

## United Arab Emirates

### Federal Law by Decree No. 4 of 2012\*

concerning civil liability for nuclear damage

We, Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates,

- Having reviewed the Constitution;
- Federal Law No. 1 of 1972 Concerning the Jurisdictions of the Ministries and the Competences of the Ministers, and the amending laws thereof;
- Federal Law by Decree No. (6) of 2009 Concerning the Peaceful Uses of Nuclear Energy;
- Federal Decree No. 32 of 2012 Ratifying the Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage of 1997; and
- Federal Decree No. 33 of 2012 Ratifying the Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention of 1988; and
- Acting upon the proposal of the Minister of Energy and the consent of the Cabinet,

have issued the following Federal Law by Decree:

#### DEFINITIONS

##### Article (1)

In the implementation of the provisions of this Law by Decree, and regardless of provisions of any other legislation, the following terms and phrases shall have the meanings set forth below unless the context requires otherwise:

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\* The text published in this edition of the *Nuclear Law Bulletin* reproduces the unofficial English translation of the Arabic text of Federal Law by Decree No. 4 of 2012 Concerning Civil Liability for Nuclear Damage, which is available at: <http://fanr.gov.ae/En/About/FANR/OurWork/Documents/Federal-Law-by-Decree-No-4-of-2012-Concerning-Civil-Liability-for-Nuclear-Damage-English.pdf>.

The official Arabic text was published in the UAE Official Gazette (26 August 2012) No. 540 (addendum), p.9. Information about ordering the Official Gazette is available at: <http://gsec.abudhabi.ae/Sites/GSEC/Navigation/EN/official-gazette.html>. In the event of any discrepancy between the version published here and the official Arabic version, the latter version will take precedence.

A summary of this text was published in the *Nuclear Law Bulletin*, No. 90, (2012/2), OECD, Paris, pp. 128-129. An "Information Sheet" regarding this text is available at the UAE Federal Authority for Nuclear Regulation website at: [www.fanr.gov.ae/En/MediaCentre/News/Documents/Civil\\_Liability\\_Nuclear\\_Damage\\_Law\\_Information\\_Sheet\\_\(SDJ\).pdf](http://www.fanr.gov.ae/En/MediaCentre/News/Documents/Civil_Liability_Nuclear_Damage_Law_Information_Sheet_(SDJ).pdf).

**State:** The United Arab Emirates.

**Authority:** Federal Authority for Nuclear Regulation.

**IAEA:** International Atomic Energy Agency.

**Operator:** The person licensed by the Authority to operate a Nuclear Installation pursuant to Federal Law by Decree No. (6) of 2009 and designated as the Operator in such license.

**Nuclear Fuel:** Any material which is capable of producing energy by a self-sustaining chain process of nuclear fission.

**Radioactive Products or Waste:** Any radioactive material produced in, or any material made radioactive by exposure to the radiation incidental to, the production or utilization of Nuclear Fuel, but does not include radioisotopes which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial or industrial purpose.

**Nuclear Material:**

1. Any Nuclear Fuel, other than natural uranium and depleted uranium, capable of producing energy by a self-sustaining chain process of nuclear fission outside a Nuclear Reactor either alone or in combination with other material.
2. Radioactive Products or Waste.

**Nuclear Reactor:** Any structure containing Nuclear Fuel in such an arrangement that a self-sustaining chain process of nuclear fission can occur therein without an additional source of neutrons.

**Nuclear Installation:**

1. Any Nuclear Reactor other than one with which a means of sea or air transport is equipped for use as a source of power, whether for propulsion thereof or for any other purpose.
2. Any factory using Nuclear Fuel for the production of Nuclear Material, or any factory for the processing of Nuclear Material, including any factory for the re-processing of irradiated Nuclear Fuel.
3. Any facility where Nuclear Material is stored, other than those storehouses used to store Nuclear Material during carriage.
4. Other facilities in which there are Nuclear Fuel or Radioactive Products or Waste as the Board of Governors of the IAEA shall from time to time determine.

Several Nuclear Installations of one Operator which are located at the same site shall be considered as a single Nuclear Installation.

**Nuclear Damage:**

1. Loss of life or any personal injury;
2. Loss of or damage to property;
3. Economic loss arising from loss or damage not referred to in paragraphs (1) or (2) above, incurred by a person entitled to claim for compensation in respect of such loss or damage;
4. The costs of measures of reinstatement of impaired environment, unless such impairment is insignificant, if such measures are actually taken or to be taken, and insofar as not included in paragraph (2) above;

5. Loss of income deriving from an economic interest in use or enjoyment of the environment, incurred as a result of a significant impairment of that environment, and insofar as not included in paragraph (2) above;
6. The costs of preventive measures, and further loss or damage caused by such measures;
7. Any other economic loss, other than loss caused by the impairment of the environment,

to the extent that the loss or damages referred to in paragraphs 1-5 and 7 above have emerged from or resulted from ionizing radiation emitted from any radiation source within a Nuclear Installation, or emitted from Nuclear Fuel, Radioactive Products or Waste in a Nuclear Installation, or of Nuclear Material coming from, originating in or sent to a Nuclear Installation,, whether arising from the radioactive properties of such material or from a combination of radioactive properties with , toxic, explosive or other hazardous properties of such material.

The Cabinet may issue instructions related to the implementation of the provisions of paragraphs 1-7.

**Nuclear Incident:** Any occurrence or series of occurrences having the same origin which causes Nuclear Damage or creates a grave and imminent threat of causing such damage only with respect to preventive measures.

**Special Drawing Right (SDR):** The unit of account as defined by the International Monetary Fund and used by it for its own operations and transactions.

**1997 Vienna Convention:** The consolidated text of the 1963 Vienna Convention as amended and attached to the Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage dated 12 September 1997.

## OBJECTIVES OF LAW

### Article (2)

**The objective of this Federal Law by Decree is to:**

1. Regulate the provisions and determine the scope of the civil liability and compensation for Nuclear Damage.
2. Determine the financial security that the Operator must maintain.
3. Apply the 1997 Vienna Convention on Civil Liability for Nuclear Damage wherever no provision is made in this Law by Decree.

## SCOPE OF APPLICATION

### Article (3)

The Operator of a Nuclear Installation shall be absolutely liable for damages upon proof that such damage has been caused by a Nuclear Incident as described in Article II of the 1997 Vienna Convention.

The Authority may, if the small extent of the risks involved so warrants, exclude any Nuclear Installation or small quantities of Nuclear Material from the application of this Law by Decree, provided that:

1. With respect to Nuclear Installations criteria for such exclusion have been established by the Board of Governors of the IAEA and the Authority issues a resolution that such exclusion satisfies such criteria.

2. With respect to small quantities of Nuclear Material, maximum limits for the exclusion of such quantities have been established by the Board of Governors of the IAEA and the Authority issues a resolution that such exclusion is within such established limits.

## **LIABILITY FOR NUCLEAR DAMAGE**

### **Article (4)**

The Operator is solely liable for any Nuclear Damage caused by a Nuclear Incident, in accordance with the provisions of Article II of the 1997 Vienna Convention.

### **Article (5)**

1. The liability of the Operator to compensate for Nuclear Damage for any one Nuclear Incident shall not exceed 450 million SDRs.
2. The Authority, having regard to the nature of the Nuclear Installation or the Nuclear Material involved and to the likely consequences of an incident originating therefrom, may establish a lower limit for the liability of the Operator for compensating for Nuclear Damage referred to in paragraph (1) of this Article in relation to Nuclear Installations consisting of research reactors, low-power reactors and facilities that process or store Nuclear Material, provided that in no event shall any amount so established be less than 5 million SDRs. The State shall ensure coverage of the difference between the lower limit which the Authority establishes pursuant this paragraph and the higher liability limit set forth in paragraph (1) of this Article.

### **Article (6)**

Upon the request of a carrier of Nuclear Material or a person handling Radioactive Products or Waste, and with prior written consent of the Operator, the Authority may designate or recognize him as an Operator in place of the Operator identified by the Authority, solely for purposes of Article II of the 1997 Vienna Convention and upon compliance with the insurance and financial security coverage requirements set forth in Article 8 of this Law by Decree.

In this event, such carrier or such person referred to in the first paragraph of this Article shall be considered as an Operator of a Nuclear Installation situated in the territory of the State.

### **Article (7)**

If the Operator proves that the Nuclear Damage resulted wholly or partly either from the gross negligence of the person suffering the damage or from an act or omission of such person done with intent to cause damage, the court may relieve the Operator wholly or partly from the obligation to pay compensation in respect of the damage suffered by such person.

## **FINANCIAL SECURITY AND INSURANCE**

### **Article (8)**

1. The Operator shall obtain and maintain insurance and guarantees required by the Authority with respect to its liability for Nuclear Damage.
2. For the purposes of issuing a license to operate a Nuclear Installation, the Operator of the Nuclear Installation shall obtain and maintain insurance or other financial security up to 450 million SDRs, or up to the limit which the

Authority may determine in accordance with the provisions of paragraph (2) of Article 5 of this Law by Decree, to cover his liability for any one Nuclear Incident, provided that this insurance or other financial security shall be of such type and on such terms as approved by the Authority.

3. The Operator may obtain the insurance or the financial security from any sources approved by the Authority within or outside of the State.
4. The provisions of this Law by Decree complies with the priority in the distribution of compensation given to claims for loss of life or personal injury set forth in paragraph (2) of Article VIII of the 1997 Vienna Convention.
5. If the Operator is not able, after exhausting all efforts, to obtain insurance coverage or any part thereof referred to in paragraph (2) of this Article, the Authority may determine that the required insurance under the provisions of this Law by Decree is not available in domestic or international insurance markets, or that the insurance coverage is not available or is temporarily suspended. In these cases, the risks covered under the insurance coverage will be covered directly by the State, up to the limit provided for in paragraphs (1) or (2) of Article 5 of this Law, as the case may be, until such time as the Authority announces the availability of the insurance coverage and gives the relevant parties a period of time set by the Authority, upon its sole discretion, to obtain such insurance.

#### **Article (9)**

1. An Operator shall provide the carrier with a certificate issued by or on behalf of the insurer or any other financial guarantor furnishing financial security pursuant to Article 8 of this Law by Decree.
2. The certificate referred to in the first paragraph of this Article shall comply with the requirements set forth in this Law by Decree and with Article III of the 1997 Vienna Convention.
3. This Article shall not apply to transportation which occurs wholly within the territory of the State.

### **ACTIONS FOR COMPENSATION**

#### **Article (10)**

1. Actions for compensation for Nuclear Damage shall be brought only against the Operator or the person furnishing insurance or financial security pursuant to paragraph (1) of Article 8 of this Law by Decree.
2. Action for compensation against the Operator shall lapse on the expiry of valid insurance or financial security if it continues to be valid for a period longer than the period set forth in paragraph 1(a) of Article VI of the 1997 Vienna Convention.
3. The rights for claiming compensation of any person who suffered Nuclear Damage shall expire if an action is not brought within three years from the date on which the person suffering damage had knowledge, or ought reasonably to have had knowledge of the damage and of the Operator liable, provided that the periods established pursuant to paragraph 1(a) of Article VI of the 1997 Vienna Convention or paragraph (2) of this Article have not been exceeded.

**Article (11)**

The Operator shall have the right of recourse in the following two cases:

1. If this is expressly provided for in a contract in writing.
2. If the Nuclear Incident results from an act or omission done with intent to cause damage. In such case the action shall be brought against the person who acted or participated in causing the act or omitted to act with such intent.

The recourse provided for under this Article may extend to benefit the State insofar as it has provided public funds pursuant to 1997 Vienna Convention.

**JURISDICTION****Article (12)**

1. The Federal Courts in the Emirate of Abu Dhabi shall have exclusive jurisdiction over actions arising pursuant to this Law by Decree.
2. The provisions of this Law by Decree shall apply to actions related to civil liability for Nuclear Damage. The provisions of the 1997 Vienna Convention shall apply wherever no provisions are made in this Law by Decree.
3. Upon the submission of an action for compensation for Nuclear Damage under the jurisdiction of the court referred to in the paragraph 1 of this Article, the court may appoint one or more specialists or experts to assist the court in accordance with the applicable laws and legislation.

**COMPETENT AUTHORITY****Article (13)**

The Authority shall be the competent authority with respect to implementation of the provisions of this Law by Decree, including:

1. Determining whether to exempt small quantities of Nuclear Material or Nuclear Installations from application of the provisions of the 1997 Vienna Convention and Article 3 of this Law by Decree;
2. Determining the lower limit of liability in the case of Nuclear Installations consisting of research reactors, low-power reactors and facilities that process or store Nuclear Material, pursuant to paragraph (2) of Article 5 of this Law by Decree; and
3. Determining whether the civil liability insurance or any other financial security of the applicant or the Operator is in accordance with the terms of financial protection required by paragraph 1(a) of Article VII of the 1997 Vienna Convention and paragraphs (1) and (2) of Article 8 of this Law by Decree.
4. Issuing rules and regulations relating to the application of provisions of this Law by Decree.

**GENERAL PROVISIONS****Article (14)**

1. Nothing in this Law by Decree shall be construed as limiting or restricting any right or obligation of any person arising under any scheme or system of

health insurance, employees' compensation or occupational disease compensation.

