

TASMANIA

RADIATION PROTECTION BILL 2005

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RADIATION PROTECTION BILL 2005

*(Brought in by the Minister for Health and Human Services,
the Honourable David Edward Llewellyn)*

A BILL FOR

An Act for the protection of people and the environment from harmful radiation, to repeal the *Radiation Control Act 1977*, to consequentially amend the *Approvals (Deadlines) Act 1993*, to consequentially rescind certain statutory rules and for related purposes

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Radiation Protection Act 2005*.

2. Commencement

This Act commences on a day to be proclaimed.

3. Objects of Act

The objects of this Act are to –

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

4. Interpretation

In this Act, unless the contrary intention appears –

“amend” includes –

- (a) omit matter; and
- (b) insert or add matter; and
- (c) omit matter and substitute other matter;

“approved form” means a form that –

- (a) is approved by the Director of Public Health; or
- (b) contains information approved by the Director of Public Health;

“approved radiation management plan”,
for a radiation practice, means –

- (a) a proposed radiation management plan that –
 - (i) accompanies an application for a licence to possess a radiation source to carry out the

radiation practice under section 20(1)(b)(ii); and

- (ii) is taken to have been approved by the Director of Public Health for the radiation practice under section 24; or

- (b) that plan as amended or substituted from time to time under section 24;

“authorised officer” means a person appointed as an authorised officer, or a person authorised to perform the functions and exercise the powers of an authorised officer, under section 53;

“authority” means a licence, certificate of registration or certificate of accreditation;

“carry out”, in relation to a radiation practice, means the actual performance of the radiation practice by a natural person;

“certificate of accreditation” means a certificate of accreditation issued under section 22 that authorises the issue of certificates of compliance;

“certificate of compliance”, in relation to a radiation source or radiation place, means a certificate of compliance issued under section 17 for the radiation source or radiation place;

“certificate of registration” means a certificate of registration that is issued under section 22 for the registration of a

place where a radiation source is, or is to be, used or stored;

“code of practice” means the whole or any part of any code of practice, standard, rule, specification or guidelines approved under section 57;

“Council” means the Radiation Advisory Council established under section 46;

“Director of Public Health” means the person appointed as Director of Public Health under section 6 of the *Public Health Act 1997*;

“dispose of” includes bury, hire out, lease, transfer the ownership or custody of and transfer the responsibility for;

“dose”, in relation to radiation, means the measure of radiation received by a person or thing;

“dose limit” means the maximum dose of radiation a person may receive during a particular period from all radiation practices;

“enter”, in relation to a place, includes to board the place;

“environment” includes –

- (a) animals and organisms; and
- (b) ecosystems and their constituent parts; and

- (c) all natural and physical resources; and
- (d) the qualities and characteristics of locations, places and areas, however large or small, that contribute to their biological diversity and integrity, intrinsic or attributed scientific value or interest, amenity, harmony and sense of community; and
- (e) the social, economic, aesthetic and cultural conditions that affect, or are affected by, things mentioned in paragraphs (a), (b), (c) and (d);

“executive officer”, in relation to a body corporate, means a person who is concerned with, or takes part in, the management of the body corporate, whether or not –

- (a) the person is a director of the body corporate; or
- (b) the person’s position is given the name of executive officer; or
- (c) the person is a constituent member of a body corporate incorporated for a public purpose by a law of the Commonwealth or a State or Territory;

“false or misleading” includes false or misleading because of the omission of a statement or information;

“ionising radiation” has the meaning given by section 5(2);

“licence” means a licence issued under section 22 authorising the holder to use, manufacture, sell, acquire, possess, store, transport, install, service, repair, dispose of or otherwise deal with a radiation source;

“non-ionising radiation” has the meaning given by section 5(3);

“occupier”, in relation to a place, means –

- (a) the person in occupation or control of the place; or
- (b) if the place has different parts occupied or controlled by different persons, the person in occupation or control of the part concerned;

“place” includes vacant land, premises and a vehicle;

“possess”, in relation to a radiation source, includes having the radiation source under control in any place, whether or not another person has the custody of the radiation source;

“premises” includes –

- (a) a building or structure; and
- (b) land on which a building or structure is situated; and

(c) a part of any such building, structure or land;

“public notice” means a notice published in the *Gazette* and a daily newspaper circulating generally in Tasmania;

“radiation” has the meaning given by section 5(1);

“radiation apparatus” has the meaning given by section 6(4);

“radiation place” means a place at which a radiation source is, or is to be, stored or used to carry out a radiation practice;

“radiation practice” means any activity, including storage, relating to a radiation source that may result, whether or not intentionally, in exposing a person, the environment or a thing to radiation;

“radiation protection measures” means measures for preventing or minimising the risks of harm to any person or the environment arising from exposure to radiation from the carrying out of a radiation practice;

“radiation source” has the meaning given by section 6(1) and (2);

“radioactive material” has the meaning given by section 6(3);

“regulations” means regulations made under this Act;

“review notice”, in relation to a decision of the Director of Public Health, means a written notice stating the following:

- (a) the decision;
- (b) that the person given the notice may request, in writing, the Director of Public Health to provide him or her with a statement of the reasons for the decision;
- (c) that the person given the notice may apply for a review of the decision to the Magistrates Court (Administrative Appeals Division) within 28 days after receipt of the notice;

“sealed source” means –

- (a) radioactive material that is permanently sealed in a capsule; or
- (b) radioactive material that is in a solid form and that is bound closely –

in such a way that the sealing of the capsule or binding of the material is strong enough to prevent leakage of radioactive material under the conditions of use and wear for which the capsule or binding is designed and for foreseeable mishaps;

“sell” includes –

- (a) auction, exchange or supply; and
- (b) keep, expose, supply or receive for sale; and
- (c) send or deliver for sale; and
- (d) dispose of by hire or lease; and
- (e) cause or permit the doing of an act mentioned in paragraph (a), (b), (c) or (d); and
- (f) offer or attempt to do an act mentioned in paragraph (a), (b), (c) or (d); and
- (g) offer or attempt to sell; and
- (h) cause or permit to be sold;

“show cause notice” means a notice given under section 32;

“statutory authority” means an incorporated or unincorporated body which is established, constituted or continued by or under an Act of Tasmania, another State, a Territory or the Commonwealth or under the royal prerogative, being a body which, or of which the governing authority, wholly or partly comprises a person or person appointed by a Governor, the Governor-General, a Minister in the government of Tasmania, another State, a Territory or the Commonwealth or another statutory authority;

“this Act” includes the regulations and codes of practice;

“treated person” means a person in respect of whom a radiation source is used to carry out a diagnostic or therapeutic procedure involving the irradiation of that person;

“use”, in relation to a radiation source, includes –

- (a) use radiation emitted from the radiation source; and
- (b) if the radiation source is radioactive material, administer to, or inject or implant the material into, a person, animal, plant or thing; and
- (c) cause the radiation source to emit radiation;

“vehicle” means anything used for transporting any thing or person by land, water or air.

5. Meaning of “radiation”

- (1) Radiation is ionising radiation or non-ionising radiation.
- (2) Ionising radiation is electromagnetic or particulate radiation capable of producing ions directly or indirectly, other than electromagnetic radiation of a wavelength equal to or greater than 100 nanometres.

- (3) Non-ionising radiation is electromagnetic radiation of a wavelength equal to or greater than 100 nanometres.

6. Meaning of “radiation source”

- (1) A radiation source is a thing that emits or may emit radiation.
- (2) A radiation source can be radioactive material or a radiation apparatus.
- (3) Radioactive material is material that spontaneously emits ionising radiation as a consequence of nuclear transformations.
- (4) A radiation apparatus is an apparatus that –
 - (a) produces radiation when energised; or
 - (b) is, if assembled or repaired, capable of producing radiation when energised.

7. Act binds Crown

This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

PART 2 – DUTIES RELATING TO RADIATION SOURCES AND DOSE LIMITS

8. Duty to ensure harm does not result from radiation source

A person who uses, manufactures, possesses, sells, acquires, stores, transports, installs, services, repairs, disposes of or otherwise deals with a radiation source must take all reasonable and practicable measures to ensure that undertaking that activity does not result in harm to the health or safety of persons or to the environment caused by radiation emitted from the radiation source.

Penalty: Fine not exceeding 10 000 penalty units.

9. Diagnostic or therapeutic procedures

If a person uses a radiation source to carry out a diagnostic or therapeutic procedure involving the irradiation of a treated person, that person must ensure –

- (a) that any person involved in carrying out the procedure (including that person) does not receive a dose of radiation that would result in the person receiving during a particular period doses of radiation that, when added together, are higher than the prescribed dose limit for that period; and

- (b) that the treated person does not receive a dose of radiation from the carrying out of the procedure in an amount or a way that does not comply with the request for the diagnostic procedure or the prescription for the therapeutic procedure.

Penalty: Fine not exceeding 1 000 penalty units.

10. Causing radiation exposure

- (1) A person who uses, manufactures, sells, acquires, possesses, stores, transports, installs, services, repairs, disposes of or otherwise deals with a radiation source must not cause himself or herself or another person to receive a dose of radiation that would result in himself or herself or the other person receiving during a particular period doses of radiation that, when added together, are higher than the prescribed dose limit for that period.

Penalty: Fine not exceeding 1 000 penalty units.

- (2) Subsection (1) does not apply if the dose of radiation is received –
 - (a) as a treated person; or
 - (b) while involved in carrying out a diagnostic or therapeutic procedure involving the irradiation of a treated person.

11. Occupational exposure to radon-222

(1) In this section –

“person-in-charge of a workplace” means –

- (a) in relation to a workplace that is premises, a person who is in charge of the day-to-day operation of the industry or business which;
 - (i) is carried on at those premises; or
 - (ii) involves visiting those premises; or
- (b) in relation to a workplace that is a cave or place other than premises, the person who is in charge of the day-to-day operation of the industry or business which –
 - (i) is carried on at that cave or place; or
 - (ii) involves visiting that cave or business;

“workplace” means any premises, cave or other place –

- (a) where a person is employed or engaged in an industry or business or which a person visits as part of their employment or engagement in an industry or business; and

- (b) in which the person may be exposed to radiation from radon-222.
- (2) A person-in-charge of a workplace must ensure that a person working in or visiting that workplace as part of their employment or engagement in an industry or business does not receive during a particular period doses of radon-222 that, when added together, are higher than the prescribed dose limit for that period.

