

Act on Compensation for Nuclear Damage

(Act No. 147 of 1961)

As Amended by Act No. 19 of 17 April 2009

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PART I

General Provisions

Section 1 Purpose

The purpose of this act is to protect persons suffering from nuclear damage and to contribute to the sound development of the nuclear industry by establishing the basic system regarding compensation in case of a nuclear damage caused by reactor operation etc.

Section 2 Definitions

As used in this act, “reactor operation etc.” means any activity which comes under any one of the following cases below as well as any incidental transport, storage and disposal of nuclear fuel or material contaminated by nuclear fuel [including nuclear fission products; this applies also to sub-paragraph (v)], as provided by Cabinet Order:

- i) reactor operation;
- ii) production;
- iii) reprocessing;
- iv) use of nuclear fuel;
- (iv-2) storage of spent fuel;
- (v) waste disposal of nuclear fuel or material contaminated by nuclear fuel (referred to as “nuclear fuel etc.” in the following paragraph and in Section 3, paragraph 2).

2. As used in this act, “nuclear damage” means any damage caused by the effects of the fission process of nuclear fuel, or of the radiation from nuclear fuel etc., or of the toxic nature of such materials (which means effects that give rise to toxicity or its secondary effects on the human body by ingesting or inhaling such materials); however, any damage suffered by the nuclear operator who is liable for such damage pursuant to the following Section, is excluded.

3. As used in this act, “nuclear operator” means any person as specified under any one of the following sub-paragraphs (including a person who had been deemed so previously).

- (i) A person who is granted a permit as provided in Section 23 paragraph 1 of the Act for the Regulation of Nuclear Source Material, Nuclear Fuel and Reactors (Act No. 166 of 1957; hereinafter referred to as “the Regulation Act”) (including a national licence under the provisions of the same paragraph applying instead by virtue of Section 76 of the Regulation Act) (including a person who is regarded as a reactor operator pursuant to Section 39, paragraph 5 of the Regulation Act);
- (ii) A person who is granted a permit as provided in Section 23-2, paragraph 1 of the Regulation Act;

- (iii) A person who is granted a licence as provided in Section 13, paragraph 1 of the Regulation Act (including a national licence under the provisions of the same paragraph applying instead by virtue of Section 76 of the Regulation Act);
- (iv) A person who is granted a licence as provided in Section 43-4, paragraph 1 of the Regulation Act (including a national licence under the provisions of the same paragraph applying instead by virtue of Section 76 of the Regulation Act);
- (v) A person who is granted a licence as provided in Section 44, paragraph 1 of the Regulation Act (including a national licence under the provisions of the same paragraph applying instead by virtue of Section 76 of the Regulation Act);
- (vi) A person who is granted a licence as provided in Section 51-2, paragraph 1 of the Regulation Act (including a national licence under the provisions of the same paragraph applying instead by virtue of Section 76 of the Regulation Act);
- (vii) A person who is granted a licence as provided in Section 52, paragraph 1 of the Regulation Act (including a national licence under the provisions of the same paragraph applying instead by virtue of Section 76 of the Regulation Act);

4. As used in this Act, “reactor” means a reactor as provided in Section 3, paragraph 4 of the Basic Atomic Energy Act (Act No. 186 of 1955), “nuclear fuel” means nuclear fuel as provided in Section 3, paragraph 2 of the Basic Atomic Energy Act (including spent fuel as provided in Section 2, paragraph 8 of the Regulation Act), “production” means production as provided in Section 2, paragraph 7 of the Regulation Act, “reprocessing” means reprocessing as provided in Section 2, paragraph 8 of the Regulation Act, “storage of spent fuel” means the storage of spent fuel as provided in Section 43, paragraph 4(1) of the Regulation Act; “waste disposal of nuclear fuel or material contaminated by nuclear fuel”, means the underground disposal of waste and waste management as provided in Section 51, paragraph 2(1) of the Regulation Act; “radiation” means radiation as provided in Section 3, paragraph 5 of the Basic Atomic Energy Act, and “nuclear ship” and “foreign nuclear ship” mean nuclear ship and foreign nuclear ship as provided in Section 23-2, paragraph 1 of the Regulation Act.

PART II

Liability for Nuclear Damage

CHAPTER 1

Financial Security

Liability without fault, channelling of liability etc.

Section 3

Where nuclear damage is caused as a result of reactor operation etc. during such operation, the nuclear operator who is engaged in the reactor operation etc. on this occasion shall be liable for the damage, except in the case where the damage is caused by a grave natural disaster of an exceptional character or by an insurrection.