2. A beneficiary of any scheme or system of insurance or compensation referred to in paragraph (1) of this Article shall be eligible for the compensation provided in this Law by Decree in accordance with its terms.

**Article (15)**

This Law by Decree shall be published in the Official Gazette and shall come into force on the date of its publication.

Khalifa bin Zayed Al Nahyan  
President of the United Arab Emirates

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Issued at the Presidential Palace in Abu Dhabi

Date: 25 Ramadan 1433 A.H.

Corresponding to: 13 August 2012 A.D.





## India

### The Civil Liability for Nuclear Damage Act, 2010\*

No. 38 of 2010, 21 September 2010

An Act to provide for civil liability for Nuclear Damage and prompt compensation to the victims of a Nuclear accident through a No Fault Liability Regime channeling liability to the operator, appointment of Claims Commissioner, establishment of Nuclear Damage Claims commission and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the 61<sup>st</sup> Year of the Republic of India as follows:

#### Chapter I. Preliminary

##### 1. Short title, extent, application and commencement

1. This act may be called the Civil Liability for Nuclear Damage Act, 2010.
2. It extends to the whole of India.
3. It also applies to nuclear damage suffered:
  - a) in or over the maritime areas beyond the territorial waters of India;
  - b) in or over the exclusive economic zone of India as referred to in section 7 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976;
  - c) on board or by a ship registered in India under section 22 of the Merchant Shipping Act, 1958 or under any other law for the time being in force;
  - d) on board or by an aircraft registered in India under clause (d) of sub-section (2) of section 5 of the Aircraft Act, 1934 or under any other law for the time being in force;
  - e) on or by an artificial island, installation or structure under the jurisdiction of India.

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\* This document is an unofficial reproduction of the original text. In the event of any discrepancy between this version and the original version, the latter will take precedence. The Civil Liability for Nuclear Damage Act, No. 38 of 2010 was published in 47 Gazette of India, pt. II, sec. 1, pp. 1-15 (New Delhi, 21 September 2010), and is available at: [www.prindia.org/billtrack/the-civil-liability-for-nuclear-damage-bill-2010-1042](http://www.prindia.org/billtrack/the-civil-liability-for-nuclear-damage-bill-2010-1042).

A copy of the Civil Liability for Nuclear Damage Act as passed by Lok Sabha on 25 August 2010, Bill No. 19-C of 2010, was printed in the *Nuclear Law Bulletin*, No. 88, (2011/2), OECD/NEA, Paris, pp. 145-162.

A summary of this text is available in the *Nuclear Law Bulletin*, No. 88, (2011/2), OECD/NEA, Paris, pp. 80-83. An article written by Robert J. Gruendel and ElsReynaersKini on India's civil liability regime for nuclear damage was published in *Nuclear Law Bulletin*, No. 89, (2012/1), OECD/NEA, Paris, pp. 45-66.

4. It applies only to the nuclear installation owned or controlled by the Central Government either by itself or through any authority or corporation established by it or a Government company.

*Explanation* – For the purposes of this sub-section, “Government” shall have the same meaning as assigned to it in clause (bb) of sub-section (1) of section 2 of the Atomic Energy Act, 1962.

5. It shall come into force on such date as the Central Government may, by notification, appoint; and different dates may be appointed for different provisions of this act, and any reference in any such provision to the commencement of this act shall be construed as a reference to the coming into force of that provision.

## 2. Definitions

In this act, unless the context otherwise requires:

- a) “Chairperson” means the Chairperson of the Commission appointed under sub-section (1) of section 20;
- b) “Claims Commissioner” means the Claims Commissioner appointed under sub-section (2) of section 9;
- c) “Commission” means the Nuclear Damage Claims Commission established under section 19;
- d) “Environment” shall have the same meanings assigned to it in clause (a) of Section 2 of the Environment (Protection) Act, 1986
- e) “Member” means a member of the Commission appointed under sub-section (1) of section 20;
- f) “Notification” means a notification published in the Official Gazette and the term “notify” shall be construed accordingly;
- g) “Nuclear damage” means:
  - i) loss of life or personal injury (including immediate and long term health impact) to a person; or
  - ii) loss of, or damage to, property, caused by or arising out of a nuclear incident, and includes each of the following to the extent notified by the Central Government;
  - iii) any economic loss, arising from the loss or damage referred to in sub-clauses (i) or (ii) and not included in the claims made under those sub-clauses, if incurred by a person entitled to claim such loss or damage;
  - iv) costs of measures of reinstatement of impaired environment caused by a nuclear incident, unless such impairment is insignificant, if such measures are actually taken or to be taken and not included in the claims made under sub-clause (ii);
  - v) loss of income deriving from an economic interest in any use or enjoyment of the environment, incurred as a result of a significant impairment of that environment caused by a nuclear incident, and not included in the claims under sub-clause (ii);
  - vi) the costs of preventive measures, and further loss or damage caused by such measures;
  - vii) any other economic loss, other than the one caused by impairment of the environment referred to in sub-clauses (iv) and (v), in so far as it is

permitted by the general law on civil liability in force in India and not claimed under any such law,

in the case of sub-clauses (i) to (v) and (vii) above, to the extent the loss or damage arises out of, or results from, ionizing radiation emitted by any source of radiation inside a nuclear installation, or emitted from nuclear fuel or radioactive products or waste in, or of, nuclear material coming from, originating in, or sent to, a nuclear installation, whether so arising from the radioactive properties of such matter, or from a combination of radioactive properties with toxic, explosive or other hazardous properties of such matter;

- h) "Nuclear fuel" means any material which is capable of producing energy by a self-sustaining chain process of nuclear fission;
- i) "Nuclear incident" means any occurrence or series of occurrences having the same origin which causes nuclear damage or, but only with respect to preventive measures, creates a grave and imminent threat of causing such damage;
- j) "Nuclear installation" means:
  - (A) any nuclear reactor other than one with which a means of transport is equipped for use as a source of power, whether for propulsion thereof or for any other purpose;
  - (B) any facility using nuclear fuel for the production of nuclear material, or any facility for the processing of nuclear material, including re-processing of irradiated nuclear fuel; and
  - (C) any facility where nuclear material is stored (other than storage incidental to the carriage of such material).

Explanation – For the purpose of this clause, several nuclear installations of one operator which are located at the same site shall be considered as a single nuclear installation;
- k) "Nuclear material" means and includes:
  - i) nuclear fuel (other than natural uranium or depleted uranium) capable of producing energy by a self-sustaining chain process of nuclear fission outside a nuclear reactor, either by itself or in combination with some other material; and
  - ii) radioactive products or waste;
- l) "Nuclear reactor" means any structure containing nuclear fuel in such an arrangement that a self-sustaining chain process of nuclear fission can occur therein without an additional source of neutrons;
- m) "Operator", in relation to a nuclear installation, means the Central Government or any authority or corporation established by it or a Government company who has been granted a licence pursuant to the Atomic Energy Act, 1962 for the operation of that installation;
- n) "Prescribed" means prescribed by rules made under this act;
- o) "Preventive measures" means any reasonable measures taken by a person after a nuclear incident has occurred to prevent or minimise damage referred to in sub-clauses (i) to (v) and (vii) of clause g, subject to the approval of the Central Government;

- p) "Radioactive products or waste" means any radioactive material produced in, or any material made radioactive by exposure to, the radiation incidental to the production or utilisation of nuclear fuel, but does not include radioisotopes which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial or industrial purpose;
- q) "Special Drawing Rights" means Special Drawing Rights as determined by the International Monetary Fund.

## Chapter II. Liability for nuclear damage

### 3. Atomic Energy Regulatory Board to notify nuclear incident

1. The Atomic Energy Regulatory Board constituted under the Atomic Energy Act, 1962 shall, within a period of 15 days from the date of occurrence of a nuclear incident, notify such nuclear incident:

Provided that where the Atomic Energy Regulatory Board is satisfied that the gravity of threat and risk involved in a nuclear incident is insignificant, it shall not be required to notify such nuclear incident.

2. The Atomic Energy Regulatory Board shall, immediately after the notification under sub-section (1) is issued, cause wide publicity to be given to the occurrence of such nuclear incident, in such manner as it may deem fit.

### 4. Liability of operator

1. The operator of the nuclear installation shall be liable for nuclear damage caused by a nuclear incident:

- a) in that nuclear installation; or
- b) involving nuclear material coming from, or originating in, that nuclear installation and occurring before:
  - i) the liability for nuclear incident involving such nuclear material has been assumed, pursuant to a written agreement, by another operator; or
  - ii) another operator has taken charge of such nuclear material; or
  - iii) the person duly authorised to operate a nuclear reactor has taken charge of the nuclear material intended to be used in that reactor with which means of transport is equipped for use as a source of power, whether for propulsion thereof or for any other purpose; or
  - iv) such nuclear material has been unloaded from the means of transport by which it was sent to a person within the territory of a foreign state; or
- c) involving nuclear material sent to that nuclear installation and occurring after:
  - i) the liability for nuclear incident involving such nuclear material has been transferred to that operator, pursuant to a written agreement, by the operator of another nuclear installation; or
  - ii) that operator has taken charge of such nuclear material; or
  - iii) that operator has taken charge of such nuclear material from a person operating a nuclear reactor with which a means of transport is equipped for use as a source of power, whether for propulsion thereof or for any other purpose; or

- iv) such nuclear material has been loaded, with the written consent of that operator, on the means of transport by which it is to be carried from the territory of a foreign state.

2. Where more than one operator is liable for nuclear damage, the liability of the operators so involved shall, in so far as the damage attributable to each operator is not separable, be joint and several:

Provided that the total liability of such operators shall not exceed the extent of liability specified under sub-section (2) of section 6.

3. Where several nuclear installations of one and the same operator are involved in a nuclear incident, such operator shall, in respect of each such nuclear installation, be liable to the extent of liability specified under sub-section 2 of section 6.

4. The liability of the operator of the Nuclear Installation shall be strict and shall be based on the principle of No Fault Liability.

Explanation – For the purposes of this section:

- a) where nuclear damage is caused by a nuclear incident occurring in a nuclear installation on account of temporary storage of material-in-transit in such installation, the person responsible for transit of such material shall be deemed to be the operator;
- b) where a nuclear damage is caused as a result of nuclear incident during the transportation of nuclear material, the consignor shall be deemed to be the operator;
- c) where any written agreement has been entered into between the consignor and the consignee or, as the case may be, the consignor and the carrier of nuclear material, the person liable for any nuclear damage under such agreement shall be deemed to be the operator;
- d) where both nuclear damage and damage other than nuclear damage have been caused by a nuclear incident or, jointly by a nuclear incident and one or more other occurrences, such other damage shall, to the extent it is not separable from the nuclear damage, be deemed to be a nuclear damage caused by such nuclear incident.

### **5. Operator not liable in certain circumstances**

1. An operator shall not be liable for any nuclear damage where such damage is caused by a nuclear incident directly due to:

- i) a grave natural disaster of an exceptional character; or
- ii) an act of armed conflict, hostility, civil war, insurrection or terrorism.

2. An operator shall not be liable for any nuclear damage caused to:

- i) the nuclear installation itself and any other nuclear installation including a nuclear installation under construction, on the site where such installation is located; and
- ii) to any property on the same site which is used or to be used in connection with any such installation; or
- iii) to the means of transport upon which the nuclear material involved was carried at the time of nuclear incident:

Provided that any compensation liable to be paid by an operator for a nuclear damage shall not have the effect of reducing the amount of his liability in respect of any other claim for damage under any other law for the time being in force.

3. Where any nuclear damage is suffered by a person on account of his own negligence or from his own acts of commission or omission, the operator shall not be liable to such person.

### **6. Limits of liability**

1. The maximum amount of liability in respect of each nuclear incident shall be the INR equivalent of SDRs 300 million or such higher amount as the Central Government may specify by notification:

Provided that the Central Government might take additional measures, where necessary, if the compensation to be awarded under this act exceeds the amount specified under this sub-section.

2. The liability of the operator in each nuclear incident shall be:

- a) In respect of nuclear reactors having thermal power equal to or above 10 MW, INR 15 billion;
- b) In respect of spent fuel reprocessing plant INR 3 billion;
- c) In respect of research reactors having thermal power below 10 MW, Fuel cycle facilities other than spent fuel reprocessing plants and transportation of Nuclear Materials, INR 1 billion;

Provided that the Central Government may review the amount of operator's liability from time to time, and specify, by notification, a higher amount in this sub section:

Provided further that the amount of liability shall not include any interest or cost of proceedings.

### **7. Liability of Central Government**

1. The Central Government shall be liable for nuclear damage in respect of a nuclear incident:

- a) where the liability exceeds the amount of liability of an operator specified under sub-section (2) of section 6, to the extent such liability exceeds such liability of the operator;
- b) occurring in a nuclear installation owned by it; and
- c) occurring on account of causes specified in clauses (i) and (ii) of sub-section (1) of section 5:

Provided that the Central Government may, by notification, assume full liability for a nuclear installation not operated by it, if it is of the opinion that it is necessary in public interest.

