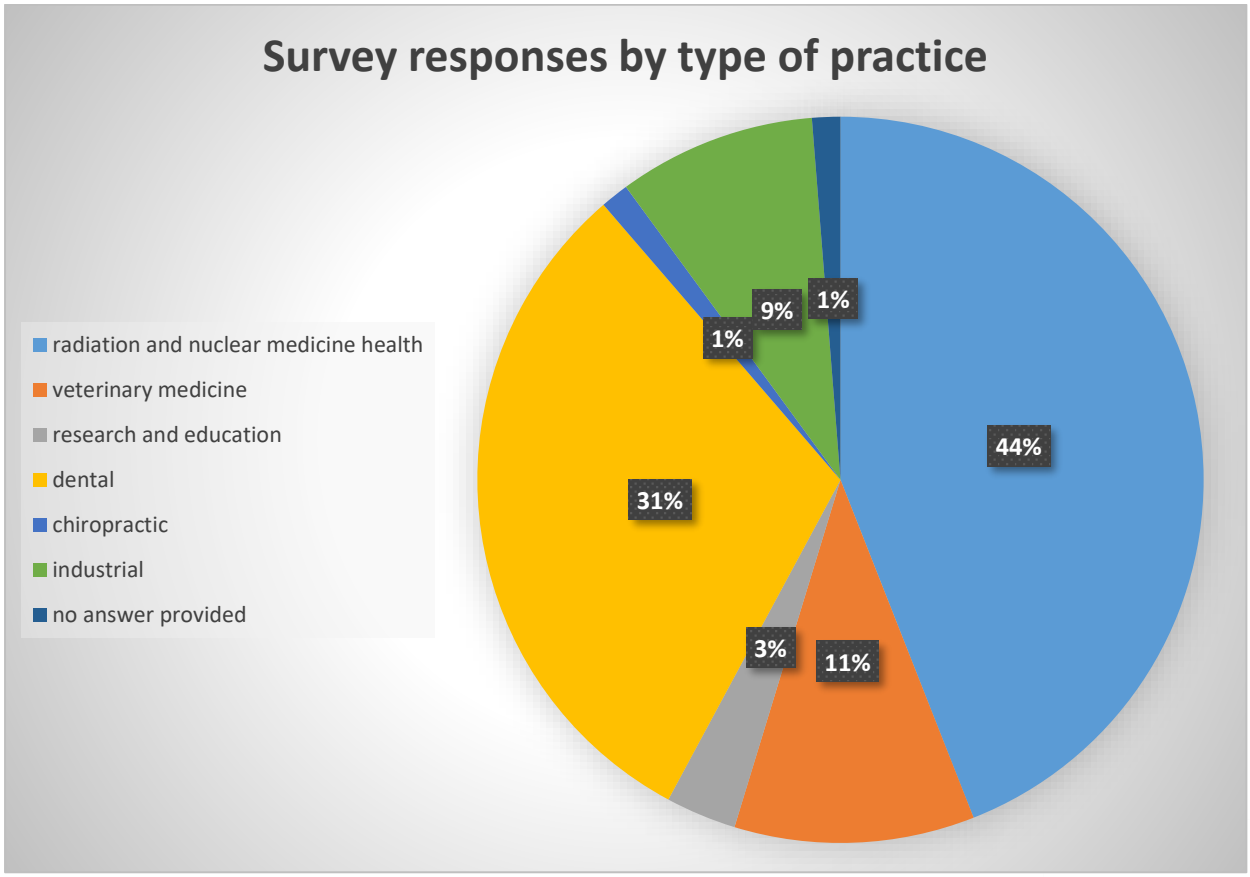
Stakeholder survey results

As part of the review of the RPA the HPS conducted a survey of stakeholders. The survey, using the Survey Monkey™ platform, was sent to all RPA licensees and owners of registered sources for which the HPS had email addresses. The questions posed are reproduced at Appendix 2.