2. Where nuclear damage is covered by the preceding paragraph and if the damage is caused as a result of the transport of nuclear fuel etc. between nuclear operators, the nuclear operator who is the consignor of the nuclear fuel etc. shall be liable for the damage unless there is a special agreement between the nuclear operators.

Section 4

Where nuclear damage is covered by the preceding section, no person other than the nuclear operator who is liable for the damage pursuant to the preceding section shall be liable for the damage.

2. Where nuclear damage is covered by paragraph 1 of the preceding section, the liability of a nuclear operator who furnishes the financial security as provided in Section 7-2, paragraph 2 and wants a foreign nuclear ship to enter into Japanese territorial waters shall be limited to the amount as provided in Section 7-2, paragraph 2.

3. The provisions of Section 798, paragraph 1 of the Trade Act (Act No. 48 of 1899), the Act relating to the Limitation of the Liability of Shipowners (Act No. 94 of 1975) and the Products Liability Act (Act No. 85 of 1994), shall not apply to nuclear damage which is caused as a result of reactor operation etc.

Section 5 Rights of recourse

Where nuclear damage is covered by Section 3 and if the damage is caused by the wilful act of a third party, the nuclear operator who has compensated the damage pursuant to Section 3 shall retain a right of recourse against such third party.

The provisions of the preceding paragraph shall not prevent a nuclear operator from entering into a special agreement with any person regarding rights of recourse.

PART III

Financial Security

CHAPTER 1

Financial Security

Section 6 Duty to provide financial security

A nuclear operator is prohibited from reactor operation etc. unless financial security for compensation of nuclear damage (hereinafter referred to as “financial security”) has been provided.

Details of financial security

Section 7

Except when the provisions of the following section are applicable, financial security shall be provided by the conclusion of a contract of liability insurance for nuclear damage and an indemnity agreement for compensation of nuclear damage or by a deposit, approved by the Minister for Education, Culture, Sport, Science and Technology (MEXT) as an arrangement that makes available for compensation of nuclear damage, 120 billion yen (in case of such reactor operation etc. The Cabinet Order may provide for a lesser amount than 120 billion yen; hereinafter this amount is referred to as “financial security amount”) for each installation or site or nuclear ship, or by an equivalent arrangement approved by MEXT.

2. Where the amount available for compensation of nuclear damage falls below the financial security amount because the nuclear operator has paid compensation for nuclear damage pursuant to Section 3, MEXT may, if it deems it necessary to ensure full compensation of nuclear damage, order the nuclear operator to bring the amount available for compensation of nuclear damage up to the financial security amount by a given time.
3. In the case provided for in the preceding paragraph, the preceding section shall not apply until the Order is made pursuant to the preceding paragraph (until the time designated by the Order, where such an Order has been made pursuant to the preceding paragraph).

Section 7-2

Where a nuclear operator wants a nuclear ship to enter into foreign territorial waters, financial security shall be provided by the conclusion of a contract of liability insurance for nuclear damage and an indemnity agreement for compensation of nuclear damage or by other financial security, approved by MEXT as an arrangement that is sufficient for the compensation of nuclear damage, in the amount agreed between the Government of Japan and the Government of such foreign country and subscribed by the nuclear operator of the nuclear ship who is liable for the compensation of nuclear damage.

2. Where a nuclear operator wants a foreign nuclear ship to enter into Japanese territorial waters, the financial security shall be that approved by MEXT as an arrangement that is sufficient for the compensation of nuclear damage, in the amount (not less than 36 billion yen in respect of nuclear damage caused by any one incident) agreed between the Government of Japan and the Government of such foreign country and subscribed by the nuclear operator of the foreign nuclear ship liable for the compensation of nuclear damage.

CHAPTER 2

Contract of Liability Insurance for Nuclear Damage

Contract of Liability Insurance for Nuclear Damage

Section 8

The contract of liability insurance for nuclear damage (hereinafter referred to as “liability insurance contract”) shall be the contract under which an insurer undertakes to indemnify a nuclear operator for his loss arising from compensating nuclear damage, where the nuclear operator becomes liable for such nuclear damage, and under which the insurance policy holder has undertaken to pay a premium to the insurer (this provision applies only to a person who is authorised to engage in liability insurance activities pursuant to the Insurance Business act [Act No. 105 of 1995], such as a risk insurance company under Section 2, paragraph 4 of this same act, or a foreign risk insurance company under paragraph 9 of the same section, this being the meaning given to the term insurer used hereafter).

Section 9

Any person suffering from nuclear damage shall, with regard to his claim for such nuclear damage, have priority over other creditors in respect of compensation from the amount provided by the liability insurance contract.