2. For the purpose of it meeting part of its liability under clause a or clause c of sub-section 1, the Central Government may establish a fund to be called the Nuclear Liability Fund by charging such amount of levy from the operators, in such manner, as may be prescribed.

### **8. Operator to maintain insurance or financial securities**

1. The operator shall, before he begins operation of his nuclear installation, take out insurance policy or such other financial security or combination of both, covering his liability under sub-section (2) of section 6, in such manner as may be prescribed.

2. The operator shall from time to time renew the insurance policy or other financial security referred to in sub-section (1), before the expiry of the period of validity thereof.

3. The provisions of sub-sections (1) and (2) shall not apply to a nuclear installation owned by the Central Government.

Explanation – For the purposes of this section, “financial security” means a contract of indemnity or guarantee, or shares, or bonds or such instrument as may be prescribed or any combination thereof.

### **Chapter III. Claims Commissioner**

#### **9. Compensation for nuclear damage and its adjudication**

1. Whoever suffers nuclear damage shall be entitled to claim compensation in accordance with the provisions of this act.

2. For the purposes of adjudicating upon claims for compensation in respect of nuclear damage, the Central Government shall, by notification, appoint one or more Claims Commissioners for such area, as may be specified in that notification.

#### **10. Qualifications for appointment as Claims Commissioner**

A person shall not be qualified for appointment as a Claims Commissioner unless he:

- a) is or has been a District Judge; or
- b) in the service of the Central Government and has held the post not below the rank of Additional Secretary to the Government of India or any other equivalent post in the Central Government.

#### **11. Salary, allowances and other terms and conditions of service of Claims Commissioner**

The salary and allowances payable to and other terms and conditions of service of Claims Commissioner shall be such as may be prescribed.

#### **12. Adjudication procedure and powers of Claims Commissioner**

1. For the purposes of adjudication of claims under this act, the Claims Commissioner shall follow such procedure as may be prescribed.

2. For the purpose of holding inquiry, the Claims Commissioner may associate with him such persons having expertise in the nuclear field or such other persons and in such manner as may be prescribed.

3. Where any person is associated under sub-section (2), he shall be paid such remuneration, fee or allowance, as may be prescribed.

4. The Claims Commissioner shall, for the purposes of discharging his functions under this act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:

- a) summoning and enforcing the attendance of any person and examining him on oath;
- b) the discovery and production of documents;
- c) receiving evidence on affidavits;
- d) requisitioning any public record or copies thereof from any court or office;
- e) issuing of commission for the examination of any witness;
- f) any other matter which may be prescribed.

5. The Claims Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

## **Chapter IV. Claims and awards**

### **13. Inviting application for claims by Claims Commissioner**

After the notification of nuclear incident under sub-section (1) of section 3, the Claims Commissioner, having jurisdiction over the area, shall cause wide publicity to be given, in such manner as he deems fit, for inviting applications for claiming compensation for nuclear damage.

### **14. Persons entitled to make application for nuclear damage**

An application for compensation before the Claims Commissioner or the Commission, as the case may be, in respect of nuclear damage may be made by:

- a) a person who has sustained injury; or
- b) the owner of the property to which damage has been caused; or
- c) the legal representatives of the deceased; or
- d) any agent duly authorised by such person or owner or legal representatives.

### **15. Procedure for making application before Claims Commissioner**

1. Every application for compensation before the Claims Commissioner for nuclear damage shall be made in such form, containing such particulars and accompanied by such documents, as may be prescribed.

2. Subject to the provisions of section 18, every application under sub-section (1) shall be made within a period of three years from the date of knowledge of nuclear damage by the person suffering such damage.

### **16. Award by Claims Commissioner**

1. On receipt of an application under sub-section (1) of section 15, the Claims Commissioner shall, after giving notice of such application to the operator and affording an opportunity of being heard to the parties, dispose of the application within a period of three months from the date of such receipt and make an award accordingly.

2. While making an award under this section, the Claims Commissioner shall not take into consideration any benefit, reimbursement or amount received by the applicant in pursuance of contract of insurance taken by him or for members of his family or otherwise.

3. Where an operator is likely to remove or dispose of his property with the object of evading payment by him of the amount of the award, the Claims Commissioner may, in accordance with the provisions of rules 1 to 4 of Order XXXIX of the First Schedule to the Code of Civil Procedure, 1908, grant a temporary injunction to restrain such act.

4. The Claims Commissioner shall arrange to deliver copies of the award to the parties within a period of 15 days from the date of the award.

5. Every award made under sub-section (1) shall be final.

### **17. Operator's right of recourse**

The operator of the nuclear installation after paying the compensation for nuclear damage in accordance with section 6, shall have a right to recourse where:



- a) Such right is expressly provided for in a contract in writing;
- b) The nuclear incident has resulted as a consequence of an act of suppliers or his employees, which includes supply of equipment with material with patent or latent defects or sub-standard services;
- c) The nuclear incident has resulted from the act of commission or omission of an individual done with the intent to cause nuclear damage.

### **18. Extinction of right to claim**

The Right to Claim compensation for nuclear damage shall extinguish, if such claim was not made within a period of:

- a) 10 years, in the case of damage of property;
- b) 20 years, in the case of personal injury to any person  
from the date of occurrence of the incident notified under sub-section (1) of section 3:

Provided that where a nuclear damage is caused by a nuclear incident involving nuclear material which, prior to such nuclear incident, had been stolen, lost, jettisoned or abandoned, the said period of 10 years shall be computed from the date of such nuclear incident, but, in no case, it shall exceed a period of 20 years from the date of such theft, loss, jettison or abandonment.

## **Chapter V. Nuclear Damage Claims Commission**

### **19. Establishment of Nuclear Damage Claims Commission**

Where the Central Government, having regard to the injury or damage caused by a nuclear incident, is of the opinion that it is expedient in public interest that such claims for damages be adjudicated by the commission instead of a Claims Commissioner, it may, by notification, establish Commission for the purpose of this Act.

### **20. Composition of Commission**

1. The Commission shall consist of a Chairperson and such other members, not exceeding six, as the Central Government may, by notification, appoint.
2. The Chairperson and other members of the commission shall be appointed on the recommendation of a selection committee consisting of three experts from amongst the persons having at least 30 years of experience in nuclear science and a retired Supreme Court judge.
3. A person shall not be qualified for appointment as the Chairperson of the Commission unless he has attained the age of fifty-five years and is or has been or qualified to be a Judge of a High Court:

Provided that no appointment of a sitting judge shall be made except after consultation with the Chief Justice of India.

4. A person shall not be qualified for appointment as a member unless he has attained the age of fifty-five years and:
  - a) has held or is holding or qualified to hold, the post of Additional Secretary to the Government of India or any other equivalent post in the Central Government and possesses special knowledge in law relating to nuclear liability arising out of nuclear incident; or
  - b) has been a Claims Commissioner for five years.

## **21. Term of office**

The Chairperson or a member, as the case may be, shall hold office as such for a term of three years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of three years:

Provided that no person shall hold office as such Chairperson or member after he has attained the age of sixty-seven years.

## **22. Salary and allowances and other terms and conditions of service of Chairperson and Members**

The salary and allowances payable to and other terms and conditions of service, including pension, gratuity and other retirement benefits, of the Chairperson and other members shall be such as may be prescribed:

Provided that no salary, allowances and other terms and conditions of service of the Chairperson or other members shall be varied to his disadvantage after his appointment.

## **23. Filling up of vacancies**

If, for reasons other than temporary absence, any vacancy occurs in the office of the Chairperson or member, as the case may be, the Central Government shall appoint another person in accordance with the provisions of this act to fill such vacancy and the proceedings may be continued before the Commission from the stage at which it was, before the vacancy is filled.

## **24. Resignation and removal**

1. The Chairperson or a member may, by a notice in writing under his hand addressed to the Central Government, resign his office:

Provided that the Chairperson or the member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earlier.

2. The Central Government shall remove from office the Chairperson or a member who:

- a) has been adjudged an insolvent; or
- b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or
- c) has become physically or mentally incapable of acting as a member; or
- d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or
- e) has so abused his position as to render his continuance in office detrimental to the public interest:

Provided that no member shall be removed under clause (d) or clause (e) unless he has been given an opportunity of being heard in the matter.

## **25. Chairperson or Member deemed to retire from service**

A person who, immediately before the date of assuming office as a Chairperson or a member, was in service of the Government, shall be deemed to have retired from service on the date on which he enters upon office as such, but his subsequent

service as the Chairperson or a member shall be reckoned as continuing approved service counting for pension in service to which he belonged.

### **26. Suspension of pension**

If a person who, immediately before the date of assuming office as the Chairperson or a member was in receipt of or being eligible so to do, has opted to draw, a pension, other than a disability or wound pension, in respect of any previous service under the Central Government, his salary in respect of service as the Chairperson or a member shall be reduced:

- a) by the amount of that pension; and
- b) if he had, before assuming office, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension.

### **27. Prohibition of acting as Arbitrator**

No person shall, while holding office as a Chairperson or a member, act as an arbitrator in any matter.

### **28. Prohibition of practice**

On ceasing to hold office, the Chairperson or a member shall not appear, act or plead before the Commission.

### **29. Powers of Chairperson**

The Chairperson shall have the power of superintendence in the general administration of the Commission and exercise such powers as may be prescribed.

### **30. Officers and other employees of Commission**

1. The Central Government shall provide the Commission with such officers and other employees as it may deem fit.
2. The salary and allowances payable to and the terms and other conditions of service of officers and other employees of the Commission shall be such as may be prescribed.

### **31. Application for compensation before Commission**

1. Every application for compensation before the Commission for nuclear damage shall be made in such form, containing such particulars and accompanied by such documents, as may be prescribed.
2. Subject to the provisions of section 18, every application under sub-section (1) shall be made within a period of three years from the date of knowledge of nuclear damage by the person suffering such damage.

### **32. Adjudication procedure and powers of Commission**

1. The Commission shall have original jurisdiction to adjudicate upon every application for compensation filed before it under sub-section (1) of section 31 or transferred to it under section 33, as the case may be.
2. Upon transfer of cases to the Commission under section 33, the Commission shall hear such applications from the stage at which it was before such transfer.
3. The Chairperson may constitute benches comprising of not more than three members of the Commission for the purpose of hearing of claims and any decision thereon shall be rendered by a majority of the members hearing such claims.

4. The Commission shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and subject to the other provisions of this act and of any rules made thereunder, the Commission shall have the power to regulate its own procedure including the places and the times at which it shall have its sittings.

5. The Commission shall have, for the purposes of discharging its functions under this act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:

- a) summoning and enforcing the attendance of any person and examining him on oath;
- b) the discovery and production of documents;
- c) receiving evidence on affidavits;
- d) requisitioning any public record or copies thereof from any court or office;
- e) issuing of commission for the examination of any witness;
- f) any other matter which may be prescribed.

6. The Commission shall, after giving notice of application to the operator and after affording an opportunity of being heard to the parties, dispose of such application within a period of three months from the date of such receipt and make an award accordingly.

7. While making an award under this section, the Commission shall not take into consideration any benefit, reimbursement or amount received by the applicant in pursuance of any contract of insurance or otherwise.

8. Where an operator is likely to remove or dispose of his property with the object of evading payment by him of the amount of the award, the Commission may, in accordance with the provisions of rules 1 to 4 of Order XXXIX of the First Schedule to the Code of Civil Procedure, 1908, grant a temporary injunction to restrain such act.

9. The Commission shall arrange to deliver copies of the award to the parties concerned within a period of fifteen days from the date of such award.

10. Every award made under sub-section (6) shall be final.

### **33. Transfer of pending cases to Commission**

Every application for compensation pending before the Claims Commissioner immediately before the date of establishment of the Commission under section 19 shall stand transferred on that date to the Commission.

### **34. Proceedings before Claims Commissioner or Commission to be judicial proceedings**

Every proceeding before the Claims Commissioner or the Commission under this act shall be deemed to be judicial proceeding within the meaning of sections 193, 219 and 228 of, and for the purposes of section 196 of, the Indian Penal Code.

### **35. Exclusion of jurisdiction of civil courts**

Save as otherwise provided in Section 46, no Civil Court (except the Supreme Court and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) shall have jurisdiction to entertain any suit or proceedings in respect of any matter which the Claims Commissioner or the Commission, as the case may be, is empowered to adjudicate under this act and no injunction shall be granted by

any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this act.

### **36. Enforcement of awards**

1. When an award is made under sub-section (1) of section 16 or under sub-section (6) of section 32:

- a) the insurer or any person, as the case may be, who under the contract of insurance or financial security under section 8 is required to pay any amount in terms of such award and to the extent of his liability under such contract, shall deposit that amount within such time and in such manner as the Claims Commissioner or the Commission, as the case may be, may direct; and
- b) the operator shall, subject to the maximum liability specified under sub-section (2) of section 6, deposit the remaining amount by which such award exceeds the amount deposited under clause (a).

2. Where any person referred to in sub-section (1) fails to deposit the amount of award within the period specified in the award, such amount shall be recoverable from such person as arrears of land revenue.

3. The amount deposited under sub-section (1) shall be disbursed to such person as may be specified in the award within a period of fifteen days from the date of such deposit.