The survey results are summarised below, and are reflective of the views and submissions received. However, this section is confined to the reporting of the results and responses received, and does not seek to confirm or reject the currency or accuracy of the views expressed by the survey respondents.

The stakeholder survey commenced on Friday 1 June 2018 and officially concluded on Friday 22 June (1 survey was completed on Saturday 23 June). A total of 159 survey responses was received.

The greatest number of survey responses occurred on the day that the survey was first sent (1 June), the following day, and the day that a reminder message was sent (19 June). By type of practice, the greatest number of responses came from those in radiation and nuclear medicine (70 responses) and dental (49 responses). The graph below reflects the breakdown of respondents by their type of practice.



Trends within the three largest practice categories

Radiation and nuclear medicine

A strong majority of those that identified their practice as being radiation health or nuclear health thought the legislation would be more effective if it required a management and/or safety plan (70.77%), a security plan (62.3%), a shielding plan (80%), and more detail about occupational dose limits (66.67%). A smaller majority saw benefit in greater detail about public exposure limits (53.85%). However, in regard to whether the legislation would be more effective if there were more guidelines and/or COP, the views were fairly evenly divided (48.44% favouring more, and 51.56% against there being more).

Dental

Of those that identified as being a dental practice, approximately ¾ of respondents were of the view that the legislation would be more effective if it required a radiation and/or management plan as well as a shielding plan for their practice. A slim majority (54.55%) were of the view that the legislation would not be more effective if it required a security plan for their type of practice.

A clear majority of those that identified as being a dental practice favoured more detail in the legislation about occupational and public exposure limits. A small majority (59.09%) were in favour of more guidelines and/or COP.

Veterinary medicine

The need for radiation management and/or safety plans was overwhelming supported (93.75%) by respondents who identified their practice as being veterinary medicine, and the same was true for shielding plans (80%) and detail about occupational dose limits (92.86%). However, only 40% saw a need for security plans for their practice.

A large percentage of those in veterinary medicine also wanted to see more guidelines and/or COP (85.71%).

Disposing of, or relocating, a radiation source

Approximately two thirds (56 of 159) of those that undertook the survey skipped this question. Of those that did complete the question, approximately two thirds (38 of 56) stated that they consulted the legislation. For those that did consult the legislation, it was again about two thirds that thought the legislation was useful. . Comments provided indicate that finding the relevant information/detail was difficult, and several indicated that they resorted to contacting the HPS or to reading the NDRP, RPS6 or the NSW legislation instead. Curiously, there were two comments about consulting WA Health.

Stakeholder views: publicly accessible register of licences

The views of respondents as to whether there should be a publicly accessible register of radiation licences remained fairly evenly split. The final result being that just over half (57.24%) are in favour of a register. Only 7 of the 159 respondents skipped the question, so the result is a good representation of views held. Transparency and information for patients was a common comment, as was questioning why it is necessary. Privacy and security were the main concerns expressed in the comments. There were several comments from respondents who identified as being radiation/nuclear medicine health professionals which would indicate that there is still a lack of understanding as to the different basis between AHPRA registration and radiation licensing.

Stakeholder views: publicly accessible register of registered sources

Just over half (54.90%) of respondents were not in in favour of a register. Transparency was the most common comment in support of a register, whereas the articulated reasons against where primarily about a failure to see a reason for the register or concerns about security.

Stakeholder views: A performance testing schedule

112 respondents (76.19%) favour a performance testing schedule, whereas only 35 did not. 12 respondents skipped the question. In regard to whether the legislation should specify a performance testing schedule 64 respondents agreed, 25 disagreed, and 5 skipped the question.

Stakeholder views: Activities that are not regulated but should be

Only 18 respondents thought that there were activities that are unregulated but which needed to be regulated. One comment was that adherence to the use of PPE should be audited, and indicated that their observations in ACT operating theatres was a poor radiation safety culture. A concern was also expressed about a failure "to protect equipment from modification outside of the manufacturers' specifications". Another respondent commented about differing understandings about who requires a radiation licence, and referred specifically to radiology registrars and radiologists.