Penalty: Fine not exceeding 1 000 penalty units.

12. Notification of dangerous event

- (1) In this section –

“dangerous event” means one or more of the following events:

- (a) a radiation source is, or appears to have been, lost or stolen;
- (b) there is a radiation incident in relation to a radiation source for which there is no approved radiation management plan for the radiation practice being carried out with the source at the time or, if there is such an approved radiation management plan, that plan does not include a remediation procedure;
- (c) equipment that uses, measures or controls radiation emitted from a

radiation source malfunctions with the result or likely result that –

- (i) there is or will be an unintended emission of the radiation; or
- (ii) a person is or will be unintentionally exposed to the radiation;

“radiation incident” means an incident adversely affecting, or likely to adversely affect, the environment or the health or safety of any person because of the emission of radiation;

“remediation procedure”, for a radiation incident, means a procedure designed to minimise the radiation hazard arising from the incident.

- (2) Immediately following the occurrence of a dangerous event, the person possessing the radiation source must give the Director of Public Health an oral or written notice of that event that contains sufficient particulars to identify the radiation source and, if known, the location of the radiation source.

Penalty: Fine not exceeding 500 penalty units.

- (3) If the notice under subsection (2) is given orally, the person who gave the notice must give the Director of Public Health a written notice confirming the oral notice within 7 days after the occurrence of the dangerous event.

Penalty: Fine not exceeding 500 penalty units.

**PART 3 – REQUIREMENTS FOR RADIATION
SOURCES AND RADIATION PLACES**

Division 1 – Requirement to hold licence for radiation source

13. Dealings with radiation source prohibited without licence

- (1) A person must not use, manufacture, sell, acquire, possess, store, transport, install, service, repair, dispose of or otherwise deal with a radiation source other than in accordance with a licence.

Penalty: Fine not exceeding 5 000 penalty units.

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

Division 2 – Requirement to register place where radiation source used or stored

14. Requirement for certificate of registration for place where radiation source used or stored

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

Penalty: Fine not exceeding 5 000 penalty units.

Division 3 – Requirement to be accredited to test radiation source, &c.

15. Accreditation to test radiation source

A person must not test a radiation source for the purpose of determining whether a certificate of compliance can be issued unless the person is the holder of a certificate of accreditation authorising the person to do so.

Penalty: Fine not exceeding 1 000 penalty units.

16. Accreditation to issue certificate of compliance

(1) A person must not issue a certificate of compliance for a radiation source of a particular class unless –

(a) the person –

(i) is the holder of a certificate of accreditation authorising the

person to test radiation sources of that particular class; and

- (ii) is satisfied of the matters set out in section 17(1)(a) or (b); or

(b) the person –

- (i) is authorised by a licence to manufacture the source; and
- (ii) is satisfied of the matters set out in section 17(1)(a) or (b); and
- (iii) issues the certificate of compliance for the source as an adjunct to its manufacture; or

(c) the person –

- (i) is authorised by a licence to sell the source; and
- (ii) on evidence from testing or calculations, is satisfied of the matters set out in section 17(1)(a) or (b); and
- (iii) is satisfied that the source has not been used otherwise than for the purpose of testing it.

Penalty: Fine not exceeding 1 000 penalty units.

(2) A person must not issue a certificate of compliance for a radiation place of a particular class unless the person –

- (a) is the holder of a certificate of accreditation authorising the person to

issue certificates of compliance in relation to radiation places of that particular class; and

- (b) is satisfied of the matters set out in section 17(2).

Penalty: Fine not exceeding 1 000 penalty units.

Division 4 – Testing, inspections and certificates of compliance for radiation sources and radiation places

17. Issue of certificate of compliance

- (1) The holder of a certificate of accreditation or a person authorised by a licence to manufacture or sell a radiation source is to be satisfied of the following matters before issuing a certificate of compliance for a radiation source used, or to be used, to carry out a radiation practice:

- (a) in the case of a sealed source, that –

- (i) the capsule sealing the source, or the way in which the solid-form source is bound, complies with all applicable codes of practice and any prescribed specifications; and
 - (ii) any container or equipment which allows the source to be used also complies with all applicable codes of practice and any prescribed specifications;

- (b) in the case of a radiation apparatus, that the apparatus complies with all applicable codes of practice and any prescribed specifications.
- (2) The holder of a certificate of accreditation is to be satisfied that a radiation place complies with all applicable codes of practice and any prescribed specifications before issuing a certificate of compliance for that place.
- (3) A certificate of compliance is to be in an approved form.

18. Result of test or inspection to be given to Director of Public Health

Within 30 days after receiving the result of a test or inspection required under the conditions of an authority, the holder of the authority must give the Director of Public Health a copy of the certificate of compliance or other result of the test or inspection.

Penalty: Fine not exceeding 100 penalty units.

Division 5 – Banned radiation sources

19. Certain dealings with banned radiation source prohibited

- (1) A person must not use, manufacture, sell, acquire, possess, store, transport, install, service, repair, dispose of or otherwise deal with a radiation source that is prescribed by the regulations to be a banned radiation source.

Penalty: Fine not exceeding 10 000 penalty units.

- (2) Subsection (1) does not apply to the disposal of a banned radiation source in accordance with this Act or to the possession of a banned radiation source for the purpose of such disposal.

PART 4 – LICENSING, REGISTRATION AND ACCREDITATION

Division 1 – Applications for, and issue of, authorities

20. Application

(1) An application for an authority is to be –

- (a) made to the Director of Public Health in the approved form; and
- (b) accompanied by the following documents:
 - (i) for an application for a licence to use a radiation source, a current certificate of compliance for the radiation source to which the authority is to relate unless the Director of Public Health has previously sighted the certificate;
 - (ii) for an application for a licence to possess a radiation source to carry out a radiation practice, the proposed radiation management plan for the radiation practice;
 - (iii) for an application for a certificate of registration, a current certificate of compliance for the radiation place to which the authority is to relate unless the Director of Public Health has previously sighted the certificate of compliance; and

- (c) accompanied by the documents and information stated in the approved form; and
 - (d) accompanied by any prescribed fee.
- (2) The application must also satisfy the Director of Public Health that the applicant and each person referred to in section 21(2)(b) and (c) know and accept that the Director of Public Health may obtain a report from the Commissioner of Police or a government department, statutory authority or agency referred to in section 21(3)(c).
- (3) The Director of Public Health, by written notice, may require the applicant to give to the Director of Public Health further documents or information within the period specified in the notice.
- (4) The Director of Public Health, by written notice, may require the applicant and any person referred to in section 21(2)(c) to take an examination, or otherwise satisfy the Director of Public Health of his or her knowledge and skills, within the period and as specified in the notice.

21. Determination of application

- (1) The Director of Public Health may grant or refuse to grant an application for an authority.
- (2) The Director of Public Health may grant the application only if –
 - (a) the Director of Public Health is satisfied that the applicant is a fit and proper

person to hold the authority having regard to any prescribed criteria; and

- (b) in the case of an application by a body corporate or a partnership, the Director of Public Health is satisfied that each director or other person concerned with the management of the body corporate or each partner in the partnership is a fit and proper person having regard to any prescribed criteria; and
- (c) the Director of Public Health is satisfied that each person specified in the application as likely to be dealing with a radiation source is a fit and proper person to be dealing with the radiation source having regard to any prescribed criteria; and
- (d) in the case of an application for a licence to use a radiation source, a current certificate of compliance is provided for the radiation source to which the authority is to relate or has been sighted previously by the Director of Public Health; and
- (e) in the case of an application for a licence to possess a radiation source to carry out a radiation practice, the Director of Public Health is satisfied that the proposed radiation management plan for the radiation practice contains the prescribed information and complies with the prescribed requirements; and
- (f) in the case of an application for a certificate of registration, a current

certificate of compliance is provided for the radiation place to which the authority is to relate or has been sighted previously by the Director of Public Health; and

- (g) the Director of Public Health is satisfied of any prescribed matter; and
 - (h) the Director of Public Health is satisfied that, after having regard to any other matter he or she considers relevant, it is proper to grant the application.
- (3) Before determining an application for an authority, the Director of Public Health may –
- (a) request advice from the Council on the application; and
 - (b) request a report on any matter concerning the application from the Commissioner of Police; and
 - (c) request a report on any matter concerning the application from –
 - (i) any government department, statutory authority or other agency of Tasmania, another State, a Territory or the Commonwealth; and
 - (ii) any prescribed person; and
 - (d) require the applicant, by written notice, to allow an authorised officer to inspect –
 - (i) any premises where the radiation source is to be used, manufactured, sold, acquired,

stored, installed, serviced,
repaired, disposed of or otherwise
dealt with; and

- (ii) any vehicle in which the radiation source is to be transported; and
 - (iii) any equipment or other thing in or on those premises or vehicle.
- (4) For the purposes of requesting advice or a report under subsection (3), the Director of Public Health may provide the Council, Commissioner of Police or department, organisation or statutory authority with –
- (a) the names of the applicant and any person specified in subsection (2)(b); and
 - (b) any information and documentation relating to the application.
- (5) In determining an application for an authority, the Director of Public Health is to –
- (a) consider any advice given by the Council in response to a request under subsection (3)(a); and
 - (b) consider any report provided by the Commissioner of Police under subsection (6); and
 - (c) consider any report provided in response to a request under subsection (3)(c); and
 - (d) have regard to applicable guidelines issued under section 56.

- (6) On receipt of a request under subsection (3)(b), the Commissioner of Police must inquire into and report to the Director of Public Health on any matters concerning the application specified in the request.
- (7) If the Director of Public Health refuses to grant an application, he or she is to give the applicant a review notice in relation to that decision as soon as practicable.

22. Issue of authority

- (1) If the Director of Public Health grants an application for an authority, he or she is to issue the authority to the applicant.
- (2) The Director of Public Health may issue the authority subject to any conditions specified in it.
- (3) Without limiting subsection (2), conditions may be imposed in respect of the following matters:
 - (a) compliance with a code of practice applicable to the activities of the holder of the authority under the authority;
 - (b) radiation monitoring to be carried out by the holder of the authority;
 - (c) testing of the radiation source, or inspection of the radiation place, to which the authority relates;
 - (d) for an authority that is a licence to possess a radiation source, radiation protection measures to be taken by the

holder of the authority under the approved radiation management plan.

