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Republic of the Philippines  
Third Session

Begun and held in the City of Manila on Monday, the twenty-second day of January, nineteen hundred and sixty-eight.

[REPUBLIC ACT No. 5207,  
AS AMENDED BY PRESIDENTIAL DECREE No. 1484]

AN ACT PROVIDING FOR THE LICENSING AND REGULATION  
OF ATOMIC ENERGY FACILITIES AND MATERIALS,  
ESTABLISHING THE RULES ON LIABILITY FOR NUCLEAR  
DAMAGE, AND FOR OTHER PURPOSES.

*Be it enacted by the Senate and House of Representatives of the Philippines in  
Congress assembled:*

PART I

*General Provisions*

SECTION 1. *Short Title.* - This Act shall be known as the "Atomic Energy Regulatory and Liability Act of 1968."

SEC. 2. *Declaration of Policy.* - It is hereby declared to be the policy of the Philippine Government to encourage, promote and assist the development and use of atomic energy for all peaceful purposes, as a means to improve the health and prosperity of the inhabitants of the Philippines, contribute to the general welfare, and accelerate scientific, technological, agricultural, commercial, and industrial progress.

The production and use of atomic energy facilities and atomic energy materials shall be subject to control by the State in order to achieve the foregoing purposes, to assure fulfillment of the international obligations of the State, to protect the health and safety of workers and of the general public, and to protect against the use of such facilities and materials for unauthorized purposes.

In order to encourage the development and use of atomic energy for peaceful purposes and to provide proper protection of the public, it is also in the national interest to establish the rules on liability for nuclear damage and to assure the availability of funds to satisfy liability claims.

SEC. 3. *Definitions.* - As used in this Act:

(a) "Commission" means the Philippine Atomic Energy Commission.

(b) The term "atomic energy facility" means any equipment or device which the Commission may determine from time to time, by regulation, to be capable of producing or utilizing atomic energy material in such quantity or in such manner as to be of significance to the national interest or to the health and safety of the public.

(c) "Atomic energy material" means "source material", "special fissionable material" and any other radioactive material.

(d) The term "individual operator" means any individual who manipulates the controls of an atomic energy facility.

(e) "Installation operator" means the person licensed by the Commission as the operator of that installation. If no person is licensed by the Commission as the operator of the installation and the installation is operated by or for the Commission, "installation operator" shall be deemed to mean the Commission.

(f) "Nuclear Damage" means loss of, life, any personal injury or any loss of, or damage to, or loss of use of property, which arises out of or results from the radioactive, toxic, explosive or other hazardous properties, or any combination thereof, of nuclear fuel or radioactive products or any waste in, or of nuclear materials coming from, originating in, or sent to, a nuclear installation or from the ionizing radiation emitted by any other source of radiation inside a nuclear installation. "Personal injury" as used herein means any physical or mental injury (including death), sickness or disease whether caused directly by a physical trauma or otherwise. [As amended by Section 1 of P.D. No. 1484.]

(g) "Nuclear fuel" means any material which is capable of producing energy by a self-sustaining chain process of nuclear fission.

(h) "Nuclear incident" means any occurrence or series of occurrence having the same origin which causes nuclear damage.

(i) "Nuclear installation" means (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 or for any other purposes; (2) any factory using nuclear fuel for the production of nuclear material, or any factory for the processing of nuclear materials, including any factory for the re-processing of irradiated nuclear fuel; and (3) any facility where nuclear material is stored, other than storage incidental to the carriage of such material.

(j) "Nuclear materials" means (1) 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 some other material; and (2) radioactive products or waste.

(k) "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 neutron.

(l) "Person" means any individual, partnership, private or public body whether corporate or not, Government agency other than the Commission, any international organization enjoying legal personality under the law where the nuclear installation is situated, and any State or any of its constituent subdivisions; and any legal successor, representative, agent or agency of the foregoing.

(m) "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 utilization of nuclear fuel, but does not include nuclear fuel, or radioisotopes which have reached the final stage of fabrication so as to be usable for any scientific, medical or agricultural, commercial or industrial purpose,

(n) The term "source material" means uranium containing the mixture of isotopes occurring in nature, uranium depleted in the isotope 235; thorium; any of the foregoing in the form of metal, alloy, chemical compound, or concentrate and other material containing one or more of the foregoing in such concentration as the Commission may from time to time determine.

(o) The term "special fissionable material" means plutonium-239, plutonium-241, uranium-233, uranium-235, any material containing one or more of the foregoing, and such other fissionable material as the Commission shall from time to time determine; but the term "special fissionable material" does not include source material.

(p) "The term "individual" means a natural person. [As amended by Section 2 of P.D. No. 1484.]