2. The insured may request the insurer to make the insurance payment only to the extent of the amount of compensation which the insured has paid or to the extent to which the insured has acquired the consent of persons suffering from nuclear damage.
3. The right to request insurance payment under the liability insurance contract shall not be assigned, mortgaged or seized; however, a person who has suffered nuclear damage may proceed with a seizure with regard to his claim for nuclear damage.

CHAPTER 3

Indemnity Agreements for Compensation of Nuclear Damage

Indemnity agreements for compensation of nuclear damage

Section 10

An indemnity agreement for compensation of nuclear damage (hereinafter referred to as “indemnity agreement”) shall be the contract by which the Government undertakes to indemnify a nuclear operator for his loss arising from compensating nuclear damage not covered by the liability insurance contract or other financial security for compensation of nuclear damage, where the nuclear operator becomes liable for such damage, and under which that operator has undertaken to pay an indemnity fee to the Government.

2. Provisions relating to indemnity agreements shall be laid down in another act.

Section 11

The provisions of Section 9 shall apply mutatis mutandis to the indemnity payment under the indemnity agreement.

CHAPTER 4

Deposit

Section 12 Deposit

A deposit for financial security shall be made in the Legal Affairs Bureau or the District Legal Affairs Bureau nearest to the main office of the nuclear operator, either in cash or in securities as provided by MEXT [including electronic securities specified in the Act on the Transfer of Securities such as shares, company bonds etc. (Act No. 75 of 2001) Section 278, paragraph 1. This provision applies also to what follows in this Chapter].

Section 13 Payment from deposit

Any person suffering nuclear damage may, with regard to his claim for compensation, receive compensation from the cash or securities deposited by the nuclear operator pursuant to the preceding section.

Section 14 Withdrawal of deposit

A nuclear operator may, in the following cases, withdraw the cash or securities deposited pursuant to Section 12 with the approval of MEXT where:

- (i) the nuclear damage has been compensated;
- (ii) financial security other than the deposit has been provided;
- (iii) reactor operation etc. has ceased.

2. When MEXT grants an approval under the preceding sub-paragraphs (ii) or (iii), it may, to the extent that it deems it necessary to ensure full compensation of nuclear damage, designate the time when the nuclear operator may withdraw cash or securities, as well as the amount of such withdrawal.

Section 15 Specifications by Orders

Provisions regarding deposits other than those provided in this Chapter shall be promulgated by Orders of MEXT and the Ministry of Justice.

PART IV

Measures taken by the State

Section 16

Where nuclear damage occurs, the Government shall give a nuclear operator (except the nuclear operator of a foreign nuclear ship) such aid as is required for him to compensate the damage, when the actual amount which he should pay for the nuclear damage pursuant to Section 3 exceeds the financial security amount and when the Government deems it necessary in order to attain the objectives of this act.

2. Aid as provided for in the preceding paragraph shall be given to the extent that the Government is authorised to do so by decision of the National Diet.

Section 17

Where the provision for exoneration in Section 3, paragraph 1 applies or where nuclear damage is deemed to exceed the amount provided under Section 7-2, paragraph 2, the Government shall take the necessary measures to relieve victims and to prevent the damage from spreading.

PART V

Dispute Reconciliation Committee for Nuclear Damage Compensation

Section 18 Dispute Reconciliation Committee for Nuclear Damage Compensation

The Dispute Reconciliation Committee for Nuclear Damage Compensation (hereinafter referred to as “Reconciliation Committee”) may be established as an organisation attached to MEXT, pursuant to the provisions laid down by Cabinet Order; this Committee shall be in charge of mediating reconciliation of any dispute arising from compensation of nuclear damage and of preparing general instructions to help operators reach a voluntary settlement of such disputes.

2. The Reconciliation Committee shall:

(i) mediate reconciliation of any dispute arising from compensation of nuclear damage;

- (ii) in the event of a dispute arising from compensation of nuclear damage, draft instructions establishing the scale of the nuclear damage and other general instructions to help operators reach a voluntary settlement of the said dispute;
 - (iii) investigate and assess nuclear damage as necessary for dealing with the matters mentioned in (i) and (ii) above.
3. Provisions regarding the organisation and operation of the Reconciliation Committee as well as procedures for a request for, and conduct of, mediation other than those provided in paragraphs 1 and 2 shall be promulgated by Cabinet Order.

PART VI

Miscellaneous Provisions

Section 19 Presentation of reports and written opinions to the National Diet

Where nuclear damage occurs on a comparatively large scale, the Government must report to the National Diet as soon as possible on the extent of the damage and on the measures it has taken pursuant to this act.

2. When nuclear damage occurs, the Government must present to the National Diet the written opinion regarding mitigation, prevention etc. of the damage, which the Atomic Energy Commission or the Nuclear Safety Commission has submitted to the Prime Minister.