- (4) If the Director of Public Health issues an authority subject to conditions, he or she is to give the applicant a review notice in relation to the decision as soon as practicable.
- (5) An authority takes effect on the day it is issued or a later day specified in it.

23. Activities authorised by authority

- (1) A licence to use, manufacture, sell, acquire, possess, store, transport, install, service, repair, dispose of or otherwise deal with a radiation source authorises the holder to perform that activity as specified, and subject to any conditions specified, in the licence.
- (2) A certificate of registration for a place authorises the use of that place for the purposes of using or storing in that place the radiation source, or radiation sources of a class, specified in the certificate subject to any conditions specified in the certificate.
- (3) A certificate of accreditation authorises the holder –
 - (a) to issue certificates of compliance for radiation sources, or radiation places, of a class specified in the certificate subject to any conditions specified in the certificate; and
 - (b) to do all things necessary for the purposes of determining whether or not a

certificate of compliance should be issued in respect of such a radiation source or radiation place, including the use, storage and transport of that source or a source that is in that place.

24. Approval of radiation management plan

- (1) If the Director of Public Health issues a licence to possess a radiation source, the Director of Public Health is taken to have approved the radiation management plan that accompanied the application for the licence.
- (2) The holder of a licence to possess a radiation source may apply to the Director of Public Health to amend or substitute the approved radiation management plan.
- (3) An application must be –
 - (a) in the approved form; and
 - (b) accompanied by the documents and information stated in the approved form; and
 - (c) accompanied by any prescribed fee.
- (4) The Director of Public Health, by written notice, may require the applicant to give the Director of Public Health further documents or information within the period stated in the notice.
- (5) The Director of Public Health must –
 - (a) grant the application; or

- (b) grant part of the application and refuse to grant the remainder of the application; or
 - (c) refuse to grant the application.
- (6) The Director of Public Health may only grant the application or part of the application if he or she is satisfied that the radiation management plan if amended or substituted as proposed by the application or part of the application would contain the information, and comply with the requirements, prescribed for the purposes of section 21(2)(e).
- (7) If the Director of Public Health grants an application or part of an application –
 - (a) the Director of Public Health is to give the applicant notice of the decision as soon as practicable; and
 - (b) the Director of Public Health is to amend or substitute the approved radiation management plan as proposed in the application or part of the application; and
 - (c) if appropriate amend the licence held by the application to reflect that amendment or substitution.
- (8) The amendment or substitution takes effect when the notice referred to in subsection (7)(a) is given to the applicant.
- (9) If the Director of Public Health refuses to grant the application or part of the application, the Director of Public Health is to give the applicant a review notice in relation to the decision as soon as practicable.

- (10) The power of the Director of Public Health to amend an approved radiation management plan and licence under subsection (7) includes the power to insert matter, omit matter and omit matter and substitute other matter.

25. Duration

- (1) A licence remains in force for the period, not exceeding one year, specified in it.
- (2) A certificate of registration remains in force until the radiation source used or stored at the radiation place is no longer housed at that place.
- (3) A certificate of accreditation remains in force for the period, not exceeding 3 years, specified in it.

Division 2 – Renewal of licences and certificates of accreditation

26. Renewal of licence or certificate of accreditation

- (1) A holder of a licence or certificate of accreditation may apply for the renewal of the licence or certificate of accreditation.
- (2) Division 1 applies, with all necessary modifications and adaptations, to an application for the renewal of a licence or certificate of accreditation.

27. Licence or certificate of accreditation continues until application for renewal decided

If an application for the renewal of a licence or certificate of accreditation is made before the term of the licence or certificate ends, the licence or certificate continues in force until the application is determined.

Division 3 – Amendment of authorities

28. Amendment of authority on initiative of Director of Public Health

- (1) The Director of Public Health may amend an authority, including the conditions specified in the authority, if he or she is satisfied that it is necessary to do so to protect persons or the environment from the harmful effects of radiation emitted from the radiation source to which the authority relates.
- (2) Before amending an authority, the Director of Public Health is to –
 - (a) give to the holder of the authority written notice stating –
 - (i) the particulars of the proposed amendment; and
 - (ii) that the holder may make written submissions to the Director of Public Health about the proposed amendment within the period of not less than 21 days stated in the notice; and

- (b) have regard to written submissions made to the Director of Public Health by the holder within that period.
- (3) If the Director of Public Health amends an authority, the Director of Public Health is to give the holder of the authority, as soon as practicable, a review notice in relation to the determination.
- (4) An amendment of an authority takes effect when the review notice is given to the holder.
- (5) The power of the Director of Public Health to amend an authority under subsection (1) includes the power to –
 - (a) insert matter, omit matter and omit matter and substitute other matter; and
 - (b) omit or substitute some or all of the conditions, add further conditions, impose conditions where the authority was not previously subject to any conditions and insert matter in, omit matter from and substitute matter in conditions specified in the authority.

29. Amendment of authority on application by holder

- (1) The holder of an authority may apply to the Director of Public Health for the amendment of the authority, including the conditions specified in the authority.
- (2) The application must be –
 - (a) in the approved form; and

- (b) accompanied by the documents and information stated in the approved form; and
 - (c) accompanied by any prescribed fee.
- (3) The Director of Public Health, by written notice, may require the applicant to give the Director of Public Health further documents or information within the period stated in the notice.
- (4) The Director of Public Health must –
 - (a) grant the application; or
 - (b) grant part of the application and refuse to grant the remainder of the application; or
 - (c) refuse to grant the application.
- (5) The Director of Public Health may only grant the application or part of the application if –
 - (a) the Director of Public Health has had regard to any criteria prescribed for the purposes of section 21(2)(a) or (b) that he or she considers relevant; and
 - (b) the Director of Public Health is satisfied that the proposed amendment of the authority would not, or would not be likely to, result in a failure to protect persons or the environment from the harmful effects of radiation emitted from the radiation source to which the authority relates.
- (6) Section 21(3), (4), (5) and (6) applies, with necessary adaptations, in relation to the

determination of an application under this section.

- (7) If the Director of Public Health grants the application or part of the application –
 - (a) the Director of Public Health is to give the holder notice of the decision as soon as practicable; and
 - (b) the Director of Public Health is to amend the authority as proposed in the application or the part of the application.
- (8) The amendment of the authority takes effect when the notice referred to in subsection (7)(a) is given to the holder.
- (9) If the Director of Public Health refuses to grant the application or part of an application, the Director of Public Health is to give the applicant a review notice in relation to the decision as soon as practicable.
- (10) The power of the Director of Public Health to amend an authority under subsection (7)(b) includes the power to –
 - (a) insert matter, omit matter and omit matter and substitute other matter; and
 - (b) omit or substitute some or all of the conditions, add further conditions, impose conditions where the authority was not previously subject to any conditions and insert matter in, omit matter from and substitute matter in conditions specified in the authority.

30. Recording amendment of authority

- (1) If the holder of an authority receives a review notice under section 28(3) or a notice under section 29(7), the holder must return the authority or that portion of the authority, as specified in that notice, to the Director of Public Health within 14 days after receiving the notice unless the holder has a reasonable excuse.

Penalty: Fine not exceeding 10 penalty units.

- (2) On receiving the authority or portion of the authority, the Director of Public Health is to amend the authority or the portion to give effect to the amendment of the authority and return the authority or portion to the holder of the authority.
- (3) An amendment of an authority may be done by –
 - (a) amending the authority or a portion of the authority; or
 - (b) endorsing the amendment on the authority or a portion of the authority; or
 - (c) issuing a replacement authority, or replacement portion of the authority, that incorporates the amendment.

Division 4 – Suspension and cancellation of authorities**31. Grounds for suspending or cancelling authority**

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

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

32. Show cause notice

- (1) If the Director of Public Health believes a ground exists to suspend or cancel an authority, the Director of Public Health must give the holder of the authority written notice stating the following:
 - (a) the action that the Director of Public Health proposes taking under this Division;
 - (b) the grounds for the proposed action;
 - (c) an outline of the facts and circumstances forming the basis for the grounds;
 - (d) if the proposed action is suspension of the authority, the proposed suspension period;
 - (e) an invitation to the holder to show cause, within a period specified in the notice, why the proposed action should not be taken.
- (2) For the purposes of subsection (1)(e), the period specified in the notice must not be less than 28 days commencing on the day the notice is given to the holder of the authority.

33. Representations about show cause notices

If the holder of an authority receives a show cause notice, the holder may make written representations to the Director of Public Health in the period specified in that notice showing

cause why the authority should not be suspended or cancelled.

34. Ending show cause process without further action

If, after considering all representations made under section 33, the Director of Public Health no longer believes a ground exists to suspend or cancel the authority, the Director of Public Health –

- (a) may not suspend or cancel the authority; and
- (b) is to give written notice to the holder of the authority stating that the authority will not be suspended or cancelled.

35. Suspension or cancellation

- (1) If, after considering any representations made under section 33, the Director of Public Health believes that a ground exists to suspend or cancel the authority and that a suspension or cancellation of the authority is warranted, the Director of Public Health may –

- (a) if the proposed action stated in the show cause notice was to suspend the authority for a period specified in that notice, suspend the authority for not longer than the stated period; or
- (b) if the proposed action stated in the show cause notice was to cancel the authority, either cancel the authority or suspend it for a period.

- (2) The Director of Public Health must give a review notice in relation to the decision to suspend or cancel the authority to the holder of the authority as soon as practicable.
- (3) The decision to suspend or cancel an authority takes effect –
 - (a) on the day the review notice is given to the holder; or
 - (b) if a later day is specified in the review notice, on the later day.

36. Return of suspended or cancelled authority

If the Director of Public Health has suspended or cancelled an authority and has given a review notice in relation to the decision to the holder of the authority, the holder must return the authority to the Director of Public Health within 14 days after receiving the review notice unless the holder has a reasonable excuse.

Penalty: Fine not exceeding 10 penalty units.