The activities that were nominated include:

- Cosmetic hair removal, IPL and lasers.
- 3D cone beam x-rays by orthodontists/dentists.
- Monitoring of exposure of practitioners.
- Airport security apparatus and personnel.

Stakeholder views: Activities that are regulated but should not be

110 respondents answered the question about activities/requirements which are unnecessary, and of those only 28 suggested that there were activities which shouldn't be regulated. However, many of the comments provided were criticising either the need for a licence or registration (such as for dental intraoral radiographs) or the fees imposed in the ACT.

Stakeholder views: Strengths of the legislation

Only 59 respondents (about a third) completed this question.

In regard to the question of the strengths of the legislation, 57 respondents skipped the question. Of the 37 that answered, several respondents indicated that they hadn't read the legislation or had no comment to offer. There were also a few respondents that suggested there the legislation had no strengths, or who instead spoke of weaknesses such as the legislation having "no real guidelines to follow".

Stakeholder views: Weaknesses of the legislation

A large number (92 of the 159) also skipped this question.

Not surprisingly, of the 42 respondents that chose to answer the question about the weaknesses/deficiencies of the legislation, the majority spoke of the fees being expensive and about the imposition of red-tape. The wait for the Radiation Council to meet to consider registration applications and the speed in processing applications was a noted weakness. There were also numerous responses regarding the impact on the field of dentistry, such as a lack of benefit for the practice of dentistry, or that regulation "belittle our graduate training". There were numerous responses suggesting that the legislation had no weaknesses or deficiencies, or that the respondent was unsure or unaware of any weaknesses or deficiencies. One comment received questioned the regulatory risk approach employed, asking "why test stuff when it's new and not ensure maintenance and ongoing standards".

Summary of survey findings

Overall the response rate to the survey was very pleasing. The survey responses confirmed that a number of deficiencies with the legislation already identified through the review are also of concern to those operating under the legislation. There no real surprise findings. It was not surprising that the fees imposed in the ACT were of concern. It was originally intended to treat fees under the Act as being out of scope of the review, but the number of responses commenting on this issue (including several which attempted to compare fees imposed by the various states and territories) is such that it would be remiss if the review report did not include some commentary on this issue.

Recommendations list

1. **That an expert reference group be established, tasked with determining whether necessary amendments to address each identified gap or deficiency should be based upon the legislative approach in a particular jurisdiction, or a hybrid of the approaches taken elsewhere in the country, as well as assisting with development of any resulting legislative amendments.**

2. **That additional resourcing, in particular additional staff, will be required by the HPS in order to:**
    a. **establish and support an expert reference group;**
    b. **progress identified legislative amendments to the RPA and RPR; and**
    c. **manage any likely increase in regulatory functions that may result from addressing the identified gaps and deficiencies in the RPA and RPR.**

3. **When developing any legislative reforms arising out of this review further work should be undertaken to determine the most appropriate mechanism for assessing and deciding applications for licences and registrations, including whether an alternative arrangement for the exercise of this function (in full or in part) should be implemented.**

4. **That the RPA be amended so that information in the register of licences, limited to the extent appropriate for privacy and security, be accessible by the public through an online portal/website.**

5. **That the ACT urge the RHC to make greater strides towards addressing the regulation of non-ionising radiation apparatus that have the potential to cause harm, such as class 3B and Class 4 lasers, and IPL devices.**

6. **That the RPA and/or RPR be amended to include either specific provisions concerning radiation monitoring or addressed as part of required plans for radiation safety, shielding and security.**

7. **That the RPA be amended to enhance the provisions about determination of licences, adopting similar provisions and requirements to those within the ACT MPTG Act.**

8. **That amendments be made to Division 3.2 (Licensing) and Division 3.3 (Registration of radiation sources) of the RPA to include detail about matters that may be validly taken into consideration by the decision-maker concerning whether the applicant is 'fit and proper', and their overall suitability.**

9. **That the RPA be amended to include a provision similar to section 20 of the PHA which would make non-compliance with a COP an offence.**