### **37. Annual report**

The Commission shall prepare, in such form and at such time in each financial year, as may be prescribed, an annual report giving full account of its activities during that financial year and submit a copy thereof to the Central Government which shall cause the same to be laid before each House of Parliament.

### **38. Dissolution of Commission in certain circumstances**

1. Where the Central Government is satisfied that the purpose for which the Commission established under section 19 has served its purpose, or where the number of cases pending before such Commission is so less that it would not justify the cost of its continued function, or where it considers necessary or expedient so to do, the Central Government may, by notification, dissolve the Commission.

2. With effect from the date of notification of dissolution of Commission under sub-section (1):

- a) the proceeding, if any, pending before the Commission as on the date of such notification shall be transferred to the Claims Commissioner to be appointed by the Central Government under sub-section (2) of section 9;
- b) the Chairperson and all members of the Commission shall be deemed to have vacated their offices as such and they shall not be entitled to any compensation for premature termination of their office;
- c) officers and other employees of the Commission shall be transferred to such other authority or offices of the Central Government, in such manner, as may be prescribed:

Provided that the officers and other employees so transferred, shall be entitled to the same terms and conditions of service as would have been held by them in the Commission:

Provided further that where an officer or an employee of the Commission refuses to join the services in such other authority or office, he shall be

deemed to have resigned and shall not be entitled to any compensation for premature termination of contract of service;

- d) all assets and liabilities of the Commission shall vest in the Central Government.

3. Notwithstanding the dissolution of the Commission under sub-section (1), anything done or any action taken or purported to have been done or taken including any order made or notice issued or any appointment, confirmation or declaration made or any document or instrument executed or any direction given by the Commission before such dissolution, shall be deemed to have been validly done or taken.

4. Nothing in this section shall be construed to prevent the Central Government to establish the Commission subsequent to the dissolution of the Commission in accordance with the provisions of this act.

## **Chapter VI. Offences and penalties**

### **39. Offences and penalties**

1. Whoever-

- a) contravenes any rule made or any direction issued under this act; or
- b) fails to comply with the provisions of section 8; or
- c) fails to deposit the amount under section 36,

shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

2. Whoever fails to comply with any direction issued under section 43 or obstructs any authority or person in the exercise of his powers under this act shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

### **40. Offences by companies**

1. Where an offence under this act has been committed by a company, every person who at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

2. Notwithstanding anything contained in sub-section (1), where any offence under this act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation* — For the purposes of this section,—

- a) “company” means anybody corporate and includes a firm or other association of individuals;
- b) “director”, in relation to a firm, means a partner in the firm.

#### **41. Offences by Government Departments**

Where an offence under this act has been committed by any Department of the Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

#### **42. Cognizance of offences**

No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this act:

Provided that cognizance of such offence shall not be taken except on a complaint made by the Central Government or any authority or officer authorised in this behalf by that Government.

### **Chapter VII. Miscellaneous**

#### **43. Power to give directions**

The Central Government may, in exercise of its powers and performance of its functions under this act, issue such directions, as it may deem fit, for the purposes of this act, to any operator, person, officer, authority or body and such operator, person, officer, authority or body shall be bound to comply with such directions.

#### **44. Power to call for information**

The Central Government may call for such information from an operator as it may deem necessary.

#### **45. Exemption from application of this Act**

The Central Government may, by notification, exempt any nuclear installation from the application of this act where, having regard to small quantity of nuclear material, it is of the opinion that the risk involved is insignificant.

#### **46. Act to be in addition to any other law**

The provisions of this act shall be in addition to, and not in derogation of, any other law for the time being in force, and nothing contained herein shall exempt the operator from any proceeding which might, apart from this act, be instituted against such operator.

#### **47. Protection of action taken in good faith**

No suit, prosecution or other legal proceedings shall lie against the Central Government or the person, officer or authority in respect of anything done by it or him in good faith in pursuance of this act or of any rule or order made, or direction issued, thereunder.

#### **48. Power to make rules**

1. The Central Government may, by notification, make rules for carrying out the purposes of this act.
2. In particular, and without prejudice to the generality of the foregoing powers such rules may provide for:

- a) the other financial security and the manner thereof under sub-section (1) of section 8;
- b) the salary and allowances payable to and the other terms and conditions of service of Claims Commissioner under section 11;
- c) the procedure to be followed by Claims Commissioner under sub-section (1) of section 12;
- d) the person to be associated by Claims Commissioner and the manner thereof, under sub-section (2) of section 12;
- e) the remuneration, fee or allowances of associated person under sub-section (3) of section 12;
- f) any other matter under clause (f) of sub-section (4) of section 12;
- g) the form of application, the particulars it shall contain and the documents it shall accompany, under sub-section (1) of section 15;
- h) the salary and allowances payable to and other terms and conditions of service of Chairperson and other members, under section 22;
- i) the powers of Chairperson under section 29;
- j) the salary and allowances payable to and the terms and other conditions of service of officers and other employees of the Commission, under sub-section (2) of section 30;
- k) the form of application, the particulars it shall contain and the documents it shall accompany, under sub-section (1) of section 31;
- l) any other matter under clause (f) of sub-section (5) of section 32;
- m) the form and the time for preparing annual report by Commission under section 37;
- n) the manner of transfer of officers and other employees of the Commission under clause (c) of sub-section (2) of section 38.

3. Every rule made under this act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of 30 days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; however, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

#### **49. Power to remove difficulties**

1. If any difficulty arises in giving effect to the provisions of this act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of three years from the commencement of this act.

2. Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

V.K. BHASIN,  
Secy. to the Govt. of India



## Republic of Moldova

### PARLIAMENT

LAW No. 132 of 08.06.2012\*

on the safe conduct of nuclear and radiological activities

Published: 02.11.2012 in the Official Gazette No. 229-233 art. no: 739

For the purpose of regulating nuclear and radiological activities in accordance with the international requirements in this field arising out of the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968, which the Republic of Moldova ratified pursuant to Parliament Decision no. 1623-XII of 26 October 1993, the Agreement between the Republic of Moldova and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons and the Protocol thereto, which was ratified by way of Law No. 41-XVI of 2 March 2006, the Convention on Nuclear Safety adopted in Vienna on 17 June 1994 (Official Journal of the European Communities L318/20, 11.12.1999), EU Council Directive 96/29/EURATOM of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation (Official Journal of the European Communities L 159/1) and the International Atomic Energy Agency Safety Standards Series GSR Parts 1–3, Parliament adopts this organic law.

#### Section I GENERAL PROVISIONS

##### **Article 1. Subject of the law**

The subject of this law is the safe conduct of nuclear and radiological activities for exclusively peaceful purposes, in accordance with the obligations arising out of the international treaties to which the Republic of Moldova is a party.

##### **Article 2. Aims of the law**

The aims of this law are:

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\* The text published in this edition of the *Nuclear Law Bulletin* is an unofficial translation of the official Romanian version of Republic of Moldova Law No. 132 of 8 June 2012 on the safe conduct of nuclear and radiological activities. The law was published in Romanian and Russian in Moldova's Official Gazette (2 Nov. 2012) No. 229-233, art. no. 739, which is available at: <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=345210&lang=1> and <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=345210&lang=2>. In the event of any discrepancy between this translation and the original Romanian version, the latter will take precedence.

A summary of this text is available in this edition of the *Nuclear Law Bulletin*.

- a) to prevent the proliferation of nuclear weapons, materials and equipment associated with the proliferation of nuclear weapons and other explosive devices containing radioactive material;
- b) to establish mechanisms to ensure the safety of nuclear and radiological activities and maintain them at an adequate level in all sectors where ionising radiation sources are used;
- c) to prevent the unauthorised conduct of nuclear and radiological activities;
- d) to protect personnel, the public, property and the environment against the adverse impact of ionising radiation, in accordance with international standards concerning radiation protection and the safety of nuclear and radiological activities;
- e) to prevent the misappropriation and illegal trafficking of nuclear and radioactive materials and to protect the physical security of nuclear and radiological facilities.

### **Article 3. Scope of the law**

The provisions of this law apply to the following nuclear and radiological activities:

- a) the study, design, siting, construction, assembly, commissioning, operation, modification, repair and decommissioning of nuclear and radiological facilities;
- b) the manufacture, supply, rental, transfer, handling, possession, processing, treatment, use, temporary or permanent storage, transport, transit, import, export, re-export and temporary admission of ionising radiation sources, including nuclear materials, nuclear fuel and radioactive waste;
- c) the supply and use of equipment for the measurement (radiometric etc.) of the parameters of ionising radiation fields, materials and devices providing protection against ionising radiation which are used to monitor or inspect and oversee nuclear and radiological activities, and materials for the packaging and containerisation or transportation of radioactive materials which have been specially adapted for this purpose;
- d) the placing on the market of products and provision of services intended for the safe activity of nuclear and radiological facilities;
- e) the detection and recovery of orphan radioactive sources.

### **Article 4. Key concepts**

For the purposes of this law, the following key concepts mean:

*nuclear/radiation accident* – an event which affects a nuclear/radiological installation and leads to irradiation or contamination of the public or the environment with radioactive substances above the limits permitted by the applicable standards;

*National Agency approval documents* – radiation licences, including partial ones, safety certificates and permits to operate on the basis of which nuclear and radiological activity is conducted;

*nuclear and/or radiological activity* – any human practice which additionally introduces ionising radiation sources or ionising radiation exposure pathways;

*National Agency* – National Agency for the Regulation of Nuclear and Radiological Activities;

*IAEA* – International Atomic Energy Agency;

*quality assurance* – planned and systematic actions necessary to provide full confidence that the installations, procedures and operation of the nuclear or radiological facility will satisfy the requirements laid down in the relevant legislation;

*authorisation* – procedure for evaluating compliance by an individual or legal entity in terms of radiation protection and nuclear and radiological safety, at their request, for the safe conduct of nuclear and radiological activity, followed by the issue of a radiation licence;

*radiation licence* – an approval document issued for activities which are not exempt from the authorisation procedure, following assessment of compliance with and adherence to the requirements for the conduct of nuclear and/or radiological activities pursuant to art. 20;

*partial radiation licence* – a radiation licence issued for the implementation of a phase of nuclear or radiological activity within the established field and timeframe;

*nuclear and radiological databank* – an automated information system made up of at least two nuclear and radiological databases and systems enabling information to be searched for, stored and processed;

*nuclear and radiological database* – a body of data structured in a particular manner on a physical medium, in written, graphic, visual or electromagnetic form, which are permanently accessible to users of information who are authorised in the relevant field;

*safety certificate* – an approval document which certifies that the installation (or equipment) which contains ionising radiation sources, means of transportation of radioactive sources and packaging and transportation container comply with the technical standards, rules, norms and technical requirements governing the safe operation of nuclear or radiological installations;

*nuclear fuel* – radioactive substances used in nuclear reactors to generate energy;

*spent nuclear fuel* – nuclear fuel which has been irradiated in the active part of a reactor and has been permanently removed from the reactor;

*nuclear and radiation safety culture* – all characteristics and attitudes in individuals and legal entities which prioritise radiation protection and nuclear and radiation safety;

*radioactive waste* – materials, items, installations, all kinds of objects in any form which contain or are contaminated with radionuclides at concentrations greater than exemption levels for which no further use has been or will be envisaged;

*nuclear and radiation safety assessment* – analysis of compliance with radiation protection and nuclear and radiation safety requirements, analysis of the aspects of the design and operation of a nuclear or radiological installation which are relevant to the protection of persons and the physical protection of the radioactive source or nuclear material, including analysis of radiation protection and physical security provisions made for the design, handling and use of nuclear or radiological facilities, and analysis of the associated risks and dangers under normal working conditions and in incident and accident situations;

*certified expert* – a person who holds a permit to operate issued by the National Agency confirming that they have the knowledge and training necessary to carry out instrumental or radiochemical tests with a view to the safe conduct of nuclear and radiological activities;

*phase* – a successive stage of a nuclear or radiological activity process for which a partial radiation licence is issued;

*own financial means fund* – the value of the insurance or other financial guarantee of the licence applicant or licensee, which is proportionate to the potential cost of remediating a nuclear or radiation incident or accident or of managing radioactive waste arising out of its own activities;

*nuclear/radiation incident* – an event which affects a nuclear/radiological facility and leads to an increase in the level of exposure of personnel above the permitted level and/or leads to the presence of radioactive substances in areas where they are not intended to be present and which necessitate remedial actions;

*nuclear installation* – any installation in which nuclear materials are stored, excluding storage for transportation purposes;

*radiological installation* – a generator of ionising radiation, item of equipment or device which extracts, produces or processes radioactive materials; premises or an area where there are radioactive materials, including radioactive waste;

*radioactive waste management* – all administrative and operational measures associated with the handling (management), transportation, pre-treatment, treatment, conditioning, interim storage and permanent storage of radioactive waste emanating from nuclear or radiological facilities;

*special fissionable material* – plutonium, uranium-233, uranium enriched in the isotope 233 or the isotope 235, any material artificially enriched in any of the aforementioned isotopes;

*material of nuclear interest* – heavy water, graphite, zirconium and other materials which, due to specific nuclear properties, are of particular interest for the nuclear sector;