37. Immediate suspension of authority in urgent circumstances

- (1) In this section, urgent circumstances exist if a ground exists to suspend or cancel a licence, certificate of registration or certificate of accreditation and it is necessary, to protect persons or the environment from the harmful effects of radiation, to immediately suspend the authority until the suspension or cancellation

procedure under sections 32, 33, 34 and 35 is completed.

- (2) If the Director of Public Health is satisfied that urgent circumstances exist in respect of an authority, he or she may immediately suspend the authority.
- (3) The Director of Public Health is to give a review notice in relation to the decision to immediately suspend an authority under subsection (2) to the holder of the authority.
- (4) A suspension under subsection (2) takes effect when the review notice in relation to the decision is given to the holder.
- (5) If the Director of Public Health gives the holder a show cause notice within 14 days after the Director of Public Health suspends an authority under subsection (2), the suspension remains in force until the first of the following occurs:
 - (a) the Director of Public Health cancels the suspension;
 - (b) a decision under section 35 to cancel or suspend the authority takes effect;
 - (c) a decision under section 35 is made not to cancel or suspend the authority.
- (6) If a show cause notice is not given to the holder of the authority within the period mentioned in subsection (5), the suspension lapses at the end of that period unless the Director of Public Health has already cancelled the suspension.

Division 5 – Miscellaneous provisions**38. Prohibition on abandoning radiation source**

A person must not abandon a radiation source.

Penalty: Fine not exceeding 5 000 penalty units.

39. Procedure if radiation source abandoned

- (1) If the Director of Public Health is of the opinion that a radiation source has been abandoned –
 - (a) an authorised officer may seize the radiation source; or
 - (b) the Director of Public Health, if a person agrees to it, may direct the person to dispose of the radiation source.
- (2) After seizing a radiation source under subsection (1)(a), an authorised officer may do any one or more of the following:
 - (a) keep possession of the source for such time as is necessary for the institution and final determination of legal proceedings relating to the abandonment;
 - (b) destroy the source;
 - (c) otherwise render the source harmless and dispose of it;
 - (d) dispose of the source.
- (3) If a person is directed under subsection (1)(b) to dispose of the radiation source, that person –

- (a) may dispose of it in a manner approved by the Director of Public Health or may render it harmless and then dispose of it; and
 - (b) is taken to hold a licence in respect of the radiation source authorising the person to take the action specified in paragraph (a) and to possess, store and transport the radiation source for the purposes of taking that action.
- (4) The reasonable costs and expenses of a person taking action under subsection (3) are to be paid out of money provided by Parliament for the purpose.
- (5) The person who abandoned the radiation source is liable for –
 - (a) the reasonable costs and expenses incurred by the Crown in seizing the radiation source under subsection (1)(a) and taking any action under subsection (2); and
 - (b) the reimbursement of the Crown for any amount paid to a person under subsection (4).
- (6) The Director of Public Health may recover the costs and expenses or the amount of the reimbursement specified in subsection (5) in a court of competent jurisdiction as a debt due to the Crown.
- (7) In determining the costs and expenses incurred by the Crown in the taking of action under subsection (2), or by a person taking action

under subsection (3), any proceeds earned from the disposal of the radiation source are to be taken into account.

40. Surrender of authority

- (1) The holder of an authority may surrender the authority by written notice given to the Director of Public Health.
- (2) The surrender takes effect –
 - (a) on the day the notice is given to the Director of Public Health; or
 - (b) if a later day is specified in the notice, on the later day.
- (3) The holder must return the authority to the Director of Public Health within 14 days after the day the surrender takes effect unless the holder has a reasonable excuse.

Penalty: Fine not exceeding 10 penalty units.

41. Replacement of authority

- (1) The holder of an authority is to apply to the Director of Public Health for a replacement of the authority if it has been lost, stolen or destroyed.
- (2) The Director of Public Health may issue a replacement authority, marked as such, on payment of any prescribed fee.

42. Failure to decide application

The Director of Public Health is taken to have decided to refuse to grant an application under Division 1, 2 or 3 of this Part if he or she has failed to determine the application –

- (a) within 90 days after its receipt; or
- (b) in a case where the Director of Public Health has given the applicant notice requiring the provision of further documents or information in the period specified in the notice –
 - (i) within 90 days after receiving the further documents or information; or
 - (ii) if the further documents or information is not provided within the period specified in that notice, within 90 days after the end of that period.

43. Contravention of condition

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

Penalty: Fine not exceeding 500 penalty units.

44. Transfer of authority prohibited

An authority may not be transferred.

45. Holder of authority to give notice of prescribed change

Within 14 days after a prescribed change in circumstances happens for an authority, the holder of the authority must give written notice to the Director of Public Health of the change.

Penalty: Fine not exceeding 10 penalty units.

PART 5 – ADMINISTRATION***Division 1 – Radiation Advisory Council*****46. Establishment of Radiation Advisory Council**

The Radiation Advisory Council is established.

47. Constitution of Council

- (1) The Council consists of not more than 9 persons appointed by the Minister.
- (2) The Council may appoint a member of the Council as its chairperson.
- (3) Schedule 1 has effect in respect of the membership of the Council.
- (4) Schedule 2 has effect in respect of meetings of the Council.

48. Function of Council

The Council's function is to advise the Director of Public Health and the Minister on –

- (a) radiation protection and nuclear safety matters; and
- (b) matters relating to the administration of this Act, including –
 - (i) applications for authorities referred to it by the Director of Public Health; and

- (ii) the issue of guidelines under section 56; and
- (iii) codes of practice.

49. Powers of Council

The Council has power to do all things necessary or convenient to be done in connection with the performance of its function.

50. Acting members of Council

- (1) For the purposes of this section, a member of the Council is absent if he or she –
 - (a) is absent from duty; or
 - (b) is otherwise unable to perform the functions of the office of member.
- (2) The Minister may appoint a person to act as a member of the Council during all absences, or a particular absence, of a member of the Council.
- (3) The appointment of a person to act as a member of the Council during the absence of the chairperson is not an appointment to act in the position of chairperson.
- (4) While a person appointed to act as a member of the Council is so acting as a member that person is taken to be a member of the Council.

Division 2 – Director of Public Health**51. General functions and powers of Director of Public Health**

- (1) The functions of the Director of Public Health are as follows:
 - (a) to ensure that the provisions of this Act are complied with;
 - (b) to advise the Minister on any changes to this Act that may be necessary or appropriate;
 - (c) to carry out any other function for the purposes of this Act as the Minister determines.
- (2) The Director of Public Health has power to do all things necessary or convenient to be done in connection with the performance of his or her functions under this Act.
- (3) The Minister may give the Director of Public Health directions in respect of any power or function of the Director of Public Health under this Act and the Director of Public Health is to comply with those directions.

52. Delegation by Director of Public Health

The Director of Public Health may delegate to any person, class of persons or State Service Agency any of his or her functions or powers under this Act, other than this power of delegation.

*Division 3 – Authorised officers***53. Appointment of authorised officers**

- (1) The Director of Public Health may appoint a State Service officer or State Service employee employed in the Department to be an authorised officer for the purposes of this Act, and that officer or employee may hold that office in conjunction with State Service employment.
- (2) The Director of Public Health, with the consent of a Head of a State Service Agency other than the Department, may appoint a State Service officer or State Service employee employed in that Agency to be an authorised officer for the purposes of this Act, and that officer or employee may hold that office in conjunction with State Service employment.
- (3) The Director of Public Health may authorise a person who is not a State Service officer or State Service employee to perform the functions and exercise the powers of an authorised officer for the purposes of this Act.

54. Certificates of authorisation

- (1) The Director of Public Health is to provide each authorised officer with a certificate of authorisation.
- (2) The certificate of authorisation may limit the powers and functions that an authorised officer may exercise and perform under this Act.

- (3) An authorised officer, when exercising a power or performing a function under this Act, is to produce his or her certificate of authorisation if requested to do so by any person.

55. Issuing certificates of compliance

- (1) A certificate of authorisation under section 54 may authorise the authorised officer to issue certificates of compliance for radiation sources, or radiation places, of the class specified in the authorisation.
- (2) An authorised officer who holds an authorisation that authorises him or her to issue certificates of compliance for radiation sources, or radiation places, of the class specified in the authorisation is taken to hold a certificate of accreditation –
 - (a) in respect of that class of radiation source or radiation place; and
 - (b) which is subject to the condition that the authorised officer may only issue a certificate of compliance for a particular radiation source or radiation place if the Director of Public Health has given the authorised officer a further written authority to issue such a certificate for that source or place.
- (3) The Director of Public Health may give a further written authority to an authorised officer to issue a certificate of compliance in relation to a particular radiation source or radiation place if satisfied –

- (a) that there is no person holding a certificate of accreditation authorising him or her to issue such a certificate of compliance; or
- (b) that –
 - (i) special circumstances exist; and
 - (ii) although there is a person holding a certificate of accreditation authorising the issue of such a certificate of compliance, there would be a significant delay in the issue of the certificate; and
 - (iii) the delay in issuing the certificate would cause undue hardship to any person or would pose a risk of harm to the health and safety of people or to the environment.
- (4) The Director of Public Health may charge a fee, determined by the Director of Public Health, for the issue of a certificate of compliance by an authorised officer.

Division 4 – Other matters of administration

56. Guidelines

- (1) The Director of Public Health may issue guidelines in respect of administrative matters for this Act.
- (2) Without limiting subsection (1), guidelines may be issued in respect of the following matters:

- (a) the type of information to be included in or to accompany an application for an authority;
 - (b) the assessing of an application for an authority.
- (3) The guidelines may authorise any matter to be from time to time determined, applied or regulated by any person specified in the guidelines.
- (4) The guidelines may adopt, apply or incorporate, either wholly or in part and with or without modification, and either specifically or by reference, any document, whether the document is published or issued before or after the guidelines take effect.
- (5) The Director of Public Health may amend or revoke any guidelines.
- (6) The Director of Public Health is to notify, by public notice –
 - (a) the issue, amendment or revocation of any guidelines; and
 - (b) the subject matter of the guidelines; and
 - (c) the place where copies of issued guidelines may be obtained.
- (7) The guidelines –
 - (a) are not a statutory rule for the purposes of the *Rules Publication Act 1953*; and
 - (b) may not be declared under the *Subordinate Legislation Act 1992* to be

subordinate legislation for the purposes of that Act.