10. **That COP and Standards listed in Schedule 11 of the NDRP be approved as COP under section 116 of the RPA (noting that the Standard that was RPS 1 has been superseded by RPS F-1, RPS C-1 and RPS G-2).**

11. **That the RPA and/or RPR be amended to include either specific provisions concerning disposal of radiation sources and/or material, or addressed as part of required plans for radiation safety, shielding and security.**

12. **That amendments be made to the RPA requiring registration application to be accompanied by plans addressing radiation safety (including shielding) and security matters.**

13. **That the RPA be amended to:**
    a. **require owners of radiation sources to appoint radiation safety officers,**
    b. **specify appropriate qualifications of radiation safety officers; and**
    c. **specify the role and responsibilities of radiation safety officers.**

14. **That section 122 of the RPA be amended so that maximum penalties connected to offences in the RPR can be set at a level more comparable to those in NSW.**

15. **That amendments modelled on section 38A of the NSW Act be made to the RPA to give an exemption power, limited to specific circumstances, to the decision-making authority for licences and regulations.**

16. **That an audit of terminology and references within the RPA and RPR be conducted for minor and consequential improvements.**

17. **That references to a 'doctor' in Division 3.1 of the RPA be removed and replaced with "authorised person".**

18. **That ACT Health and the Council develop fact sheets and guidance documents aimed at improving radiation safety understanding and regulatory compliance.**

19. **That the ACT consider whether or not there is justification for reducing the regulatory burden under radiation protection legislation for any or all categories of health professional registered with AHPRA, and engage with the RHC as appropriate.**

20. **That a review of the fee arrangements under the RPA be conducted, having regard to the associated level of risk of licence and registration types, and to the cost burden on ACT professionals and businesses.**

Appendix 1 – Review clause in the Radiation Protection Act 2006

125 Review of Act

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

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

(2) This section expires on 1 July 2017.

Appendix 2 – Survey of radiation licensees and source owners

The Health Protection Service (the HPS) is undertaking a review of the ACT's Radiation Protection legislation with a view towards identifying:

- inconsistencies with the radiation protection legislation in the other states and territories; and
- gaps, deficiencies and regulatory anomalies in the ACT's radiation protection legislation

This review will culminate in a report to the Minister for Health and Wellbeing. It is anticipated that this report and its recommendations will identify a range of priority areas for ongoing work necessary to make the ACT's radiation protection legislation more comprehensive and robust, and to enhance overall radiation regulation in the ACT.

We at the HPS recognise that stakeholders, such as yourself, who operate under the ACT's Radiation Protection legislation will have a broad range of knowledge and expertise in regard to radiation sources and practices. Drawing upon that knowledge and experience will greatly assist in identifying potential improvements to the legislation, as will your perspectives, experience and even frustrations with operating under the legislation. To that end, the HPS is undertaking a survey of key stakeholders in order to draw upon any experiences and views that you might choose to share.

We'd really value your views and opinions, which will contribute to identifying areas in which the ACT's radiation protection legislation could be best improved. We would therefore appreciate your time to complete this survey. We estimate that completing the survey should take approximately 10 to 20 minutes, dependent upon your level of input and detail provided. The information provided to us will be confidential, and survey responses will be used to help identify opportunities for further improvement to the legislation.

To contribute your experiences and views please complete the survey by 22 June 2018.

The ACT Radiation Protection legislation would be easier to use and understand if there was more detail about:

	Agree	Disagree
disposing of radiation sources	◯	◯
relocating/moving a radiation source	◯	◯
providing notification of a dangerous event	◯	◯
what constitutes a dangerous event	◯	◯
testing radiation sources for compliance prior to seeking registration	◯	◯
duties and roles of persons dealing with radiation sources	◯	◯

There should be a publicly accessible register of radiation licences

◯ Agree ◯ Disagree

Reasons for your answer

There should be a publicly accessible register of radiation sources

◯ Agree ◯ Disagree

Reasons for your answer

The legislation should specify a performance testing schedule for radiation sources

◯ Agree ◯ Disagree

Reasons for your answer

Have you ever had to dispose of, or relocate, a radiation source?