*nuclear material* – any nuclear raw material and any special fissionable material;

*radioactive material* – any material, in any physical state, which is radioactive, including radioactive waste;

*nuclear source material* – uranium containing the mixture of isotopes occurring in nature; uranium depleted in isotope 235; thorium; any form thereof: metal, alloy, chemical compound or concentration;

*enforcement measure* – suspension or revocation of a radiation licence, including a partial one, revocation of a safety certificate or a permit to operate, cessation of unauthorised activities;

*modification of a radiological installation* – activity entailing the replacement of certain subassemblies with others which are not recommended by the manufacturer, and/or changing certain technical parameters, including operations entailing the restoration, reinstatement or improvement of technical parameters;

*exemption levels* – values established by the National Agency, expressed in terms of overall or specific activity or dose rate (in the case of ionising radiation generators) below which an activity (or practice) is exempt from the authorisation requirements of this law;

*notification* – a written document with an established format by way of which an individual or legal entity informs the National Agency of an intention to conduct or cease nuclear and/or radiological activities;

*nuclear/radiological facility* – premises, a site or a zone where nuclear or radiological activities are conducted or where there are installations containing ionising radiation sources or any other nuclear installations other than those within the nuclear cycle;

*permit to operate* – a document issued on the basis of an examination and assessment of knowledge, in accordance with current legislation, which allows a person handling a particular item of equipment or device containing ionising radiation sources, a radiation protection officer or a certified expert to engage in authorised activities in the field;

*category A personnel* – employees or persons operating independently who are subject to exposure at their workplace which can generate levels in excess of 5 microsieverts per year due to an activity falling under the scope of this law;

*ionising radiation* – any corpuscular or electromagnetic radiation that is capable of producing ions (electrostatically-charged particles), directly or indirectly, in its passage through matter or any alpha rays, beta rays, gamma rays or X-rays, neutrons, electrons, protons, other charged or neutral particles (except electromagnetic waves: radio, visible light, infrared, ultraviolet, laser radiation, ultrasound, etc.);

*radiation protection* – protection of professionally-exposed personnel, the public, property and the environment against the effects of radiation generated by ionising radiation sources, prevention of contamination with radionuclides, including the provision of protection which, during the course of various activities, would keep the risk of irradiation to a minimum;

*radiation protection officer* – a person who is appropriately trained and qualified in the field of radiation protection and nuclear and radiation security and holds a permit to operate, appointed by order within the organization to monitor adherence to radiation protection and nuclear and radiation safety requirements with a view to the safe use of ionising radiation sources;

*cybersecurity* – all technical and administrative measures intended to safeguard the security of the cyberspace component of nuclear or radiological data of national importance, which forms an integral part of the physical security system;

*physical security* – all technical and administrative measures to be taken when using, transporting and storing nuclear and radioactive materials to prevent misappropriation or loss thereof and to counteract acts of sabotage against nuclear and radiological installations and facilities, and to regain control over these materials in the event of their loss or misappropriation;

*nuclear and radiation security* – all technical and organizational measures intended to ensure that nuclear or radiological installations operate safely, to prevent and limit damage thereto and to protect personnel, the public, property and the environment against irradiation or radioactive contamination;

*ionising radiation source* – an emitter of ionising radiation, any radioactive material;

*orphan radioactive source* – a radioactive source which is not subject to regulatory control either because it has never been subject to regulatory control or because it has been abandoned, lost, stolen or placed or transferred without authorisation;

*licensee* – an individual or legal entity authorised by the National Agency to undertake types of activity within the nuclear or radiological sector;

*illegal trafficking* – any act which involves unauthorised nuclear or radiological activity entailing the holding, transfer, importation and exportation of nuclear materials, materials of nuclear interest, radioactive materials or equipment and devices associated with the proliferation of nuclear weapons;

*treatment and conditioning of radioactive waste* – a series of technological processes that transform radioactive waste into a stable and non-dispersible form which prevents it from being reused and which is suitable for lengthy storage or final disposal;

*nuclear or radiation emergency* – an event occurring at a nuclear or radiological installation which is classified, in accordance with legal provisions, as an incident or accident;

*use of ionising radiation sources* – a process entailing the use, operation, exploitation or functioning, including storage and routine maintenance, of ionising radiation sources.

### **Article 5. Primary regulatory principles**

The primary regulatory principles for nuclear and radiological activities are as follows:

- a) preventing the maximum permitted level of exposure to ionising radiation from being exceeded;
- b) reducing irradiation levels to a minimum;
- c) justification of any activities (or practices) which entail the use of ionising radiation sources;
- d) maintenance of nuclear and radiation safety;
- e) physical protection of nuclear and radioactive materials;
- f) licensee accountability;
- g) monitoring of nuclear and radiological activities.

### **Article 6. Regulatory functions**

Provision is made for the following regulatory functions in the field of nuclear and radiological activities:

- a) authorisation;
- b) development and approval of the framework of laws and regulations in the field of nuclear and radiation security and physical security;
- c) keeping records of ionising radiation sources and nuclear materials;
- d) state inspections and oversight;
- e) implementing enforcement measures for breaches of current legislation;
- f) monitoring non-proliferation of nuclear weapons and compliance with international treaties.

### **Article 7. Statutory regulation**

The provisions of this law and the international treaties to which the Republic of Moldova is a party shall be implemented by way of:

- a) statutory instruments regulating nuclear and radiation security, physical security of nuclear and radiological facilities and physical protection of nuclear materials and radioactive sources, and regulating radiation protection, personnel

qualification requirements, the management of radioactive waste and spent nuclear fuel and the transportation of nuclear and radioactive materials, drawn up by the National Agency and approved by the Government according to the established procedure;

b) other statutory instruments regulating nuclear and radiation safety and physical security (such as regulations, instructions, guides, technical standards) for the enforcement of laws, drawn up and approved pursuant to decisions of the National Agency according to the procedure established by law;

c) statutory instruments which set values for radiation factors and irradiated products which have an impact on the health of personnel and the public and on the environment, drawn up and issued by other public authorities empowered by law and countersigned by the National Agency.

### **Article 8. Actors in the nuclear and radiological activities sector**

(1) The infrastructure of the nuclear and radiological activities sector is made up of all actors who contribute to the pursuit of nuclear and radiological activity.

(2) The actors in the nuclear and radiological activities sector are:

a) the National Agency;

b) authorities which have powers over the nuclear and radiological activities sector, and other specialised central public authorities or administrative authorities which are not referred to in article 13;

c) individuals and legal entities that are authorised in the nuclear and radiological activities sector;

d) certified experts, other human resources who are appropriately qualified in the field, including within the research, training and professional development system;

e) technical support organisations, irrespective of their legal form of organisation.

### **Article 9. Special provisions**

(1) The following are prohibited in the Republic of Moldova:

a) importation, exportation, re-exportation, transiting and temporary admission of ionising radiation sources (including as part of medical, measuring or calibration equipment) without authorisation from the National Agency;

b) importation of radioactive waste.

(2) Within the nuclear and radiological activity regulation sector, it is not permitted to perform regulatory functions concurrently with functions relating to the promotion, management and use of ionising radiation sources.

## **Section II**

### **THE NATIONAL AGENCY**

#### **Article 10. Status**

(1) The National Agency is an administrative authority established by the Government attached to the Ministry of the Environment, with the status of a legal entity subject to public law, which has a stamp bearing the image of the State Coat of Arms, a name in the state language and treasury accounts.

Pursuant to current legislation, the National Agency has the necessary level of independence in the exercise of its functions as specified in this law.

(2) The structure and regulations of the National Agency shall be approved by the Government.

(3) The National Agency shall be financed from the State Budget and from other sources in accordance with current legislation.

(4) As category A personnel, employees of the National Agency who are involved in assessment, authorisation, state inspections and oversight and responding to nuclear or radiation incidents or accidents are classified as persons exposed to ionising radiation who work in conditions hazardous to health and life. The list of category A personnel shall be submitted by the National Agency and approved by the Ministry of Health and the Ministry of Work, Social Protection and the Family.

### **Article 11. Task and basic functions**

The task and basic functions of the National Agency are as follows:

a) to develop and implement state policy in the nuclear and radiation sector, consulting public authorities in accordance with their areas of competence, to draw up draft national policies and national strategies and the legal framework, proposing them according to the procedure established by law and adopting measures for the effective regulation of nuclear and radiological activities;

b) to monitor the implementation and enforcement of the provisions of the international treaties governing this sector to which the Republic of Moldova is a party and of national legislation governing this sector;

c) to draw up and propose, according to the procedure established by law and by article 7 of this law, legislative instruments and other statutory instruments governing this sector;

d) to keep a record of nuclear and radiological activities on the basis of notifications, authorising these activities on the basis of assessment of applications for radiation licences and compliance with requirements in terms of radiation protection, nuclear and radiation security, physical security of nuclear and radiological facilities and nuclear guarantees;

e) to conduct state inspections and oversight in order to check nuclear and radiation security conditions and physical security conditions at nuclear and radiological facilities;

f) to draw up certificates of inspection and issue the necessary stipulations, to draw up and examine reports concerning infringements within the nuclear and radiological activities sector, and to take mandatory enforcement measures against individuals and legal entities;

g) to ensure that the decision-making process in the regulation of nuclear and radiological activities is transparent;

h) to issue and/or recognise security certificates for installations with ionising radiation sources (equipment, packaging, containers or means of transportation for radioactive sources, including radioactive waste) in accordance with this law;

i) to certify or recognise nuclear and radiation experts by issuing level III permits to operate;

j) to assess knowledge and to issue or recognise level I and II permits to operate issued by entities recognised by the National Agency to personnel operating in the nuclear or radiation sector and to radiation protection officers;



- k) to propose amendments and/or additions to statutory instruments when it is necessary to bring them into line with international treaties and standards in this sector;
- l) to manage the National Register of Ionising Radiation Sources and Authorised Individuals and Legal Entities;
- m) to provide assistance free of charge for the detection of orphan radioactive sources;
- n) to recognise technical support organisations, national and international experts and staff certification and training institutes by adding them to the relevant register and publishing it on the webpage of the National Agency;
- o) to coordinate and monitor the implementation of international technical support projects for the nuclear and radiation safety and physical security sectors;
- p) to sign, as stipulated by law, bilateral or multilateral agreements with similar authorities in this field in third countries;
- q) to prepare and submit national reports to the competent international bodies in accordance with the international treaties to which the Republic of Moldova is a party;
- r) to participate as an integral part of the national response system in the event of a nuclear or radiation emergency;
- s) representation as the national regulatory body – the national point of contact with the IAEA pursuant to international nuclear and radiation treaties, with nuclear regulatory bodies in third countries.

## **Article 12. Rights and obligations**

- (1) The National Agency has the right:
- a) to have access, in accordance with its powers as established by law, to any location where nuclear and radiological activities subject to authorisation and control are conducted;
  - b) to demand that individuals and legal entities subject to control fulfil the provisions of this law, regulatory instruments governing the nuclear and radiation activities sector and authorisation requirements;
  - c) to take measurements and install the necessary surveillance and control equipment and to receive technical support from international and national competent bodies;
  - d) to demand that samples of materials directly or indirectly subject to control are taken and sent off;
  - e) to have access to records regarding ionising radiation sources and nuclear materials, other information, and technical and contractual data concerning authorised persons which are necessary to fulfil control objectives;
  - f) to require individuals and legal entities holding radiation licences:
    - to submit reports, information and notifications to the National Agency in accordance with legislation;
    - to keep records of nuclear and radioactive materials, ionising radiation sources and activities subject to control and to check these records;
    - to demonstrate that the necessary protective equipment is present;

g) to suspend or revoke radiation licences, including partial radiation licences, and to revoke security certificates and permits to operate in the event that the holder contravenes legal provisions and the requirements for the issue of the relevant approval document, in accordance with articles 21 and 24.

(2) The National Agency is obliged to:

- a) maintain the confidentiality of commercial information obtained in the process of performing its duties;
- b) promptly inform the competent central government authorities of instances of non-compliance which may lead to undue irradiation of personnel and the public and radioactive contamination of the environment;
- c) immediately halt any nuclear or radiological activity where any undue irradiation of personnel, patients or the public or radioactive contamination of the environment is detected, and initiate the applicable enforcement measures;
- d) update and propose, whenever necessary, levels of exemption from the authorisation procedure and statutory instruments;
- e) cooperate effectively with the public authorities that govern the sector of the regulated activities.

### **Section III**

## **FUNCTIONS OF AUTHORITIES WHICH HAVE POWERS WITHIN THE NUCLEAR AND RADIOLOGICAL ACTIVITIES SECTOR**

### **Article 13. Authorities which have powers within the nuclear and radiological activities sector**

(1) In accordance with their individual remits, authorities which have powers within the nuclear and radiological activities sector shall pursue nuclear, radiological or related activities and notify the National Agency of all instances where changes are identified in the nuclear or radiological situation and developments therein which fall under the jurisdiction of the relevant authority.

(2) The authorities with responsibility for the nuclear and radiological activities sector are as follows:

- a) the central public authority responsible for health protection;
- b) the administrative authority responsible for civil protection and emergency situations;
- c) the central public authority responsible for the environment;
- d) the central public authority responsible for the agro-industrial sector;
- e) the administrative authority responsible for customs control;
- f) organisations which research or promote nuclear or radiological technologies.