- (8) The *Acts Interpretation Act 1931* applies to the interpretation of the guidelines as if the guidelines were by-laws.

57. Codes of practice

- (1) The Director of Public Health, by public notice, may approve as a code of practice the whole or part of any code of practice, standard, rule, specification or guidelines, with or without modification, that is issued, prescribed, made or published by any person that relates to any of the following matters:
- (a) the use, manufacture, sale, acquisition, possession, storage, transport, installation, servicing, repairing or disposal of, or other dealing with, a radiation source;
 - (b) standards of compliance for –
 - (i) a radiation source for carrying out a radiation practice; or
 - (ii) a radiation place.
- (2) The public notice must state where copies of the code of practice, standard, rule, specification or guidelines may be inspected during normal business hours.
- (3) The Director of Public Health is to ensure copies of the code of practice, standard, rule, specification or guidelines are available for

inspection, free of charge, at the place stated in the notice during normal business hours.

- (4) A contravention of a code of practice, standard, rule or specification does not of itself constitute an offence against this Act.
- (5) A public notice under subsection (1) –
 - (a) is not a statutory rule for the purposes of the *Rules Publication Act 1953*; and
 - (b) may not be declared under the *Subordinate Legislation Act 1992* to be subordinate legislation for the purposes of that Act.

58. Protection from liability

The Crown, the Director of Public Health, an authorised officer, a member of the Council or another person engaged in the administration of this Act does not incur any liability in respect of any act done or omitted in good faith in the performance or exercise, or the purported performance or exercise, of any function or power or in the administration or execution, or purported administration or execution, of this Act.

59. Confidentiality

- (1) In this section –

“**information**” includes a document;

“person involved in the administration of this Act” means –

- (a) the Director of Public Health; or
 - (b) an authorised officer; or
 - (c) a person assisting an authorised officer under Part 6; or
 - (d) a member of the Council; or
 - (e) another person involved in the administration this Act.
- (2) A person involved in the administration of this Act must not directly or indirectly disclose any information acquired because of that involvement in the administration of this Act if –
- (a) the disclosure of the information would be likely to damage the commercial activities, or adversely affect the intellectual property rights, of the person to whom the information relates; or
 - (b) the information is about a person’s health and identifies, or is likely to allow another person to identify, that person.
- Penalty: Fine not exceeding 500 penalty units.
- (3) Subsection (2) does not apply –
- (a) to the disclosure of information by a person involved in the administration of this Act in, or for the purposes of, the performance of his or her functions under this Act; or

- (b) if the person involved in the administration of this Act is authorised or required by law to disclose the information; or
- (c) if the person to whom the information relates consents in writing to the disclosure; or
- (d) if the disclosure is made to the person to whom the information relates; or
- (e) if the information is otherwise publicly available; or
- (f) if the information is disclosed to a person who is responsible under the laws of another jurisdiction for the licensing or other authorisation of a radiation source, a dealing with a radiation source, a place where a radiation source is used or stored, the testing of a radiation source or the issue of a certificate that has substantially the same effect as a certificate of compliance; or
- (g) if the information is disclosed to a prescribed person, or a person of a prescribed class, for a prescribed purpose.

PART 6 – ENFORCEMENT

Division 1 – Preliminary

60. Interpretation

In this Part –

“**occupier**”, in relation to a place, includes a person who reasonably appears to be an occupier of the place.

61. When thing connected with an offence

For the purposes of this Part, a thing is connected with an offence if –

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

Division 2 – Inspection and seizure powers of authorised officers

62. Powers of authorised officers

- (1) For the purposes of this Act, an authorised officer, at any reasonable time, may do any one or more of the following:

- (a) alone, or with such police officers or other persons as the authorised officer considers necessary, enter and inspect any place that the authorised officer reasonably believes is used in connection with the manufacture, possession, sale, acquisition, use, storage, transport, service, repair or disposal of, or other dealing with, a radiation source;
 - (b) alone, or with such police officers or other persons as the authorised officer considers necessary, enter and inspect any place in which the authorised officer reasonably believes that there are any records or documents that relate to the manufacture, possession, use, sale, acquisition, storage, transport, installation, servicing, repair or disposal of, or other dealing with, a radiation source.
- (2) In any place lawfully entered, an authorised officer may do any one or more of the following:
 - (a) inspect or examine that place or anything found in or on that place;
 - (b) take measurements of, or conduct tests in relation to, that place or anything found in or on that place;
 - (c) take photographs, films or audio, video or other recordings of that place or anything found in or on that place;
 - (d) take and remove from that place samples for analysis of anything found in or on that place;

- (e) subject to section 66, seize any thing found in or on that place;
- (f) if that place is a vehicle –
 - (i) subject to section 66, seize the vehicle; and
 - (ii) stop, move or not move the vehicle; and
 - (iii) bring the vehicle to a place and remain in control of the vehicle until the authorised officer permits the vehicle to depart;
- (g) take copies of or extracts from documents found in or on that place;
- (h) require a person in or on that place to –
 - (i) answer questions or provide information; or
 - (ii) make available documents kept in or on that place; or
 - (iii) give the authorised officer reasonable assistance in the exercise of his or her powers under this section;
- (i) direct a person apparently in charge of any equipment found in or on that place not to operate the equipment –
 - (i) until the repairs specified in the direction have been made; or

- (ii) until the equipment meets the requirements specified in the direction;
 - (j) direct the occupier of that place to do the following until the period specified in the direction or an extension of that period, neither period exceeding 14 days, has expired:
 - (i) to stop using a thing found in or on that place and to store it in the manner specified in the direction;
 - (ii) to use a thing found in or on that place in the way specified in the direction and in no other way;
 - (k) direct the occupier of that place not to remove a thing found in or on that place for the period, not exceeding 14 days, specified in the direction;
 - (l) destroy or render harmless, or direct the occupier of that place to destroy or render harmless, a thing found in or on that place that poses, or is likely to pose, a threat of harm to the health or safety of persons or to the environment;
 - (m) generally make such investigations and inquiries as may be necessary to ascertain whether an offence under this Act is being or has been committed.
- (3) After taking a sample under subsection (2)(d) or seizing a thing or vehicle under subsection (2)(e) or (f), the authorised officer is to give a receipt for the sample, thing or vehicle to –

- (a) the occupier of the place from which the sample, thing or vehicle was taken or seized; or
 - (b) the person who the authorised officer reasonably believes was in possession of the sample, thing or vehicle immediately before it was taken or seized.
- (4) If an authorised officer makes or gives a requirement or direction under subsection (2) orally, the authorised officer, as soon as practicable, is to confirm the requirement or direction by written notice given to the person.
- (5) When making a requirement or giving a direction under subsection (2), the authorised officer is to inform the person that it is an offence not to comply with the requirement or direction unless the person has a reasonable excuse.
- (6) A person, unless he or she has a reasonable excuse, must comply with a requirement or direction made or given to him or her under subsection (2) regardless of whether or not the authorised officer has complied with subsection (4).

Penalty: Fine not exceeding 500 penalty units.

- (7) This section does not authorise entry into any part of premises that is being used solely for residential purposes except –
 - (a) with the consent of the occupier of the premises; or
 - (b) under the authority of a warrant.

- (8) A person is not excused from a requirement under this section to provide information or answer questions, or to produce any record, document or thing, on the ground that the information, answer, record, document or thing might incriminate the person or make the person liable to a penalty.
- (9) Any information or answer furnished, or record, document or thing produced, by a natural person in compliance with a requirement under this section to provide information or answer questions, or to produce a record, document or thing, is not admissible in evidence against the person in criminal proceedings other than for an offence against subsection (6) or section 71 or 72.

63. Warrant to enter place

- (1) An authorised officer may apply to a justice of the peace, by information on oath, for a warrant in respect of a place if the authorised officer reasonably believes that an offence against this Act is about to be, is being or has been committed in or on the place.
- (2) The magistrate may issue a warrant if satisfied about the matters set out in the information.
- (3) A warrant authorises the authorised officer named in the warrant and any other person assisting the authorised officer, using such force as is reasonable –
 - (a) to enter, remain in and inspect the place specified in the warrant; and

- (b) to exercise any powers the authorised officer may exercise in or on, or in respect of, any place lawfully entered under this Part.
- (4) The warrant must state –
 - (a) the purpose for which it is issued; and
 - (b) the nature of the offence or contravention for which the entry is authorised; and
 - (c) the hours during which entry to the place is authorised or state that the entry is authorised at any time of the day or night; and
 - (d) the date, within 28 days after the warrant's issue, on which the warrant ceases to have effect.
- (5) An authorised officer executing the warrant must produce the warrant for inspection if asked by the occupier of the place or another person in or on the place.

64. Emergency powers

- (1) Despite any other provision of this Act, an authorised officer, without a warrant or the consent of the occupier of a place, may enter the place, including a residence, with such other persons as the authorised officer considers appropriate and using such force as is reasonable in the circumstances if the Director of Public Health reasonably suspects that –

- (a) there is a radiation source in or on a place; and
 - (b) it is necessary to exercise powers under this Part –
 - (i) to avoid or minimise an imminent risk of death or serious illness of, or serious injury to, any person from radiation emitted from the source; or
 - (ii) to avoid or minimise an imminent risk of serious harm to the environment from the source.
- (2) An authorised officer or person assisting an authorised officer who enters a place under subsection (1) may –
 - (a) enter, remain in and inspect the place; and
 - (b) exercise any powers he or she may exercise in or on, or in respect of, any place lawfully entered under this Part.

65. Power to search person

- (1) In this section, a reference to a search of a person includes a reference to a search of the clothes of the person and any article in the possession of the person but does not include a reference to a strip search of the person.
- (2) If an authorised officer reasonably believes that a person has in his or her possession a radiation source, the officer may search that person

without warrant and with such assistance as the officer considers appropriate.

- (3) For the purposes of conducting a search under subsection (2), the authorised officer may do one or more of the following:
 - (a) detain the person;
 - (b) require the person to accompany the officer to a place which the officer considers appropriate for conducting the search.
- (4) On conducting a search under this section, the authorised officer may seize a radiation source found in the possession of the person.