◯ Yes ◯ No

Disposing of, or relocating, a radiation source

Did you consult the legislation when disposing of, or relocating, a radiation source?

- ◯ Yes
- ◯ No

Disposing of, or relocating, a radiation source

When you consulted the legislation, was it useful?

- ◯ Yes
- ◯ No

Reasons for your answer

Your radiation practice

Which of the following best describes your radiation practice?

- ◯ radiation and nuclear medicine health (including radiographers, radiologists, nuclear medicine physicians, nuclear medicine technologists)
- ◯ research and education
- ◯ veterinary medicine (including veterinary surgeons, veterinary nurses, management of zoos)
- ◯ chiropractic
- ◯ dental (including dental therapy and oral health therapy)
- ◯ industrial (including concrete x-raying, construction and soil technicians)

ACT Government Health

Review of the ACT's Radiation Protection legislation

I would consider the ACT Radiation Protection legislation would be more effective if it...

...required a radiation management and/or safety plan

◯ Yes ◯ No

Reasons for your answer

...required a radiation management and/or safety plan

◯ Yes ◯ No

Reasons for your answer

...required that radiation sources used in dental practices needed a security plan?

◯ Yes ◯ No

Reasons for your answer

...required that radiation sources used in dental practices needed a shielding plan?

◯ Yes ◯ No

Reasons for your answer

...there was more detail about occupational dose limits?

◯ Yes ◯ No

Reasons for your answer

...there was more detail about public exposure limits?

◯ Yes ◯ No

Reasons for your answer

...there were more guidelines and/or codes of practice?

◯ Yes ◯ No

Reasons for your answer

ACT Government Health

Review of the ACT's Radiation Protection legislation

Strengths and weaknesses

What do you consider to be the strengths of the ACT Radiation Protection legislation?

What do you consider to be the most significant weaknesses / deficiencies of the ACT Radiation Protection legislation?

Are there any activities that are not regulated by the ACT Radiation Protection legislation that you believe should be?

- ◯ Yes
- ◯ No

Reasons for your answer

Are there any activities or requirements within the ACT Radiation Protection legislation that you believe are unnecessary?

- ◯ Yes
- ◯ No

Reasons for your answer

The survey is now complete. Thank you for your time and responses.
Please click 'Done' to submit your responses.

Appendix 3 – Radiation Council Delegation 2018

The Radiation Council
Howard Florey Centenary House, 25 Mulley Street, Holder ACT 2611
Locked Bag 5005, Weston Creek ACT 2611
Phone: (02) 6205 1700 Fax: (02) 6205 1705
Website: www.health.act.gov.au
ABN: 82 049 056 234

Radiation Protection Act 2006 – Radiation Council Delegation 2018

made under the

Radiation Protection Act 2006, s 67 (Delegation of certain council functions)

1. **Name of the Instrument**
   This instrument is the *Radiation Protection Act 2006 – Radiation Council Delegation 2018.*

2. **Commencement**
   This instrument commences on the day after it is signed.

3. **Delegation to Executive Director of Health Protection Service**
   The Radiation Council, having decided by way of the majority of its members whose signature appear on this instrument, delegates to the person appointed as Executive Director of the Health Protection Service (position number E00335) the following:
   a. the power to issue licences under section 17 of the *Radiation Protection Act 2006.*
   b. the power to impose a condition on a licence under section 19 (b) of the *Radiation Protection Act 2006.*

4. **Delegation to Acting Executive Director of Health Protection Service**
   The Radiation Council, having decided by way of the majority of its members whose signatures appear on this instrument, delegates to the person appointed as Acting Executive Director of the Health Protection Service (position number 29620) the following:
   a. the power to issue licences under section 17 of the *Radiation Protection Act 2006.*
   b. the power to impose a condition on a licence under section 19 (b) of the *Radiation Protection Act 2006.*

5. **Conditions**
   This delegation only applies to licence applications in accordance with schedule 1. As a primary consideration, the applicant's occupation must be listed in column 1. Additionally, the applicant must hold the qualification listed in column 2, and have applied only for the dealings listed in column 3 relating to the source types in column 4. Licences issued under this delegation will have the conditions listed in column 5 imposed, corresponding to each occupation.