### **Article 14. Functions of the central public authority responsible for health protection**

The central public authority responsible for health protection shall:

- a) monitor and conduct hygiene assessments of the content of radionuclides in food products along the entire food chain, in drinking water, including in drinking water sources, in construction materials and in other consumer goods

intended for the public, and shall issue hygiene certificates for products from the Republic of Moldova or imported products;

- b) monitor the placing into economic and social circulation for human consumption of products which have been irradiated or contain radioactive materials, and use, for medical diagnosis or treatment purposes, radioactive sources, ionising radiation generators and pharmacological products which contain radionuclides and come into contact with the human body and which are used for the first time in the country, on the basis of state registration documents issued in accordance with the law;
- c) monitor the impact of nuclear and radiological activities on public health, and issue opinions in this regard;
- d) set hygiene standards for radiation factors;
- e) conduct state public health monitoring of nuclear and radiological facilities, and issue sanitary permits in accordance with the law;
- f) estimate doses received by patients during medical investigations and treatment, and monitor exposure of the public to ionising radiation in cases of nuclear or radiation accidents;
- g) conduct medical monitoring of category A personnel;
- h) conduct scientific research on the medical and biological effects of ionising radiation.

**Article 15. Functions of the administrative authority responsible for civil protection and emergency situations**

The administrative authority responsible for civil protection and emergency situations shall:

- a) draw up and implement, jointly with the National Agency and central and specialist public authorities, the National Nuclear and Radiation Accident Intervention Plan;
- b) coordinate the implementation of the provisions of international agreements concerning the physical protection of nuclear material, swift notification of nuclear accidents and assistance in the event of nuclear or radiation accidents;
- c) implement, in its capacity as the IAEA point of contact, the provisions of international agreements on swift notification and assistance in the event of a nuclear or radiation accident;
- d) plan and implement, jointly with the Customs Service, the National Agency and other institutions responsible for combating illegal trafficking of nuclear and radioactive materials, actions to protect the public and the environment;
- e) organise and conduct the activity of the national observation and laboratory control network for the monitoring, observation and laboratory control of contamination of the environment with radionuclides in the event of a nuclear or radiation accident.

**Article 16. Functions of the central public authority responsible for the environment**

The central public authority responsible for the environment, via the State Hydrometeorological Department, shall:

- a) monitor and collect and analyse information concerning background radioactive pollution of the environment;
- b) research the trend in radioactive pollution of environmental components;

- c) forecast the dispersion and movement of radioactive contaminants;
- d) research the impact of radioactive contaminants and possible effects on environmental components.

**Article 17. Functions of the central public authority responsible for the agro-industry sector**

The central public authority responsible for the agro-industry sector, via the institutions subordinate to it, shall:

- a) conduct radiation monitoring and assess the radiation safety of tilled soil, products of animal and plant origin and animal feed;
- b) conduct departmental oversight of nuclear and radiological activities in the agro-industry sector.

**Article 18. Functions of the administrative authority responsible for customs control**

The Customs Department monitors and permits, solely on the basis of licences from the National Agency, the exportation, importation and temporary admission or transiting of ionising radiation sources, equipment containing ionising radiation sources, nuclear or radioactive materials and information associated with the proliferation of nuclear arms or other explosive nuclear devices.

**Section IV**

**AUTHORISATION PROCEDURE. NATIONAL AGENCY APPROVAL DOCUMENTS**

**Article 19. Authorisation of nuclear and radiological activities**

(1) Individuals and legal entities who pursue or intend to pursue nuclear or radiological activities must obtain authorisation, provided that they satisfy the requirements of this law and statutory instruments regulating nuclear and radiological activities.

(2) Authorisation is given by the National Agency when it is notified of an intention to conduct activity in this field from individuals and legal entities, on the basis of assessment of the conditions in which the nuclear and radiological activities will be conducted, by drawing up an assessment report, and is compulsory for any nuclear and radiological activity referred to in article 3 which is not exempt from the authorisation procedure pursuant to this law.

(3) Authorisation is given by issuing a radiation licence, which is valid for 5 years.

(4) The holder of a radiation licence may conduct nuclear and radiological activities solely within the field for which it has been issued, provided that the limits and requirements stipulated on it are complied with, and only with the use of nuclear or radiological facilities which have valid safety certificates.

(5) Radiation licences shall be requested and issued simultaneously or successively, separately for each field of activity.

(6) The holder of a partial radiation licence may conduct nuclear and radiological activities solely for the phases for which it was issued, provided that the limits and requirements stipulated on it are complied with, and only with the use of nuclear or radiological facilities which have valid safety certificates.

(7) Partial radiation licences are issued for the following phases:

- a) design;
- b) siting;
- c) relocation and transfer;

- d) construction and/or assembly;
- e) commissioning;
- f) operational testing;
- g) repair and/or maintenance;
- h) modification;
- i) conservation;
- j) decommissioning;
- k) importation or exportation;
- l) temporary admission;
- m) transportation.

(8) The National Agency shall issue approval documents free of charge.

### **Article 20. Authorisation requirements**

Authorisation shall only be given where the applicant satisfies the following requirements:

- a) they demonstrate that their personnel are professionally qualified for the relevant posts by holding the relevant qualification certificates recognised by the National Agency and designate, by way of an administrative decision, a person responsible for radiation protection;
- b) they take measures to prevent and limit the consequences of nuclear or radiation incidents and accidents with possible adverse effects on the life and health of personnel, the public, the environment, the property of third parties or state assets, in accordance with the provisions of current legislation;
- c) they ensure that personnel responsible for the safe operation of the installation hold a permit to operate for the relevant activity, in accordance with the provisions of this law;
- d) they take all steps to prevent damage due to the construction or operation of an installation or item of nuclear or radiological equipment or transportation of nuclear or radioactive materials;
- e) they hold insurance or any other financial guarantee to compensate them for possible damage; the amount, nature and stipulations of the insurance or other guarantee shall be in accordance with the international treaties to which the Republic of Moldova is a party;
- f) they ensure that the necessary measures are taken to prevent interference of any kind or to eliminate disruption due to any third parties in the decision-making process during the construction and operation of an installation or item of nuclear or radiological equipment;
- g) they propose and/or have a location for the nuclear or radiological installation or item of equipment which satisfies technical requirements and current statutory instruments in the field of radiation protection and nuclear and radiation safety, and public interests with regard to the non-contamination of water, air and soil, and which does not affect the operation of other installations (or facilities) located nearby. This location must be agreed on with the National Agency;
- h) they have an own financial means fund adequate to decommission and manage radioactive waste generated by their own activity;

- i) they use nuclear or radiological installations or equipment or individual radioactive sources which have a security certificate issued by the National Agency, and appropriate measuring equipment (including for ionising radiation quantities) which has been legally validated and has undergone metrological checks as stipulated by law;
- j) they establish and maintain an adequate ionising radiation protection system;
- k) they establish and maintain an adequate system for the protection of nuclear and radiological materials, radioactive products and waste and the physical security of the nuclear or radiation installation or equipment, including nuclear and radioactive material storage units, in accordance with current statutory instruments in the field of radiation protection and nuclear and radiation safety;
- l) they establish a physical protection system which safeguards the inviolability of the nuclear or radioactive material managed;
- m) they establish and maintain, in their own activity, a nuclear and radiological activity quality assurance and control system approved by the National Agency;
- n) they establish and maintain their own control system in accordance with requirements concerning radiation protection, nuclear and radiation safety, physical security of the facility and readiness for emergency intervention in the event of nuclear or radiation incidents or accidents which may occur in respect of the installations or equipment and ionising radiation sources;
- o) they establish and maintain, where necessary, an adequate system for the implementation of nuclear guarantees, in accordance with the international treaties to which the Republic of Moldova is a party;
- p) they hold the documents required by law which are necessary for the authorised pursuit of nuclear and radiation activity;
- q) they establish and maintain an adequate system to inform the public of the nuclear and radiation situation, in accordance with current statutory instruments governing the radiation protection and nuclear and radiation safety sector.

**Article 21. Stipulations concerning the suspension, revocation and surrender of radiation licences**

- (1) Where an authorised individual or legal entity is found to have breached the provisions of legislation and requirements concerning authorisation, the National Agency shall take a decision to suspend or revoke the radiation licence. The decision shall be communicated to the licensee within two working days.
- (2) Within three working days following the date on which the licensee becomes aware of the decision to suspend or revoke the radiation licence, the National Agency shall refer the matter to a court in accordance with the procedures laid down in current legislation. The decision by the National Agency to suspend or revoke the radiation licence shall apply until the court's decision becomes final.
- (3) The radiation licence shall be suspended or revoked by the issuer within two days after the court's decision becomes final.
- (4) Radiation licences shall be revoked in all cases where it is found that the licensee:
  - a) is not complying with the provisions of current legislation concerning the safe pursuit of nuclear and radiological activities, in accordance with the stipulated limits and requirements;

- b) is not fully complying in due time with the stipulations of the National Agency regarding the rectification of infringements and irregularities identified on the basis of a report during the course of state inspections and oversight;
  - c) fails to declare a new technical or other situation which was not known about on the date when the radiation licence was issued and which may affect the safe pursuit of nuclear and radiological activities;
  - d) fails to perform its obligations with regard to the creation of an own financial means fund for the management and decommissioning of radioactive waste or with regard to insurance for civil liability towards third parties for possible damage in the event of a nuclear or radiation incident or accident which may arise in connection with the relevant installations (or equipment) and ionising radiation sources;
  - e) ceases to exist legally;
  - f) has lost their capacity to practise, in the case of individuals.
- (5) Revocation of a radiation licence shall oblige the licensee:
- a) to cease nuclear or radiological activities immediately;
  - b) to take measures to protect the physical security of the nuclear and radiological installations and nuclear and radiation safety.
- (6) Suspension of a radiation licence shall apply to infringements which can be rectified within a period of six months. If this requirement is not met within the stipulated time-limit, a decision to revoke the radiation licence shall be taken. Where the seriousness of the infringements makes it impossible to rectify them within six months, a decision to revoke shall be enforced immediately by the state inspector on the basis of the National Agency certificate of inspection. Suspension of a radiation licence shall oblige the licensee:
- a) to cease the nuclear or radiological activity immediately;
  - b) to take measures to protect the radiation safety of the ionising radiation sources and physical safety of the nuclear and radiological installations, and the physical protection of nuclear and radioactive material;
  - c) to submit, within five working days, a plan of measures, identifying the time-limits for implementation and the persons responsible, to resolve the problems that triggered the suspension.
- (7) Suspension shall be lifted by notifying the licensee on the basis of a further certificate of inspection stating that all of the irregularities which led to the decision to suspend have been rectified or on the basis of a final judicial decision.
- (8) Authorised persons may surrender their radiation licences by contacting the National Agency in writing.
- (9) The amendment, suspension, revocation and surrender of licences shall take legal effect once the holder has been notified in writing of the National Agency's decision, within two days.
- (10) Radiation licencees may challenge decisions of the National Agency in accordance with current legislation.

**Article 22. Loss of validity of radiation licences**

A radiation licence shall cease to be valid in the event of:

- a) expiry of the period for which it was issued;
- b) loss of status as a legal entity or entrepreneur;
- c) surrender, if the requirements regarding cessation of activity have been met;
- d) documented abandonment or disposal of the authorised activity (or practice);
- e) revocation.

**Article 23. Requirements for the issue of safety certificates and permits to operate**

(1) Safety certificates shall be requested for each separate type of radioactive material, nuclear or radiological installation, including devices which generate ionising radiation, material or equipment used to protect against ionising radiation, packaging, means of containerisation or specially-adapted means of transport.

(2) Safety certificates shall be issued free of charge on the basis of assessment by the National Agency of technical documentation and the conditions of use of nuclear and radiological installations and devices containing ionising radiation sources. The technical documentation forming part of the application which is necessary to obtain a safety certificate must contain, where applicable, sufficient information concerning:

- a) a certificate of conformity for the product or another document certifying the conformity of the product, issued by a notified body and published in the Official Journal of the European Communities;
- b) design and manufacture (operating manual);
- c) the testing programme and its results;
- d) the quality assurance system (quality manual);
- e) the purpose for which it was designed;
- f) installation, assembly, maintenance;
- g) operation/use;
- h) labelling, marking;
- i) guarantee period, lifespan of the installation, period for which the manufacturer shall provide spare parts;
- j) service, repair;
- k) accompanying documentation;
- l) arrangements for decommissioning or disposal as waste;
- m) irradiation risk;
- n) other risks which it may give rise to.

(3) Safety certificates shall be valid for 5 years. In the event of repair or modification of an installation, item of equipment, device, container for a radioactive source or means of transporting radioactive materials which has caused a change to the technical data specified by the manufacturer, a reasoned request shall be made for reissue of the safety certificate.



(4) In their activities, radiation licencees shall exclusively use personnel holding permits to operate which are valid for these activities.

(5) Permits to operate shall be issued by the National Agency to specially-trained persons, radiation protection officers and experts on the basis of assessment by the National Agency, or another competent institution recognised by the National Agency, of the applicant's knowledge of the field.