66. Seizure of things

- (1) An authorised officer may seize a thing or vehicle under this Part only if the authorised officer reasonably believes that the thing or vehicle –
 - (a) is connected with an offence against this Act and the seizure is necessary to prevent the thing or vehicle from being –
 - (i) concealed, lost, damaged or destroyed; or
 - (ii) used to commit the offence; or
 - (b) is connected with an offence against this Act and the seizure is necessary to conduct tests for adducing evidence for a prosecution for the offence; or

- (c) poses a threat of harm to the health or safety of persons or to the environment.
- (2) After seizing a thing or vehicle under this Part, an authorised officer may –
 - (a) take, or direct another person to take, the thing or vehicle to the place stated by the authorised officer; or
 - (b) give such directions about the handling and storage of the thing or vehicle as the authorised officer considers appropriate.
- (3) Without the written consent of the Director of Public Health, a person must not –
 - (a) interfere with or dispose of a thing or vehicle seized under this Part; or
 - (b) remove a thing or vehicle seized under this Part from the place in or on which it was seized or to which it was taken by or under the direction of the authorised officer.

Penalty: Fine not exceeding 500 penalty units.

67. Retention of thing seized

- (1) If a thing or vehicle is seized under this Part because it is connected with an offence against this Act –
 - (a) the thing or vehicle is to be held by the authorised officer for adducing evidence for a prosecution for an offence against this Act unless the Director of Public Health authorises its release to its owner

or the person who had possession of it immediately before its seizure; and

(b) if a prosecution for an offence against this Act is started within 12 months after the seizure and the defendant is found guilty, the court may order that –

(i) the thing or vehicle be forfeited to the Crown; or

(ii) the defendant pay to the Crown an amount equal to the market value of the thing or vehicle when seized, being the value decided by the court; and

(c) the authorised officer is to release the thing or vehicle to its owner or the person who had possession of it immediately before its seizure if –

(i) a prosecution for an offence against this Act is not started within 12 months after the seizure; or

(ii) on a prosecution being started within that period, the defendant is not found guilty or the court does not make an order under paragraph (b).

(2) If a thing or vehicle is seized under this Part because it poses a threat of harm to the health or safety of persons or to the environment –

(a) the authorised officer is to destroy it, otherwise render it harmless or dispose

of it in accordance with the regulations;
and

- (b) if it has been rendered harmless otherwise than by destroying it, the authorised officer is to release it to its owner or the person who had possession of it immediately before its seizure.

68. Recovery of costs

- (1) If an authorised officer under this Part destroys, renders harmless or disposes of a thing or vehicle, the owner or the person who had possession of the thing or vehicle immediately before it was seized, destroyed, rendered harmless or disposed of by the authorised officer, as the case requires, is liable for the costs and expenses reasonably incurred as a result of an authorised officer taking that action.
- (2) The Director of Public Health may recover the costs and expenses specified in subsection (1) in a court of competent jurisdiction as a debt due to the Crown.
- (3) The Crown is not liable in respect of any costs and expenses incurred by a person in complying with a direction given under this Part.
- (4) If the Director of Public Health receives any proceeds as a consequence of disposing of a thing or vehicle as referred to in subsection (1), those proceeds less the costs and expenses reasonably incurred in disposing of that thing or vehicle are to be paid to the owner or the person who had possession of that thing or vehicle immediately before it was seized or disposed of

by the authorised officer, as the Director of Public Health determines appropriate.

Division 3 – Other powers of authorised officers

69. Power to require name and address

- (1) An authorised officer may require a person to state his or her name and address if the authorised officer –
 - (a) finds the person committing an offence against this Act; or
 - (b) finds the person in circumstances that lead the authorised officer to reasonably suspect that the person has just committed an offence against this Act; or
 - (c) has information that leads the authorised officer to reasonably suspect that the person has just committed an offence against this Act.
- (2) When making the requirement under subsection (1), the authorised officer must inform the person that it is an offence not to comply with the requirement.
- (3) The authorised officer may require the person to provide evidence of the correctness of his or her name or address if the authorised officer reasonably suspects the name or address given is false.
- (4) A person must comply with the requirement of an authorised officer made under subsection (1) or (3).

Penalty: Fine not exceeding 10 penalty units.

70. Power to require information from certain persons

- (1) If an authorised officer reasonably suspects that –
 - (a) an offence against this Act has been committed; and
 - (b) a person may be able to give information about the offence –

the authorised officer may require the person to give information about the suspected offence.

- (2) When making the requirement, the authorised officer must inform the person that it is an offence to fail to give the information unless the person has a reasonable excuse.
- (3) The person must comply with the requirement unless the person has a reasonable excuse.

Penalty: Fine not exceeding 500 penalty units.

- (4) Without limiting what constitutes a reasonable excuse for the person to fail to comply with the requirement, it is a reasonable excuse if complying with the requirement might incriminate the person.

Division 4 – General enforcement matters

71. False or misleading documents

- (1) A person must not give the Director of Public Health or an authorised officer a document

containing information that the person knows is false or misleading in a material particular.

Penalty: Fine not exceeding 500 penalty units.

- (2) Subsection (1) does not apply to a person who, when giving the document to the Director of Public Health or authorised officer –
 - (a) tells the Director of Public Health or authorised officer, to the best of the person's ability, how the document is false or misleading; and
 - (b) gives the correct information to the authorised officer if the person has, or can reasonably obtain, the correct information.
- (3) It is enough for a complaint against a person for an offence against subsection (1) to state that the document is, to the person's knowledge, false or misleading in a material particular without specifying whether the document is false or whether it is misleading.

72. False or misleading statements

- (1) A person must not –
 - (a) state anything to the Director of Public Health or an authorised officer that the person knows is false or misleading in a material particular; or
 - (b) omit from a statement made to the Director of Public Health or an authorised officer anything without

which the statement is, to the person's knowledge, misleading in a material particular.

Penalty: Fine not exceeding 500 penalty units.

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

73. Offences relating to authorised officer

- (1) A person must not, without reasonable excuse –
- (a) impede, obstruct or assault, or attempt to impede, obstruct or assault an authorised officer who is exercising any power under this Act or a person assisting that officer; or
 - (b) use threatening, abusive or insulting language to such an officer or assistant; or
 - (c) prevent, or attempt to prevent, a person from answering questions, giving information or providing documents to such an officer or assistant; or
 - (d) impersonate an authorised officer.

Penalty: Fine not exceeding 500 penalty units.

- (2) In subsection (1) –
- “obstruct”** includes –

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- (a) hinder; and
- (b) resist; and
- (c) attempt to obstruct.

PART 7 – REVIEWS OF DECISIONS**74. Reviews of decisions**

A person who is given, or entitled to be given, a review notice in relation to a decision of the Director of Public Health may apply to the Magistrates Court (Administrative Appeals Division) for a review of the decision and that decision is a reviewable decision for the purposes of the *Magistrates Court (Administrative Appeals Division) Act 2001*.

PART 8 – LEGAL PROCEEDINGS

Division 1 – Evidentiary provisions

75. Signatures

For the purposes of this Act, a signature purporting to be the signature of the Director of Public Health or an authorised officer is evidence of the signature it purports to be.

76. Evidentiary certificates

(1) In this section –

“**specified**” means specified in the certificate referred to in subsection (2).

(2) A certificate purporting to be signed by the Director of Public Health stating any of the following matters is evidence of the matter:

- (a) that a specified person was the Director of Public Health or an authorised officer on a specified day;
- (b) that a specified document is an authority or notice issued or given under this Act;
- (c) that on a specified day or during a specified period a specified person was or was not the holder of an authority;
- (d) that on a specified day or during a specified period an authority –
 - (i) was or was not in force; or

- (ii) was or was not subject to a condition;
- (e) that on a specified day an authority was suspended or cancelled;
- (f) that on a specified day a specified person was given a notice under this Act.

Division 2 – Criminal liability

77. Conduct of representatives

- (1) In this section –

“engaging in conduct” includes failing or refusing to engage in conduct;

“representative” means –

- (a) in the case of a body corporate, an executive officer, employee or agent of the body corporate; or
- (b) in the case of a partnership, a partner, employee or agent of the partnership; or
- (c) in the case of a natural person, an employee or agent of the person;

“state of mind of a person” includes –

- (a) the knowledge, intention, opinion, belief or purpose of the person; and

- (b) the person's reasons for the intention, opinion, belief or purpose.
- (2) If in a proceeding for an offence against this Act it is necessary to establish the state of mind of a person in relation to particular conduct, it is sufficient to show that –
 - (a) the conduct was engaged in by a representative of the person, within the scope of the representative's actual or apparent authority; and
 - (b) the representative had that state of mind.
- (3) For a proceeding for an offence against this Act, conduct engaged in on behalf of a person by a representative within the scope of the representative's actual or apparent authority is taken to have been engaged in also by the person.

78. Liability of executive officers of body corporate

- (1) If a body corporate commits an offence against this Act, each person concerned in the management of the body corporate is taken to have also committed the offence and may be convicted of the offence unless the person shows –
 - (a) that the body corporate would not have been found guilty of the offence because it would have been able to establish a defence; or

- (b) that the person could not reasonably be expected to have known, and did not know, that the act or omission constituting the offence would take place; or
 - (c) that the person used all due diligence to prevent that act or omission by the body corporate.
- (2) A person referred to in subsection (1) may be convicted of an offence against this Act whether or not the body corporate is charged with or convicted of the offence.
- (3) If a person concerned in the management of the body corporate (in this subsection called the “offending person”) commits an offence against this Act in the course of the activities of the body corporate, each other person concerned in the management of the body corporate is taken to have also committed the offence and may be convicted of the offence unless that other person shows –
 - (a) that the offending person would not have been found guilty of the offence because he or she would have been able to establish a defence; or
 - (b) that the other person could not reasonably be expected to have known, and did not know, that the act or omission constituting the offence would take place; or
 - (c) the other person used all due diligence to prevent that act or omission by the offending person.