6. **Revocation**
   This instrument revokes the *Radiation Council Delegation 2015 (No. 3)*

Cr D McLean
11 April 2018

Cr S Tims
11 April 2018

Cr K Ashton
April 2018

Cr S Geoghegan
11 April 2018

Cr A Javaid
11 April 2018

Cr F Jolly
April 2018

Cr E Croft (Chair)
11 April 2018

Schedule 1

Column 1	Column 2	Column 3	Column 4	Column 5
Occupation	**Qualification**	**Dealings**	**Source Type**	**Conditions to be imposed**
Dentist, Dental Hygienist, Dental Therapist, Oral Health Therapist	Registered as a dental practitioner with the Australian Health Practitioner Regulation Authority (AHPRA)	Operate an apparatus	Dental Diagnostic X-ray Apparatus	• The licensee must comply with the Radiation Management Plan relevant to the radiation source being dealt with. • The licensee must comply with the requirements of the ARPANSA Code of Practice for Radiation Protection in Dentistry (2005). • The licensee must comply with the requirements of the ARPANSA Code for Radiation Protection in Planned Exposure Situations (2016) (RPS C-1).
Dental Assistant	Certificate IV in Dental Assisting (with Radiography HLT45015), or Certificate IV in Dental Assisting with Statements of Attainment in HLTDEN007 and HLTDEN008 and HLTDEN009.	Operate an apparatus	Dental Diagnostic X-ray Apparatus	• The licensee must comply with the Radiation Management Plan relevant to the radiation source being dealt with. • The licensee must comply with the requirements of the ARPANSA Code of Practice for Radiation Protection in Dentistry (2005). • The licensee must comply with the requirements of the ARPANSA Code for Radiation Protection in Planned Exposure Situations (2016) (RPS C-1).
Diagnostic Radiographer	Registered as a diagnostic radiographer with the Australian Health Practitioner Regulation Authority (AHPRA)	Operate an apparatus	Medical Diagnostic X-ray Apparatus	• The licensee must comply with the Radiation Management Plan relevant to the radiation source being dealt with. • The licensee must comply with the requirements of the ARPANSA Code of Practice for Radiation Protection in the Medical Applications of Ionizing Radiation (2008). • The licensee must comply with the requirements of the ARPANSA Code for Radiation Protection in Planned Exposure Situations (2016) (RPS C-1).
Veterinary Surgeon	Registered with the ACT Veterinary Surgeons Board	Operate an apparatus	Veterinary (General) Diagnostic X-ray Apparatus	• The licensee must comply with the Radiation Management Plan relevant to the radiation source being dealt with. • The licensee must comply with the requirements of the ARPANSA Code of Practice for Radiation Protection in Veterinary Medicine (2009). • The licensee must comply with the requirements of the ARPANSA Code for Radiation Protection in Planned Exposure Situations (2016) (RPS C-1).

