



Tabled, by leave,  
by Ms Sharpe  
Staffell  
for  
Clerk of the Parliaments  
14 / 9 / 23

RADIATION CONTROL AMENDMENT BILL 2023

STATEMENT OF PUBLIC INTEREST

**Need: Why is the policy needed based on factual evidence and stakeholder input?**

The *Radiation Control Act 1990* (the Act), to be renamed the *Protection from Harmful Radiation Act*, provides a framework for regulating dealings with radioactive substances and radiation apparatus in New South Wales, to protect people and the environment from the harmful effects of radiation, while enabling safe and beneficial uses.

The former Minister for Energy and the Environment was required to conduct a statutory review of the *Radiation Control Act 1990* (the Act) under section 39B of the Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain effective for achieving these objectives. The Environment Protection Authority (EPA) conducted the review on behalf of the former Minister and in consultation with radiation licensees and other stakeholders, including the Radiation Advisory Council, NSW Government agencies and the public. A report on the outcome of the review was tabled by the former Minister in December 2021.

The review found that, overall, the policy objectives of the Act remain valid and should be retained and that the terms of the Act are largely appropriate for securing the Act's objectives. However, the review also found that several improvements could be made to enhance the regulation of radioactive substances and radiation apparatus. The proposals in the Bill would implement all the recommendations of the review.

The Bill also provides for restructuring and realigning of the Radiation Advisory Council to bring it into consistency with other similar advisory bodies. The proposed changes would modernise the Radiation Advisory Council's governance, streamline its membership, refocus its advisory functions and update its expertise to accord with contemporary radiation safety and regulatory needs.

The Bill also makes minor changes to the Act which are intended to clarify the effect of the regulation-making powers, including the power to impose conditions on licences and accreditations in the regulations, and to other environmental legislation, for the purpose of clarifying the intention and operation of the relevant provisions.

**Objectives: What is the policy's objective couched in terms of the public interest?**

Unnecessary exposure and uncontrolled radiation can have serious health consequences for people and damage the environment. It is in the public interest to minimise these risks



through strengthened regulatory oversight. The amendments proposed in the Bill would serve this purpose by empowering the EPA to more effectively regulate radiation practices, enforce requirements and deter offenders, with the courts empowered to impose more significant penalties and orders to pay costs in circumstances where this is warranted.

**Options: What alternative policies and mechanisms were considered in advance of the bill?**

Current approaches and alternatives were set out in an issues paper prepared for public consultation on the review of the Act. Licensees, key stakeholders and the general public were invited to consider whether provisions of the Act were sufficient for achieving the Act's objectives, or whether proposed alternatives may further support those objectives. Some submissions received by the EPA suggested enhancements of proposed reforms or alternative options for consideration. The tabled report on the review noted the options that were considered and proposed during the public consultation process and found that reforms proposed in the issues paper received strong overall support. The reforms include licensing changes, cost recovery proposals and stronger penalties, which can only be achieved through amendment of the Act. The Bill implements these reforms.

**Analysis: What were the pros/cons and benefits/costs of each option considered?**

Not proceeding with the recommendations of the statutory review of the Act would deprive the community and environment of the public benefits of the proposed changes, all of which bring NSW closer to best practice in radiation protection.

The changes do not impose direct costs on the non-regulated community and will have minimal financial impact and regulatory burden on licensees who already comply with the Act. There will be a modest increase in the number of organisations who may require a radiation management licence or who will need to bear the cost of source security plan reviews. The increases in maximum penalties and additional orders available to the court could mean more significant penalties for offenders, depending on the seriousness of the offence committed, and may also entail the imposition of cost orders against those who do not deal with radiation safely. However, the reforms are consistent with the 'polluter pays' principle, which provides that those who generate pollution and waste should be responsible for the cost of its containment, avoidance or abatement. Not implementing these reforms could mean significant costs for the community, particularly in situations where the EPA is forced to take action to deal with dangerous situations and poorly managed radiation sources.

It is difficult to assess the stochastic effects of radiation on human health and the environment. Under the circumstances, a precautionary approach is warranted. The Bill will

reduce the risk of unnecessary radiation exposure to people and the environment, providing a net long-term benefit at a modest cost.

**Pathway: What are the timetable and steps for the policy's rollout and who will administer it?**

The amendments will for the most part commence on the date of assent. The exceptions to this are:

- the expanded licensing requirements, which commence 6 months after assent, and
- the increased penalties for certain offences and new court orders related to cost recovery, which will commence on proclamation.

The delayed commencement of these provisions is to allow sufficient time for the necessary system changes and for communication of the new requirements.

The Act is administered through the EPA and the rollout of the proposed reforms will be managed by the EPA. The EPA is preparing a communications plan for communicating the reforms to internal and external stakeholders. The Department of Communities and Justice will be arranging updates to court systems and communication to judicial officers of the changes to court orders and penalties.

**Consultation: Were the views of affected stakeholders sought and considered in making the policy?**

The Radiation Advisory Council, which includes members nominated by the Ministry of Health, the Department of Customer Service and the NSW Resources Regulator (within the Department of Regional NSW), were consulted on the review of the Act and the Council's advice on proposed amendments to the Act was considered (per the requirement of the Act, s 30). The EPA also met with representatives of NSW Police, Fire and Rescue NSW and NSW Ambulance during the consultation period for the review.

Around 18,500 organisations and individuals licensed under the Act and 100 key stakeholder organisations (e.g., medical colleges) were directly invited to comment on the changes to the Act canvassed in the Issues paper for the review of the Act. The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA), the national radiation regulator, and radiation regulators of other Australian states and territories were also consulted on the Issues Paper.

The Issues Paper was made available to the public on the EPA's Have Your Say webpage.

The Department of Communities and Justice has been consulted on implementation of the changes in the Bill in respect of new court orders and increased penalties.