(6) Obtaining a medical certificate on the basis of the regulations issued by the Ministry of Health is a precondition for the issue of a permit to operate.

(7) Permits to operate shall be issued for a period of 5 years.

**Article 24. Revocation or surrender of safety certificates and permits to operate**

(1) The National Agency shall revoke safety certificates and permits to operate where the holder:

a) has not complied with the provisions of this law and other statutory instruments in the field of nuclear and radiological activities or the stipulations of the radiation licence;

b) has not implemented the quality control and assurance system in the nuclear or radiological activities in accordance with the requirements stipulated on the radiation licence, if it is a legal entity;

c) has lost its capacity to operate.

(2) Holders shall surrender safety certificates by writing to the National Agency.

**Article 25. Extension and reissue of radiation licences and safety certificates, issue of duplicate radiation licences, safety certificates and permits to operate**

(1) Extensions of radiation licences and safety certificates shall be requested 90 days prior to their expiry.

(2) Licensees shall request that their radiation licences are reissued in the event of:

a) a change in the name or address of the individual or legal entity or other changes in the deeds of incorporation in relation to the information on the basis of which the radiation licence was issued;

b) a change in the limits and stipulations specified on the radiation licence;

c) other changes which may affect the radiation safety of ionising radiation sources or the radiation protection of exposed personnel, the public or the environment.

(3) Requests for the reissue of a safety certificate shall be made in the cases specified in article 23(3).

(4) Requests for reissue shall be made by submitting to the National Agency an application for an amendment with numbered pages which comprises:

a) a request to amend the radiation licence or safety certificate;

b) the documentation necessary to substantiate the requested amendments arising as per paragraph (2).

(5) Reissue of a radiation licence or safety certificate shall not change its previous period of validity.

(6) In the event that a radiation licence, safety certificate or permit to operate is lost, misappropriated or damaged, the holder shall make a written request for a

duplicate, which shall be issued by the National Agency within three days following the date of receipt of the request. The duplicate shall have the same expiry date as the original document.

**Article 26. Nuclear and radiological activities exempt from the authorisation procedure**

Nuclear and radiological activities involving the use of materials with a low total or specific concentration (by mass) of radionuclides (activities and special activities), generators of ionising radiation of the type approved by the National Agency and all cathode ray tubes which comply with the limits and criteria for exemption set forth in Appendix No. 1, so that the risks inherent in these activities are the minimum permitted, shall be exempted by the National Agency from the authorisation procedure stipulated in this law. This shall not exempt the individual or legal entity from the obligation to notify the National Agency.

**Article 27. Authorisation of the importation, exportation, re-exportation and temporary admission of ionising radiation sources**

(1) The importation, exportation, re-exportation and temporary admission of ionising radiation sources shall be authorised where the applicant:

a) holds a safety certificate appropriate to the nuclear or radiological installation or equipment, packaging with radioactive material, transportation container or means of transport;

b) demonstrates the competence and probity of persons with decision-making powers over the operations for which the licence is requested, in accordance with this law and other current statutory instruments;

c) undertakes, in the case of importation, to ensure compliance with the provisions of current legislation concerning radiation protection, nuclear and radiation safety and the physical protection of radioactive materials, and compliance with the international atomic energy treaties to which the Republic of Moldova is a party, to supply products and information solely to recipients who are authorised to this end and to inform the National Agency of the entry of the relevant products into the country and the address and other contact details of the recipient;

d) adopts the measures necessary for the radiation protection, nuclear and radiation safety and physical protection during transportation of nuclear or radioactive materials in order to keep the radiation exposure of personnel, the public, property and the environment below the permitted limits during and after the auxiliary operations entailed by the transportation of these materials;

e) obtains, in the case of exportation, guarantees from its external partner to the effect that the latter shall not use products and information for purposes prejudicial to the international obligations assumed by the Republic of Moldova or national security and demonstrates that the exportation complies with the provisions of this law and other current statutory instruments in the field of nuclear and radiological activities. The exporter shall inform the National Agency within five working days of the departure from the country of the relevant products and information associated with the proliferation of nuclear weapons.

(2) The importation, exportation and temporary admission of materials of nuclear interest classified as strategic goods shall be authorised by the Interdepartmental Committee for the Control of the Exportation, Re-exportation,

Importation and Transit of Strategic Goods in accordance with current statutory instruments.

**Article 28. Informing service beneficiaries**

(1) The holders of radiation licences, safety certificates and permits to operate must display copies of these documents in a visible location so that service beneficiaries are accurately informed. In addition, copies of decisions by the National Agency to suspend or revoke radiation licences or revoke safety certificates or permits to operate shall be displayed in a location visible to beneficiaries.

(2) Failure to comply with the provisions of paragraph (1) shall lead to the enforcement by the National Agency of infringement penalties against the manager of the organisation.

**Section V**

**STATE INSPECTIONS AND OVERSIGHT OF NUCLEAR AND RADIOLOGICAL ACTIVITIES**

**Article 29. Stipulations regarding state inspections and oversight of nuclear and radiological activities.**

Rights and responsibilities of state inspectors:

(1) State inspections and oversight of nuclear and radiological activities shall be conducted in order to protect personnel, the public, property and the environment against the adverse impact of ionising radiation and to keep state-level records in nuclear and radiation databases of ionising radiation sources, nuclear material, radioactive waste, authorised individuals and legal entities, individual doses, etc.

(2) State inspections and oversight of compliance with the provisions of statutory instruments shall be conducted on a planned, unannounced and repeat basis by state inspectors from the National Agency separately or jointly with representatives of other monitoring authorities, within the limits and in accordance with the powers stipulated in this law and legislation regarding state inspections.

(3) The Director of the National Agency is *ex officio* chief state inspector for nuclear and radiological activities, and the deputy director is *ex officio* deputy chief state inspector.

(4) To ensure that they have access to the premises of individuals and legal entities who conduct or intend to conduct nuclear and radiological activities, state inspectors shall hold accreditation of a single format approved by the chief state inspector.

(5) Any interference in the activity of state inspectors which may affect the safety of nuclear and radiological activities is prohibited.

(6) Inspections shall be conducted on the premises where the individual or legal entity conducts the activities subject to authorisation or in any other location which may be connected with these activities, in accordance with the law, in any of the following situations:

- a) during the period of validity of the radiation licence (planned or repeat inspection);
- b) on the basis of notification and/or a demand made to the individual or legal entity (planned or repeat inspection);

c) where there is information to suggest that activities referred to in article 3 are being conducted without authorisation (unannounced inspection).

(7) Where, as a result of an inspection, requirements relating to nuclear or radiation safety or the physical security of nuclear or radiological materials are found to have been breached, the National Agency shall order that the activity is suspended and that access to the nuclear or radiation installations, nuclear and radioactive materials, materials of nuclear interest, other materials, devices, equipment and information associated with the proliferation of nuclear weapons or other explosive nuclear devices which pose a risk when operated or held is sealed off.

(8) State inspectors shall perform their duties on the basis of an inspection warrant and accreditation.

(9) The chief state inspector, or in his absence, his deputy, has the following powers:

- a) to halt unauthorised nuclear or radiological activities;
- b) to take decisions to suspend or revoke radiation licences or to revoke safety certificates or permits to operate where the holder breaches the provisions of current legislation and authorisation requirements;
- c) to forward reports regarding infringements drawn up by state inspectors to the competent bodies for examination and the enforcement of the appropriate penalties;
- d) to notify the criminal prosecution authorities in the event that breaches which may constitute offences contrary to the Penal Code are identified.

(10) State inspectors are responsible for:

- a) abiding by laws and other current statutory instruments and respecting the rights and legitimate interests of individuals and legal entities subject to state inspections and oversight;
- b) fulfilling their obligations in a competent, impartial and responsible manner;
- c) informing the management of the National Agency and other competent bodies promptly of identified breaches which may lead to undue irradiation of personnel, the public and the environment;
- d) protecting state and trade secrets and maintaining the confidentiality of other information obtained during the course of their activity;
- e) the accuracy of information given on certificates of inspection and the lawfulness of conclusions and penalties proposed for enforcement;
- f) taking appropriate and swift action in emergencies while conducting state inspections and oversight.

### **Article 30. Conducting state inspections and oversight**

(1) State inspections and oversight shall be conducted in accordance with the provisions of current legislation and annual and quarterly plans approved by the chief state inspector. The priorities and frequency of state inspections and oversight shall be determined by the nuclear and radiation risk that may be posed by the relevant activities and installations, in accordance with the provisions of current legislation and international recommendations.

(2) Where breaches which do not pose a serious risk to the life and health of persons or the environment (which generate irradiation amounting to less than

1.0 microsieverts per hour at a distance of 0.1 metres away from the source or surface of the radiological installation) and can be rectified during the inspection are identified, the state inspector shall give instructions for their rectification, shall check that they have been rectified and, if they have been, shall not reflect them in certificates of inspection.

(3) Where breaches of requirements concerning nuclear and radiation safety or the physical protection of nuclear or radioactive materials (except those covered by paragraph (2)) are identified, the state inspector shall forward to the chief state inspector proposals to suspend or revoke the radiation licence or to revoke the safety certificate or permit to operate and seal off the equipment or premises whose use may harm human health or the environment.

(4) If breaches which constitute contraventions are identified during state inspections and oversight, the state inspector shall draw up a record of the offence, in accordance with the procedure set forth in the Code of Offences, and attach it to the certificate of inspection.

(5) If breaches which may constitute offences contrary to the Criminal Code are identified during state inspections and oversight, the National Agency shall notify the criminal prosecution authorities which are competent to investigate such cases.

### **Article 31. Presentation of inspection findings**

The findings arising out of state inspections and oversight (except those covered by article 30(2)) shall be recorded on the certificate of inspection in accordance with the legislation concerning state inspections.

## **Section VI**

### **NUCLEAR GUARANTEES**

#### **Article 32. Peaceful use undertakings**

(1) Nuclear and radioactive materials shall be used in the Republic of Moldova solely for peaceful purposes and in accordance with the obligations arising out of the international treaties to which the Republic of Moldova is a party. The list of materials, devices, equipment and information associated with the proliferation of nuclear weapons and other explosive nuclear devices is set forth in Appendix no. 2.

(2) The following are prohibited in the Republic of Moldova:

- a) researching, testing, developing, manufacturing, importing, temporarily admitting, exporting, transiting, holding, distributing, selling, repairing, commissioning, handling, hiring, placing or detonating nuclear weapons or any explosive nuclear device or explosive device containing radioactive material;
- b) importing, exporting, re-exporting, transiting or temporarily admitting nuclear fuel, including spent nuclear fuel;
- c) importing, exporting, re-exporting, transiting or temporarily admitting nuclear material without authorisation from the National Agency and the competent public authorities.

#### **Article 33. Nuclear guarantee system**

(1) Pursuant to the provisions of the Treaty on the Non-Proliferation of Nuclear Weapons and the Agreement between the Republic of Moldova and the IAEA for the Application of Safeguards in Connection with the Treaty on the Non-

Proliferation of Nuclear Weapons and the Protocol thereto (hereinafter referred to as the Agreement), the National Agency:

- a) coordinates, at national level, the implementation of nuclear guarantees, other activities, in particular those relating to authorisation, inspections and oversight, and the approval of actions related to the implementation of guarantees;
  - b) provides assistance to facilitate access for IAEA inspectors within the Republic of Moldova so that the necessary checks may be carried out;
  - c) oversees the implementation by authorised individuals and legal entities of the system for keeping records of and inspecting nuclear and radioactive materials, materials of nuclear interest and measures for their physical protection;
  - d) gathers information necessary to implement guarantees;
  - e) draws up and updates the detailed list of materials, devices, equipment and information associated with the proliferation of nuclear weapons and other explosive nuclear devices and submits it to the Government for approval.
- (2) The public authorities, individuals and legal entities are obliged to cooperate with IAEA representatives in the implementation of measures relating to guarantees, including by means of:
- a) submitting information relevant to the implementation of the provisions of the Agreement;
  - b) providing access to locations falling under the scope of the Agreement;
  - c) providing support required by inspectors from the National Agency and the IAEA in order to conduct inspections;
  - d) enabling inspectors from the National Agency and the IAEA to take necessary measures, in accordance with the Agreement.
- (3) The National Agency is responsible for approving or giving reasoned rejections of inspectors proposed by the IAEA.
- (4) Research and development activities relevant to the nuclear fuel cycle which fall under the scope of the Agreement may only be commenced where the National Agency has been notified and authorisation has been obtained from it beforehand.

#### **Article 34. State inspections of nuclear materials**

The National Agency implements guarantee measures in relation to nuclear materials by:

- a) establishing a system for inspecting and keeping records of nuclear material within the country;
- b) implementing inventory-taking and reporting procedures for quantities of nuclear material;
- c) implementing authorisation and monitoring procedures for the movements of nuclear material;
- d) implementing procedures for reporting quantities of nuclear material to the IAEA;
- e) maintaining and annually updating the national register of nuclear materials (in electronic format or on paper).