79. Liability of partners in partnership

- (1) If a partnership holding an authority commits an offence against this Act, each partner in the partnership is taken to have also committed the offence and may be convicted of the offence unless the partner shows –
 - (a) that the partnership would not have been found guilty of the offence because it would have been able to establish a defence; or
 - (b) that the partner could not reasonably be expected to have known, and did not know, that the act or omission constituting the offence would take place; or
 - (c) that the partner used all due diligence to prevent that act or omission by the partnership.
- (2) A partner referred to in subsection (1) may be convicted of an offence against this Act whether or not the partnership is charged with or convicted of the offence.
- (3) If a person who is a partner in a partnership (in this subsection called the “offending partner”) commits an offence against this Act in the course of the activities of the partnership, each other partner in the partnership is taken to have also committed the offence and may be convicted of the offence unless that other partner shows –
 - (a) that the offending partner would not have been found guilty of the offence because

he or she would have been able to establish a defence; or

- (b) that the other partner could not reasonably be expected to have known, and did not know, that the act or omission constituting the offence would take place; or
- (c) that the other partner used all due diligence to prevent that act or omission by the offending partner.

Division 3 – Proceedings generally

80. Time for making complaint

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

81. Additional court orders

- (1) In this section –

“prescribed offence” means an offence against this Act that results in –

- (a) the loss of, or damage to, another person’s property or income; or
- (b) harm to the health or safety of persons or to the environment.

- (2) In addition to the penalty that may otherwise be imposed for a prescribed offence, the court may –
- (a) order the person found guilty of the offence to pay to another person the amount determined by the court as compensation for one or more of the following:
 - (i) the loss of, or damage to, the other person's property or income;
 - (ii) costs reasonably incurred by the other person in taking action to mitigate or prevent such loss or damage;
 - (iii) costs reasonably incurred by the other person in taking action to prevent harm to his or her health or safety or the health or safety of persons supported financially by him or her; or
 - (b) order the person found guilty of the offence to pay to the Crown the amount determined by the court to be the reasonable costs and expenses incurred by the Crown in taking action to remedy or mitigate the harm to the health or safety of persons or to the environment or to prevent further harm to the health or safety of persons or to the environment.
- (3) In addition, the court may make any other order the court considers necessary or convenient for

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the enforcement of an order under
subsection (2).

PART 9 – MISCELLANEOUS PROVISIONS**82. Register**

- (1) The Director of Public Health is to keep a register of authorities.
- (2) The register may be in any form, including an electronic form.
- (3) The register is to contain the information prescribed by the regulations.
- (4) The Director of Public Health must not –
 - (a) make available for inspection by any person any entry in the register that does not relate to that person; or
 - (b) otherwise publish the register or any part of it.
- (5) Subsection (4) does not apply to the inspection or publication of –
 - (a) the register; or
 - (b) an entry in the register; or
 - (c) any part of the register –by or to a prescribed person or a person of a prescribed class.

83. Annual report

- (1) As soon as practicable after the end of each financial year and not later than 1 November, the

Director of Public Health is to give the Minister a written report on the operation of this Act during that financial year.

- (2) The report is to contain –
 - (a) any information required by the Minister;
and
 - (b) any other information the Director of Public Health considers appropriate.
- (3) The Minister is to table a copy of the report in each House of Parliament.

84. Service of documents

- (1) A document that is required or permitted under this Act to be given to a person is effectively given if –
 - (a) in the case of a natural person, it is –
 - (i) given to the person; or
 - (ii) left at, or sent by post to, the person's postal or residential address or place or address of business or employment last known to the giver of the document; or
 - (iii) faxed to the person's fax number;
or
 - (iv) emailed to the person's email address; and
 - (b) in the case of any other person, it is –

- (i) left at, or sent by post to, the person's principal or registered office or principal place of business; or
 - (ii) faxed to the person's fax number; or
 - (iii) emailed to the person's email address.
- (2) A document is taken to be given to a person –
 - (a) if it is given to the person, on the day it is so given; or
 - (b) if it is left at an address, office or place under subsection (1)(a)(ii) or subsection (1)(b)(i), on the day it is so left; or
 - (c) if it is sent by post under subsection (1)(a)(ii) or subsection (1)(b)(i), on the day the document would have been delivered in the ordinary course of post; or
 - (d) if it is faxed or emailed under subsection (1)(a)(iii) or (iv) or subsection (1)(b)(ii) or (iii), on the day it is faxed or emailed.

85. Exemptions

- (1) The regulations may exempt from the operation of this Act, or a provision of this Act or the regulations, any of the following or a class of any of the following:

- (a) a person;
 - (b) a radiation source;
 - (c) a radioactive material or an amount of radioactive material;
 - (d) a radiation apparatus;
 - (e) an activity or dealing with a radiation source;
 - (f) a level of exposure to a radiation source.
- (2) An exemption must not be one that could reasonably be expected to pose any, or more than a negligible, threat of harm to the health or safety of persons or to the environment.
- (3) The exemption may be given on conditions stated in the regulation.
- (4) A person must not contravene a condition of the exemption.

Penalty: Fine not exceeding 50 penalty units.

86. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may be made in relation to one or more of the following:
- (a) the disposal of radiation sources;
 - (b) radiation protection measures;

- (c) radiation monitoring required to be carried out by persons;
 - (d) the safety and security of radiation sources;
 - (e) the use, manufacture, sale, acquisition, possession, storage, transport, installation, service, repair or disposal of, or other dealing with, a radiation source, or a radiation source of a prescribed class;
 - (f) all matters relating to certificates of compliance including, in particular, their term and renewal;
 - (g) all matters relating to the protection from the harmful effects of radiation of persons working in an industry or business where they are exposed to radiation that occurs naturally in the environment;
 - (h) the records to be kept and returns to be made by persons and the inspection of the records;
 - (i) the fees payable, the waiver (wholly or partly) of fees payable and the refund (wholly or partly) of fees paid under this Act.
- (3) The regulations may provide for the review of a decision made under the regulations and, for that purpose, may confer jurisdiction on the Magistrates Court (Administrative Appeals Division).

- (4) The regulations may be made so as to apply differently according to such factors as are specified in the regulations.
- (5) The regulations may –
 - (a) provide that a contravention of any of the regulations is an offence; and
 - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 500 penalty units and, if it is a continuing offence, a further fine not exceeding 100 penalty units for each day during which the offence continues; and
 - (c) provide for the payment of a prescribed amount, instead of a penalty that may otherwise be imposed, for an offence against this Act and for the service and acceptance of an infringement notice in respect of that offence.
- (6) The regulations may authorise any matter to be from time to time determined, applied or regulated by the Director of Public Health or another person specified in the regulations.
- (7) The regulations may adopt, either wholly or in part and with or without modification, and either specifically or by reference, any document, whether the document is published or issued before or after the commencement of this Act.

87. Transitional and savings provisions

- (1) The transitional and savings provisions relating to initial members of the Council and initial

authorised officers set out in Schedule 3 have effect.

- (2) The transitional and savings provisions set out in Schedule 4 have effect.

88. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Health and Human Services; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Health and Human Services.

89. Consequential Amendments

The legislation specified in Schedule 5 is amended as specified in that Schedule.

90. Legislation repealed

The legislation specified in Schedule 6 is repealed.

91. Legislation rescinded

The legislation specified in Schedule 7 is rescinded.

SCHEDULE 1 – MEMBERSHIP OF COUNCIL

Section 47(3)

1. Interpretation

In this Schedule –

“**member**” means a member of the Council.

2. Term of office

A member is appointed for such period, not exceeding 3 years, as is specified in the member’s instrument of appointment and may be reappointed.

3. Holding other office

The holder of an office who is required by the terms of his or her employment to devote the whole of his or her time to the duties of that office is not disqualified from –

- (a) holding that office and also the office of a member; or
- (b) accepting any remuneration payable to a member.

4. *State Service Act 2000*

- (1) The *State Service Act 2000* does not apply in relation to a member in his or her capacity as a member.

- (2) A person may hold the office of a member in conjunction with State Service employment.

5. Remuneration and conditions of appointment

- (1) A member is entitled to be paid such remuneration and allowances as the Minister determines.
- (2) A member who is a State Service employee or State Service officer is not entitled to remuneration or allowances under this clause except with the approval of the Minister administering the *State Service Act 2000*.
- (3) A member holds office on such conditions in relation to matters not provided for by this Act as are specified in the member's instrument of appointment.

6. Vacation of office

- (1) A member vacates office if he or she –
 - (a) dies; or
 - (b) resigns by written notice given to the Director of Public Health; or
 - (c) is removed from office under subclause (2) or (3).
- (2) The Minister may remove a member from office if the member –
 - (a) is absent from 3 consecutive meetings of the Council without its permission; or

- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration or estate for their benefit; or
 - (c) is convicted, in Tasmania or elsewhere, of a crime or an offence punishable by imprisonment for 12 months or longer or a fine of 300 penalty units or more; or
 - (d) is convicted of an offence under this Act; or
 - (e) fails to disclose a pecuniary interest as required under clause 8 of Schedule 2; or
 - (f) has had an authority under this Act suspended or cancelled.
- (3) The Minister may remove a member from office if satisfied that the member is unable to perform adequately or competently the duties of office.
- (4) A member must not be removed from office otherwise than in accordance with this clause.

7. Validation of proceedings, &c.

- (1) An act or proceeding of the Council or of a person acting under any direction of the Council is not invalidated by reason only that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the office of a member.

- (2) All acts and proceedings of the Council or of a person acting under a direction of the Council are, despite the subsequent discovery of a defect in the appointment of a member or that any other person was disqualified from acting as, or incapable of being, a member, as valid as if the member had been duly appointed and was qualified to act as, or capable of being, a member, and as if the Council had been fully constituted.

8. Presumptions

In any proceeding involving the Council, unless evidence is given to the contrary, proof is not required of –

- (a) the constitution of the Council; or
- (b) the appointment of any member.

SCHEDULE 2 – MEETINGS OF COUNCIL

Section 47(4)

1. Interpretation

In this Schedule –

“**member**” means a member of the Council.

2. Convening of meetings

- (1) The chairperson, after giving each member reasonable notice of a meeting –
 - (a) may convene a meeting at any time; and
 - (b) must convene a meeting when requested to do so by 2 or more other members.
- (2) If the chairperson is absent from duty or otherwise unable to perform the duties of the office, a meeting may be convened, after reasonable notice of the meeting has been given, by –
 - (a) two or more other members; or
 - (b) a person authorised by the Council to do so.
- (3) For the purposes of subclauses (1) and (2), what constitutes reasonable notice is to be determined by the Council.