Section 20 Application of Section 10, paragraph 1 and Section 16, paragraph 1

The provisions of Section 10, paragraph 1 and Section 16, paragraph 1 shall apply to nuclear damage arising from reactor operation etc. in respect of which the activity, falling under any one of subparagraphs mentioned in Section 2, paragraph 1, has begun by 31 December 2019.

Section 21 Submission of reports and inspections

MEXT may, if it deems it necessary to ensure execution of the provisions of Section 6, require a nuclear operator to present any necessary reports or allow his officials to enter the latter's office, installation or site or his nuclear ship, to inspect his books, documents and other necessary objects, or to ask questions of the persons concerned.

2. When an official enters premises pursuant to the preceding paragraph, he shall carry an identification card and present it if requested by the persons concerned.
3. The right to conduct an inspection pursuant to paragraph 1 shall not be construed as a right to investigate a criminal offence.

Section 22 Consultations with the Minister for the Economy, International Trade and Industry (METI) or with the Minister for Regional Development, Infrastructure, Transport and Tourism (MLIT)

When MEXT takes action pursuant to Section 7, paragraph 1 or Section 7-2, paragraphs 1 or 2, or makes Orders pursuant to Section 7, paragraph 2, it shall hold prior consultations with the Minister for the Economy, International Trade and Industry (METI) in cases concerning reactors for the production of electricity, the production, reprocessing or storage of spent nuclear fuel or the disposal of waste consisting of nuclear fuel or materials contaminated by nuclear fuel, or the Minister for Regional Development, Infrastructure, Transport and Tourism (MLIT) in cases concerning reactors installed in vessels.

Section 23 Exclusion of application to the state

The provisions of Part III, Section 16 and Part VII shall not apply to the state.

PART VII

Penal Provisions

Section 24

A person who breaches the provisions of Section 6 shall be punishable by imprisonment of not more than one year, or by a fine not exceeding 1 000 000 yen, or both.

Section 25

A person shall be punishable by a fine not exceeding 1 000 000 yen for:

- (i) failing to present a report pursuant to Section 21, paragraph 1, or presenting a false report;
- (ii) refusing access to inspectors or interrupting or evading them, or refusing to answer a question pursuant to Section 21, paragraph 1 or giving a false answer to such a question.

Section 26

When the representative of a legal entity, or the agent or other employee of a legal entity or of a natural person commits any one of the offences referred to in Sections 24 and 25 in connection with the business of the legal entity or the natural person, the legal entity or the natural person shall, in addition to punishment of the actual offender, be punishable by a fine as provided in the said sections.

Supplementary Provisions (Omitted)

Date of entry into force

Section 1

This act shall enter into force on the date laid down by Cabinet Order and at the latest, nine months after the date of its promulgation.

Section 3

The penal provisions relating to acts committed before the entry into force of this act or to acts committed before the provisions laid down in Section 26, paragraph 1 of the Compensation Act cease to apply shall, before amendment by the provisions of this act and after its entry into force (this concerns the part relating to Section 23, paragraph 2 (9) of the said act), remain applicable.

Section 4 Adjustment of indemnities pursuant to other legislation

In the circumstances referred to in the preceding section, when the employees of a nuclear operator suffer nuclear damage and the nuclear operator is liable for such damage pursuant to the said section (designated simply, in the rest of this section, as “nuclear operator”), such employees or the families of the deceased shall receive an indemnity as laid down by Cabinet Order in the form of an indemnity under the provisions of the Insurance Act for the Compensation of Work Accidents (Act No. 50 of 1947) and equivalent to the compensation of such damage, or any other indemnity governed by other provisions of the act (hereinafter referred to in this section as “compensation for work accidents”). In such cases, any compensation of nuclear damage paid to employees or the families of the deceased shall be temporarily subject to the following provisions:

- (i) the nuclear operator shall be entitled not to pay indemnification, and that during a period which may extend to the extinction of the right of employees or families to receive compensation for work accidents, up to an amount equal to the value of the said compensation for work accidents calculated at the legal rate in force between the time when the damage occurred and the date on which the compensation for work accidents was paid;
- (ii) where the circumstances of the preceding paragraph apply, when compensation for work accidents has been paid, the nuclear operator shall be exonerated from his indemnification obligation up to an amount equal to the value of the said compensation for work accidents calculated at the legal rate in force between the time when the damage occurred and the date on which the compensation for work accidents was paid.

2. Where the employees of a nuclear operator have suffered nuclear damage and such damage was caused intentionally by a third party, the nuclear operator who has paid compensation for work accidents to the employees or families of the deceased shall retain a right of recourse against such third party.

Supplementary Provisions (Act No. 19 of 17 April 2001)

This act shall enter into force on 1 January 2010.