Column 1	Column 2	Column 3	Column 4	Column 5
Occupation	**Qualification**	**Dealings**	**Source Type**	**Conditions to be imposed**
Veterinary Nurse	Certificate IV in Veterinary Nursing	Operate an apparatus	Veterinary (General) Diagnostic X-ray Apparatus	• The licensee must comply with the Radiation Management Plan relevant to the radiation source being dealt with. • The licensee must comply with the requirements of the ARPANSA Code of Practice for Radiation Protection in Veterinary Medicine (2009). • The licensee may only perform X-rays while there is a licensed veterinary surgeon on the premises and available for consultation. • The licensee must comply with the requirements of the ARPANSA Code for Radiation Protection in Planned Exposure Situations (2016) (RPS C-1).
Radiation Oncologist	Registered as a medical practitioner with a specialty in radiation oncology with the Australian Health Practitioner Regulation Agency (AHPRA)	Operate an apparatus	Medical Therapeutic X-ray Apparatus, Apparatus Incorporating a Sealed Source, Accelerated Particle-beam Apparatus	• The licensee must comply with the Radiation Management Plan relevant to the radiation source being dealt with. • The licensee must comply with the requirements of the ARPANSA Code of Practice for Radiation Protection in the Medical Applications of Ionizing Radiation (2008). • The licensee must comply with the requirements of the ARPANSA Code for Radiation Protection in Planned Exposure Situations (2016) (RPS C-1).
Radiation Therapist	Registered as a radiation therapist with Australian Health Practitioner Regulation Agency (AHPRA)	Operate an apparatus	Medical Therapeutic X-ray Apparatus, Apparatus Incorporating a Sealed Source, Accelerated Particle-beam Apparatus	• The licensee must comply with the Radiation Management Plan relevant to the radiation source being dealt with. • The licensee must comply with the requirements of the ARPANSA Code of Practice for Radiation Protection in the Medical Applications of Ionizing Radiation (2008). • The licensee must comply with the requirements of the ARPANSA Code for Radiation Protection in Planned Exposure Situations (2016) (RPS C-1).

Column 1	Column 2	Column 3	Column 4	Column 5
Occupation	**Qualification**	**Dealings**	**Source Type**	**Conditions to be imposed**
Radiologist	Registered as a medical practitioner with a specialty in radiology with the Australian Health Practitioner Regulation Agency (AHPRA)	Operate an apparatus	Medical Diagnostic X-ray Apparatus	• The licensee must comply with the Radiation Management Plan relevant to the radiation source being dealt with. • The licensee must comply with the requirements of the ARPANSA Code of Practice for Radiation Protection in the Medical Applications of Ionizing Radiation (2008). • The licensee must comply with the requirements of the ARPANSA Code for Radiation Protection in Planned Exposure Situations (2016) (RPS C-1).
Nuclear Medicine Specialist	Registered as a specialist nuclear medicine physician with the Australian Health Practitioner Regulation Agency (AHPRA).	Operate an apparatus Use radioactive material	Medical Diagnostic, Therapeutic X-ray Apparatus, Unsealed Radioactive Material, BMD/DEXA Apparatus, Sealed Radiation Source	• The licensee must comply with the Radiation Management Plan relevant to the radiation source being dealt with. • The licensee must comply with the requirements of the ARPANSA Code of Practice for Radiation Protection in the Medical Applications of Ionizing Radiation (2008). • The use of unsealed radioactive material is restricted to nuclear medicine applications. • The use of X-ray apparatus is limited to Computed Tomography scanning for hybrid imaging and co registration purposes. • The licensee must comply with the requirements of the ARPANSA Code for Radiation Protection in Planned Exposure Situations (2016) (RPS C-1).
Nuclear Medicine Technologist	Registered as a nuclear medicine technologist with the Australian Health Practitioner Regulation Agency (AHPRA)	Operate an apparatus Use radioactive material	Medical Diagnostic, Therapeutic X-ray Apparatus, Unsealed Radioactive Material, BMD/DEXA Apparatus, Sealed Radiation Source	• The licensee must comply with the Radiation Management Plan relevant to the radiation source being dealt with. • The licensee must comply with the requirements of the ARPANSA Code of Practice for Radiation Protection in the Medical Applications of Ionizing Radiation (2008). • The use of unsealed radioactive material is restricted to nuclear medicine applications. • The use of X-ray apparatus is limited to Computed Tomography scanning for hybrid imaging and co registration purposes. • The licensee must comply with the requirements of the ARPANSA Code for Radiation Protection in Planned Exposure Situations (2016) (RPS C-1).