3. Presiding at meetings

- (1) The chairperson of the Council is to preside at all meetings of the Council at which he or she is present.
- (2) If the chairperson is not present at a meeting of the Council, a member elected by the members present at the meeting is to preside.

4. Quorum and voting at meetings

- (1) Five members constitute a quorum at a meeting of the Council.
- (2) A meeting of the Council at which a quorum is present is competent to transact any business of the Council.
- (3) At a meeting of the Council –
 - (a) the member presiding has a deliberative vote only; and
 - (b) a question is decided by a majority of votes of the members present and voting; and
 - (c) if there is an equality of votes of the members present and voting, the matter stands adjourned until the next meeting.
- (4) At a meeting of the Council where, under clause 8, members are excluded from being present and taking part in the consideration and decision of the Council in relation to a matter, a quorum for the purposes of considering and making a decision in relation to that matter is constituted by the number of members specified

as constituting a quorum in subclause (1) less the number of members so excluded.

5. Conduct of meetings

- (1) Subject to this Act, the Council may regulate the calling of, and the conduct of business at, its meetings as it considers appropriate.
- (2) The Council may permit members to participate in a particular meeting or all meetings by –
 - (a) telephone; or
 - (b) video conference; or
 - (c) any other means of communication approved by the Council.
- (3) A member who participates in a meeting under a permission granted under subclause (2) is taken to be present at the meeting.
- (4) Without limiting subclause (1), the Council may allow a person to attend a meeting for the purpose of advising or informing it on any matter.

6. Resolutions without meetings

- (1) If all members appointed sign a document containing a statement that they are in favour of a resolution in the terms set out in the document, a resolution in those terms is taken to have been passed at a meeting of the Council held on the day on which the document is signed or, if the members do not sign it on the same day, on the

day on which the last of the members signs the document.

- (2) If a resolution is taken to have been passed under subclause (1), each member is to be –
 - (a) advised immediately of the matter; and
 - (b) given a copy of the terms of the resolution.
- (3) For the purposes of subclause (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more members, is taken to constitute one document.

7. Minutes

The Council is to keep accurate minutes of its meetings.

8. Disclosure of interests

- (1) If a member has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Council, the member must, as soon as practicable after the relevant facts come to the member's knowledge, disclose the nature of the interest to the Council.

Penalty: Fine not exceeding 100 penalty.

- (2) Unless the Council otherwise determines, a member who has made a disclosure under subclause (1) in relation to a matter must not –

- (a) be present during any deliberation of the Council in relation to the matter; or
 - (b) take part in any decision of the Council in relation to the matter.
- (3) For the purpose of making a determination under subclause (2), the member to whom the determination relates must not –
 - (a) be present during any deliberation of the Council for the purpose of making the determination; or
 - (b) take part in making the determination.

9. General procedure

Except as provided by this Act, the Council may regulate its own proceedings.

10. Presumptions

In any proceeding involving the Council, unless evidence is given to the contrary, proof is not required of –

- (a) any resolution of the Council; and
- (b) the presence of a quorum at any meeting of the Council.

**SCHEDULE 3 – TRANSITIONAL AND SAVINGS
PROVISIONS RELATING TO INITIAL MEMBERS OF
COUNCIL AND INITIAL AUTHORISED OFFICERS**

Section 87(1)

1. Interpretation

In this Schedule –

“commencement day” means the day on which this Act commences;

“previous Council” means the Radiation Advisory Council established under section 4 of the repealed Act;

“repealed Act” means the *Radiation Control Act 1977* as in force immediately before the commencement day.

2. Membership of Council

(1) Each person who was a member of the previous Council immediately before the commencement day, including the chairperson of the previous Council –

(a) becomes a member of the Council; and

(b) is taken to have been appointed under section 47(1) –

(i) on the same conditions as his or her appointment as a member of the previous Council; and

- (ii) for a term ending when his or her appointment as a member would have ended had not the repealed Act been repealed, unless that term is otherwise ended under and in accordance with this Act.
- (2) The person who was the chairperson of the previous Council immediately before the commencement day becomes the chairperson of the Council and is taken to have been appointed as chairperson of the Council under section 47(2).
- (3) Each person who, immediately before the commencement day, held an appointment as a deputy of a member of the previous Council, including the chairperson of the previous Council, is taken to have been appointed under section 50 to act as a member of the Council on the same terms and conditions as his or her appointment as a deputy of a member of the previous Council.

3. Initial authorised officers

A person who was an authorized officer under the repealed Act immediately before the commencement day is taken to have been appointed as an authorised officer under section 53(1) or (2) or authorised to perform the functions and exercise the powers of an authorised officer under section 53(3), as the case requires –

- (a) on the same conditions as his or her appointment or authorization under the repealed Act; and
- (b) for a term ending when his or her appointment or authorization under the repealed Act would have ended had not the repealed Act been repealed, unless that term is otherwise ended under and in accordance with this Act.

SCHEDULE 4 – GENERAL TRANSITIONAL AND SAVINGS PROVISIONS

Section 87(2)

1. Interpretation

In this Schedule –

“**commencement day**” means the day on which this Act commences;

“**previous Council**” means the Radiation Advisory Council established under section 4 of the repealed Act;

“**repealed Act**” means the *Radiation Control Act 1977* as in force immediately before the commencement day.

2. Pending licence applications

An application for, or for the renewal of, a licence under the repealed Act in relation to a radioactive material or electronic product, within the meaning of the repealed Act, is taken to be an application for, or for the renewal of, a licence under this Act in relation to a radiation source comprised of that radioactive material or electronic product.

3. Existing licences

- (1) A licence under the repealed Act that authorises the use, possession, sale, supply, purchase or storage of a radioactive material or electronic

product, within the meaning of the repealed Act, is taken to be a licence under this Act authorising the carrying out of that activity in relation to a radiation source comprised of that radioactive material or electronic product.

- (2) Except as provided by or under any other provision of this Act, a licence referred to in subclause (1) that is taken to be a licence under this Act continues in force until 31 August 2006 on the same conditions.
- (3) The holder of a licence referred to in subclause (1) must pay any difference between the annual licence fee already paid by the holder in respect of that licence and the annual licence fee payable under this Act for the year commencing on the commencement day in respect of a licence to carry on the activities specified in the licence held.
- (4) The holder of a licence required to pay an amount under subclause (3) must pay that amount within 30 days after the commencement day or, if the Director of Public Health allows the holder to do so, by a later day determined by the Director of Public Health by notice provided to the holder.
- (5) If the holder of a licence referred to in subclause (1) fails to pay an amount as required by subclause (3) by the day the holder is required to do so under subclause (4), the licence is cancelled.

4. Quality assurance assessments

- (1) In this clause –

“quality assurance assessment” means a quality assurance assessment that –

(a) was issued –

(i) in respect of a radiation source that is a radioactive material or electronic product, within the meaning of the repealed Act; and

(ii) by an authorized officer under the repealed Act; and

(iii) within 4 years before the commencement day; and

(b) had effect immediately before the commencement day.

(2) For the purposes of section 20(1)(b)(i) and section 21(2)(d), a quality assurance assessment in respect of a radiation source is taken to be a certificate of compliance in respect of that source and is valid until the end of the relevant following period that commences on the day on which the assessment was issued:

(a) if the source is an ionising radiation apparatus used for medical diagnosis, other than a mammography unit, bone densitometry unit or ionising radiation apparatus used for dentistry, the period of 2 years;

(b) if the source is a mammography unit, the period of one year;

- (c) if the source is a bone densitometry unit, the period of 4 years;
- (d) if the source is an ionising radiation apparatus used for dentistry, the period of 4 years;
- (e) if the source is an ionising radiation apparatus used for medical therapy, the period of 2 years;
- (f) if the source is an ionising radiation apparatus used for a purpose, other than medical diagnosis, medical therapy or industrial radiography, the period of 4 years;
- (g) if the source is an ionising radiation apparatus used for industrial radiography, the period of 2 years;
- (h) if the source is a sealed source, the period of one year;
- (i) if the source is a non-ionising radiation apparatus, the period of 4 years;
- (j) in the case of any other source that is prescribed in the regulations, the prescribed period.

5. Approved stores

- (1) This clause applies to an approval of storage accommodation for the storage of radioactive material or an electronic product –
 - (a) under regulations 6 and 7 of the *Radiation Control Regulations 1994*; and

- (b) in force immediately before the commencement day.
- (2) The approval is taken to be a certificate of registration under this Act authorising the occupier of the place to which the approval relates to store at the place the radiation source that is the radioactive material or electronic product to which the approval relates.
- (3) Except as otherwise provided by or under this Act, the certificate of registration is subject to the same conditions that applied to the approval immediately before the commencement day.

6. References to repealed Act

In an Act or document, a reference to the repealed Act or a provision of that Act is to be taken to be a reference to this Act or the corresponding provision of this Act if the context requires it.

7. Previous Council

- (1) The previous Council is abolished.
- (2) As soon as practicable after the commencement day, the Council is to report to the Minister on the proceedings of the previous Council during the period commencing on 1 July 2005 and ending on the day before the commencement day.
- (3) The Minister is to lay a copy of the report referred to in subclause (2) before each House of

sch. 4

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Radiation Protection

2005

Parliament within a reasonable time after
receiving it.

SCHEDULE 5 – CONSEQUENTIAL AMENDMENTS

Section 89

Approvals (Deadlines) Act 1993**1.** Schedule 1 is amended by omitting

<i>Radiation Control Act 1977</i>		
Licence to deal with radioactive material or electronic product		60 days from the day on which an application under section 12 (1) of the <i>Radiation Control Act 1977</i> is received by the responsible Minister.

sch. 6

No.

Radiation Protection

2005

SCHEDULE 6 – LEGISLATION REPEALED

Section 90

Radiation Control Act 1977 (No. 66 of 1977)

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No.

sch. 7

SCHEDULE 7 – LEGISLATION RESCINDED

Section 91

Radiation Control Regulations 1994 (No. 237 of 1994)

Radiation Control Amendment Regulations 1999 (No. 171 of 1999)

Radiation Control Amendment Regulations 2002 (No. 105 of 2002)