## Section VII

### PHYSICAL SECURITY OF NUCLEAR AND RADIOLOGICAL FACILITIES. ILLEGAL TRAFFICKING OF NUCLEAR AND RADIOACTIVE MATERIALS

#### **Article 35. Regulation of the physical security of nuclear and radiological facilities and the physical protection of nuclear and radioactive materials**

The National Agency shall develop and propose for adoption to the Government requirements for the physical security of nuclear and radiological facilities and the physical protection of nuclear and radioactive materials by:

- a) categorising nuclear facilities and nuclear and radioactive materials on the basis of assessment of vulnerability, potential damage, consequences of subversion, acts of sabotage or misappropriation;
- b) identifying measures to protect physical security according to the category of the nuclear material or facility;
- c) introducing state record-keeping and inspections of nuclear and radioactive materials;
- d) issuing stipulations, as part of authorisation requirements, with regard to physical security, including cybersecurity as an integral component;
- e) implementing measures for state inspections and oversight and checking the results of inventories which have been taken;
- f) implementing enforcement measures in accordance with legal provisions in the event of a breach of legislation and authorisation requirements.

#### **Article 36. Combating illegal trafficking of nuclear and radioactive materials**

(1) For the purpose of prevention, detection and responding in the event of attempted or actual illegal trafficking of nuclear and radioactive materials, the Customs Service shall establish and implement appropriate border controls.

(2) Individuals or legal entities who have identified attempted illegal trafficking of nuclear or radioactive material shall inform the National Agency of this within 24 hours after the time at which they identified it.

#### **Article 37. Responsibility of authorised persons for the physical protection of nuclear or radioactive material**

Radiation licensees shall be solely responsible for the physical protection of the managed nuclear or radioactive material and for notifying the National Agency and other competent authorities of actual or attempted misappropriation of this material within the time-limit laid down in article 36.

## Section VIII

### RESPONDING TO A NUCLEAR OR RADIATION INCIDENT OR ACCIDENT. TRANSPORTATION OF RADIOACTIVE MATERIALS

#### **Article 38. Notification and regulation in the event of a nuclear or radiation incident or accident**

(1) In the event of loss of control over nuclear or radioactive material which may affect third countries, the National Agency shall, in accordance with the procedures agreed between the parties, notify the IAEA and third countries of the relevant event, including in cases where illegal trafficking of nuclear or radioactive materials has been identified.

(2) The National Agency, together with the central and specialist public authorities, shall establish the statutory framework and initiate and perform work to detect and identify nuclear or radioactive material in respect of which control has been lost.

(3) The National Agency shall request, where necessary, international technical assistance in order to resolve the situation, in accordance with the international treaties to which the Republic of Moldova is a party.

(4) The competent authorities shall be notified of the incident or accident by the first person who identified the situation, in accordance with the diagram and procedures set out in the regulations approved by the Government.

### **Article 39. Response**

Authorised persons must have:

- a) effective response plans to deal with design basis threats through interaction between the relevant departments in the event of nuclear or radiation emergencies;
- b) personnel who are prepared and trained for response activities;
- c) their own intervention plans for nuclear or radiation incidents or accidents;
- d) their own quality assurance and control system for the maintenance of nuclear or radiation safety and physical security in the activities conducted;
- e) a system for notifying the National Agency within the time-limits established by current statutory instruments of nuclear or radiation incidents or accidents which take place and cause harm to individuals or legal entities, economic losses and radioactive contamination of the environment, and of the possibility that a nuclear or radiation incident or accident may occur.

### **Article 40. Transportation of nuclear and radioactive materials**

(1) Nuclear and radioactive materials shall be transported solely by holders of the appropriate radiation licence.

(2) All transportation across territory of radioactive sources of nuclear materials which are not exempt from the authorisation procedure shall require a partial radiation licence for transportation to be obtained in the prescribed manner.

## **Section IX**

### **NATIONAL POLICY AND PRINCIPLES FOR THE MANAGEMENT OF RADIOACTIVE WASTE**

#### **Article 41. National policy for the management of radioactive waste**

(1) In accordance with the obligations assumed at international level by the Republic of Moldova as a member state of the IAEA, the Government shall promote the radioactive waste management policy in accordance with the following principles:

- a) protection of human health: radioactive waste is managed in such a way as to ensure an acceptable level of protection of human health;
- b) environmental protection: radioactive waste is managed in such a way as to offer an acceptable level of protection of the environment, including natural resources;



- c) protection beyond the borders of the Republic of Moldova: radioactive waste is managed in a way which takes possible effects on human health and the environment beyond national borders into account;
  - d) protection of future generations: radioactive waste is managed in such a way as to ensure that the impact on the health of future generations will not be greater than the relevant impact levels which are acceptable today;
  - e) burden for future generations: radioactive waste is managed in such a way as not to place an undue burden on future generations;
  - f) national legal framework: radioactive waste is managed within an adequate national legal framework, with responsibilities and powers in relation to the independent regulation of these activities being clearly defined;
  - g) control over the generation of radioactive waste: the generation of radioactive waste shall be kept to a minimum;
  - h) nuclear and radiation safety, physical security of facilities where radioactive waste is present: nuclear and radiation safety and the physical security of installations for the management of radioactive waste shall be adequately protected at every stage of the life cycle of the installation.
- (2) Radioactive waste management policy and principles shall be implemented in close association with the objective of sustainable national development which meets the needs of the current generation without compromising the capacity of future generations to meet their own needs.
- (3) Within the Republic of Moldova, radioactive waste shall be managed in accordance with the following principles and approaches:
- a) polluter pays: the financial burden for the management of radioactive waste shall be borne by the generator of the radioactive waste;
  - b) transparency regarding all aspects of radioactive waste management: all radioactive waste management activities shall be conducted in an open and transparent manner and the public shall have access to information regarding radioactive waste management where this does not compromise the physical security of the nuclear or radiological facility;
  - c) transparency of decision-making based on scientific research, risk analysis and optimisation of resources: the decision-making process shall be based on scientifically-grounded information and results obtained and presented by competent national and international institutions dealing with this field;
  - d) precaution: where there is uncertainty about the nuclear or radiation safety of an activity relating to radioactive waste management, a conservative approach shall be adopted;
  - e) prohibition of the importation of radioactive waste;
  - f) international cooperation: the Government accepts its responsibility towards other countries for global and regional radioactive waste management issues. The principles of national policy and those arising out of the relevant regional and international treaties to which the Republic of Moldova is a party shall be respected in this activity;
  - g) participation: the interests and concerns of all affected or interested parties shall be taken into account in decision-making regarding radioactive waste management;
  - h) educating the public: the Government shall create opportunities for education and fostering tolerance of activities associated with the safe management of radioactive waste.

**Article 42. Technical requirements for radioactive waste management**

The technical requirements for the safe management of radioactive waste and the classification of radioactive waste shall be established and submitted by the National Agency and approved by the Government

**Article 43. Responsibility**

Responsibility for radioactive waste management shall be borne by the generator of the waste, and after it has been transferred to a specialist institution – by the holder of the radiation licence for radioactive waste management, in accordance with current legislation.

**Article 44. Radioactive waste disposal plan**

Holders of radiation licences for radioactive waste management must have a radioactive waste disposal plan which makes provision for active and passive controls after final disposal and after final closure of the storage facility.

**Article 45. Responsibility of licensees**

Holders of radiation licences for the management of radioactive waste are responsible for:

- a) the nuclear and radiation safety and physical security of the facility;
- b) in-situ categorisation of radioactive waste;
- c) sorting, processing, conditioning and storing radioactive waste in accordance with legal requirements;
- d) creating and managing a register (or database) of stored radioactive waste;
- e) drawing up an annual radioactive waste management report and submitting it to the National Agency by 30 December;
- f) ongoing radiation monitoring of adjacent territory with regard to the content of radionuclides in the air, soil and groundwater, with data to be submitted to the National Agency and the competent authorities;
- g) notifying the National Agency within 24 hours, on paper or in electronic format, of the acceptance of unusable radioactive waste, radioactive sources or nuclear materials, giving a full description of them using a form approved by the National Agency.

**Section X****RIGHTS, OBLIGATIONS AND LIABILITY OF INDIVIDUALS AND LEGAL ENTITIES****Article 46. Rights of physical persons in the nuclear and radiological activities sector, individuals within the territory of the Republic of Moldova have the right:**

- a) to safe working conditions and to live in a favourable environment;
- b) to receive accurate, swift and competent information about the nuclear or radiation situation;
- c) to social protection (financial compensation) and free medical rehabilitation in the event of accidental overexposure to ionising radiation which is harmful to health.

### **Article 47. Rights of authorised individuals and legal entities**

Authorised individuals and legal entities against whom enforcement measures have been taken have the right to challenge them and receive compensation in accordance with current legislation.

### **Article 48. Obligations of individuals**

In the nuclear and radiological activities sector, individuals within the territory of the Republic of Moldova are obliged to take the precautionary measures stipulated by standards, regulations and rules concerning radiation protection, nuclear and radiation safety and the physical security of nuclear and radiological facilities.

### **Article 49. Obligations of authorised individuals and legal entities**

(1) Authorised individuals and legal entities are obliged:

- a) to maintain nuclear and radiation safety, protection against ionising radiation and the physical protection of nuclear and radioactive materials;
- b) to keep meticulous records of nuclear and radioactive materials and all ionising radiation sources used or produced in their own activity;
- c) to comply with all of the requirements on their radiation licence and report any deviations from the limits and requirements stated on the licence to the National Agency;
- d) to conduct the activities for which they have been authorised;
- e) to devise their own system of requirements, regulations and instructions to ensure that the authorised activities are conducted without incurring risks of any kind.

(2) Authorised persons who conduct nuclear and radiological activities and generate or have generated radioactive waste are obliged: a) to be responsible for the proper management of the radioactive waste generated by their own activity;

- a) to be responsible for the proper management of the radioactive waste generated by their own activity;
- b) to bear the costs of collecting, handling, transporting, treating, decommissioning, conditioning and temporarily or permanently storing the waste, for which purpose they shall establish an own financial resources fund for the management of the radioactive waste, the amount of which shall cover the necessary expenses. This fund shall be intended solely for these purposes;
- c) to devise their own decommissioning programme and submit it to the National Agency for approval;
- d) to make it possible for used radioactive sources and radioactive waste to be transferred to the supplier or user.

(3) The expiry, suspension or revocation of a radiation licence shall not exempt its holder or the person who has taken ownership of the nuclear or radiological materials, facilities and installations or equipment from the obligations set forth in this law or those arising out of the stipulations of the radiation licence.

(4) During inspections, authorised individuals and legal entities subject to inspections are obliged to take all measures necessary to enable them to be properly carried out.

(5) In the event of non-compliance with an inspection or any legal instruction given by the National Agency, the latter may request that the competent public order maintenance authorities intervene, in accordance with current legislation.

## Article 50. Liability

- (1) Breaches of the provisions of statutory instruments regulating nuclear and radiological activities shall incur disciplinary, civil, contraventional or criminal liability, as applicable.
- (2) Radiation licencees shall be fully liable for breaches of requirements concerning nuclear and radiation safety and physical security, and for breaches of this law and other statutory instruments applicable to this sector.
- (3) Unauthorised pursuit of nuclear and radiological activities or illegal trafficking of nuclear and radioactive materials, nuclear or radiological installations or facilities, explosive nuclear devices or components thereof which may cause harm to the public or environment shall trigger cessation of the activity, seizure or the enforcement of other measures provided for by law.
- (4) Seized ionising radiation sources shall be kept at the expense of the authorised individual or legal entity at a safe location sealed off by the National Agency, in accordance with nuclear and radiation safety and physical security requirements, so as not to endanger the life and health of the public, cause radioactive contamination of property or the environment or facilitate illegal trafficking, until legal measures have been taken.
- (5) The holder of the radiation licence shall, in accordance with the Civil Code or Penal Code, be solely liable for damage caused during or after nuclear or radiation incidents or accidents which have led to the death, injury or harm to the health of one or more persons or the destruction, damage or temporary unusability of any item of property.
- (6) Liability for damage caused to persons within the territory of the Republic of Moldova as a result of the transiting of nuclear material or nuclear or radiation incidents or accidents which occur outside the territory of the Republic of Moldova shall be enforced on the basis of the Convention on Civil Liability for Nuclear Damage of 21 May 1963, to which the Republic of Moldova is a party.

## Section XI FINAL PROVISIONS

### Article 51

- (1) On the date when this law enters into force, Law no. 111-XVI of 11 May 2006 on the safe pursuit of nuclear and radiological activities (Official Journal of the Republic of Moldova, 2006, no. 98-101, art. 451), as subsequently amended and supplemented, shall be repealed.
- (2) Within 9 months, the Government:
  - a) shall submit proposals to Parliament regarding the bringing of current legislation into accordance with this law;
  - b) shall bring its statutory instruments into accordance with this law.

SPEAKER OF PARLIAMENT

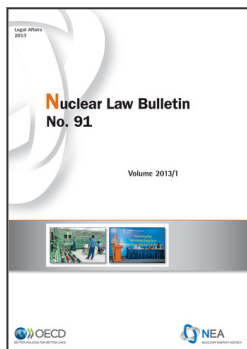
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Appendix 1

Appendix 2

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