Column 1	Column 2	Column 3	Column 4	Column 5
Occupation	**Qualification**	**Dealings**	**Source Type**	**Conditions to be imposed**
Individual or corporation	N/A	Possess a radiation source	Industrial or Security Apparatus	• The licensee must comply with the Radiation Management Plan relevant to the radiation source being dealt with. • The licensee must ensure that regulated radiation sources in their possession are only dealt with by persons appropriately authorised under an ACT radiation licence. • The licensee must ensure that regulated radiation sources in their possession are not used unless the source is currently registered in the ACT. • The licensee must comply with the requirements of the ARPANSA Code for Radiation Protection in Planned Exposure Situations (2016) (RPS C-1).
Individual or corporation	N/A	Possess a radiation source	Medical Diagnostic X-ray Apparatus	• The licensee must comply with the Radiation Management Plan relevant to the radiation source being dealt with. • The licensee must ensure that regulated radiation sources in their possession are only dealt with by persons appropriately authorised under an ACT radiation licence. • The licensee must ensure that regulated radiation sources in their possession are not used unless the source is currently registered in the ACT. • The licensee must comply with the requirements of the ARPANSA Code of Practice for Radiation Protection in the Medical Applications of Ionizing Radiation (2008). • The licensee must comply with the requirements of the ARPANSA Code for Radiation Protection in Planned Exposure Situations (2016) (RPS C-1).

Column 1	Column 2	Column 3	Column 4	Column 5
Occupation	**Qualification**	**Dealings**	**Source Type**	**Conditions to be imposed**
Individual or corporation	N/A	Possess a radiation source	Dental Diagnostic X-ray Apparatus	• The licensee must comply with the Radiation Management Plan relevant to the radiation source being dealt with. • The licensee must ensure that regulated radiation sources in their possession are only dealt with by persons appropriately authorised under an ACT radiation licence. • The licensee must ensure that regulated radiation sources in their possession are not used unless the source is currently registered in the ACT. • The licensee must comply with the requirements of the ARPANSA Code of Practice for Radiation Protection in Dentistry (2005). • The licensee must comply with the requirements of the ARPANSA Code for Radiation Protection in Planned Exposure Situations (2016) (RPS C-1).
Individual or corporation	N/A	Possess a radiation source	Dental (Specialist) Diagnostic X-ray Apparatus	• The licensee must comply with the Radiation Management Plan relevant to the radiation source being dealt with. • The licensee must ensure that regulated radiation sources in their possession are only dealt with by persons appropriately authorised under an ACT radiation licence. • The licensee must ensure that regulated radiation sources in their possession are not used unless the source is currently registered in the ACT. • The licensee must comply with the requirements of the ARPANSA Code of Practice for Radiation Protection in Dentistry (2005). • The licensee must comply with the requirements of the ARPANSA Code for Radiation Protection in Planned Exposure Situations (2016) (RPS C-1).

Column 1	Column 2	Column 3	Column 4	Column 5
Occupation	**Qualification**	**Dealings**	**Source Type**	**Conditions to be imposed**
Individual or corporation	N/A	Possess a radiation source	Veterinary Diagnostic X-ray Apparatus	• The licensee must comply with the Radiation Management Plan relevant to the radiation source being dealt with. • The licensee must ensure that regulated radiation sources in their possession are only dealt with by persons appropriately authorised under an ACT radiation licence. • The licensee must ensure that regulated radiation sources in their possession are not used unless the source is currently registered in the ACT. • The licensee must comply with the requirements of the ARPANSA Code of Practice for Radiation Protection in Veterinary Medicine (2009). • The licensee must comply with the requirements of the ARPANSA Code for Radiation Protection in Planned Exposure Situations (2016) (RPS C-1).
Individual or corporation	N/A	Supply a radiation source	Any	• The licensee must only supply radiation sources to a person holding a licence to possess that type of radiation source in the ACT. • The licensee must provide the Health Protection Service with the details of each radiation source supplied to an ACT based client, either at the time of supply or in a quarterly report. • The licensee must comply with the requirements of the ARPANSA Code for Radiation Protection in Planned Exposure Situations (2016) (RPS C-1).