## PART II

### *General Authority of the Commission*

SEC. 4. *Commission Authority.* - In the performance of its functions under this Act, the Commission is authorized:

(a) To establish and issue regulations and orders with respect to atomic energy facilities and materials for the protection of the health and safety of the workers and of the general public; and to make inspections to insure compliance with such requirements;

(b) To establish and issue regulations and orders to ensure that atomic energy facilities and materials are used only for purposes authorized under

this Act, and that such uses are consistent with the national interest; and to make inspections to ensure compliance with such requirements;

(c) To license and regulate or prohibit the import or export of atomic energy facilities and materials as may be necessary in the national interest;

(d) To issue licenses to qualified persons authorizing the conduct of activities for which a license is required under this Act;

(e) To modify, amend, suspend, or revoke any license in accordance with the provisions of this Act;

(f) To inspect activities which are licensed under this Act; and to require licensees to maintain records, and to require reports from licensees, with regard to such activities;

(g) To hold hearings and conduct investigations and for these purposes to administer oaths and affirmations, and by *subpoena* to require any person to appear and testify, or to appear and produce documents at any designated place.

(h) To establish advisory boards to advise with and make recommendations to the Commission; and to fix and pay the amount of *per diem* of members of such advisory boards not to exceed fifty pesos per meeting;

(i) To establish and issue regulations and orders for the safe transport of atomic energy materials and facilities;

(j) To call upon other government agencies and instrumentalities for assistance and cooperation in carrying out the provisions of this Act;

(k) To charge and collect reasonable fees in connection with its licensing and regulatory functions, provided that such fees shall be imposed by regulation on the basis of such published criteria as the Commission deems appropriate, taking into consideration, among other criteria, the nature of the activity licensed and regulated;

(l) To issue, amend and revoke such regulations and orders as may be necessary or proper with respect to the furnishing of financial security to cover liability for nuclear damage, the furnishing of certificates to carrier, and such other regulations and orders as the Commission finds necessary or proper in carrying out the purposes and provisions of Part VII of this Act; and

(m) To issue, amend and revoke such regulations and orders as may be necessary or proper to carry out the purposes and provisions of this Act.

Nothing in this Act shall preclude the authorized agents of the Department of National Defense to make inspections of atomic energy facilities, materials or any activity jointly with the authorized representatives of the Commission after prior consultation with the latter when the security of the state is involved.

SEC. 5. *Regulatory Policy.* - In issuing licenses and regulations under this Act, the Commission shall impose the minimum requirements consistent

with the Commission's obligations under this Act to protect the health and safety of the public and to promote the national interest.

### PART III

#### *Regulation and Licensing of Atomic Energy Facilities*

SEC. 6. *Activities Subject to License.* - It shall be unlawful for any person to transfer, construct, receive, own, possess, operate, import or export any atomic energy facility except under a license issued by the Commission under this Act.

SEC. 7. *Form and Content of Application.* - Each application for a license for an atomic energy facility shall be in writing and shall contain such information as the Commission may by regulation or order deem to be necessary to carry out its responsibilities under this Act. Such information shall include, but shall not be limited to, information bearing on the technical and financial qualifications of the applicant, the character of the applicant, and the citizenship of the applicant. In addition the applicant shall state such technical information as to the proposed atomic energy facility, the amount, kind, and source of reactor fuel requirements, the proposed location and site of the atomic energy facility, the operational procedure for the atomic energy facility and such other information as the Commission may by regulation deem necessary in order to enable it to decide whether operation of the atomic energy facility will not pose undue risk to the health and safety of the public.

SEC. 8. *To Whom License Issued.* - The Commission shall issue a license upon finding:

(1) That the proposed activities are consistent with the policies declared in Section Two of this Act;

(2) That the applicant is technically and financially qualified to engage in the proposed activities in accordance with the requirements of this Act, and the Commission's regulations;

(3) That the proposed activities will not pose undue risk to the health and safety of the public; and

(4) That the applicant, if required by this Act or the Commission's regulations, has financial security to fulfill the obligations for liability for nuclear damage.

SEC. 9. *Citizenship Requirement.* - No license to acquire, own, or operate any atomic energy facility shall be issued to an alien, or any corporation or other entity which is owned or controlled by an alien, a foreign corporation, or a foreign government.

For purposes of this Act, a corporation or entity is not owned or controlled by an alien, a foreign corporation or a foreign government if at least sixty per cent (60%) of its capital stock is owned by Filipino citizens.

SEC. 10. *Provisional License.* - In all cases of applications for licenses to construct an atomic energy facility if the Commission finds that, on the basis of the technical information and data so far made available to it, there is reasonable assurance that the proposed installation can be constructed and operated at the proposed location without undue risk to the health and safety of the public, it shall initially issue a provisional license to the applicant. Such a provisional license may be granted even if the health and safety information then available is less than would be needed for a license to operate, provided that the Commission is satisfied that there is reasonable assurance that questions of health and safety will be so resolved as to warrant the issuance of a license to operate the installation.

SEC. 11. *License to Operate.* - Upon the filing of any additional information and data needed to enable the Commission to make a determination of the safety aspects of the complete atomic energy facility, and upon finding that the facility authorized has been constructed and will operate in conformity with the application as amended and in conformity with the provisions of this Act and of the regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of a license would not be in accordance with the provisions of this Act, the Commission shall thereupon issue a license to the applicant to operate the facility.

SEC. 12. *Advisory Board on safety of atomic energy facilities and materials.* - Upon the recommendation of the Commission, the Chairman of the National Science Development Board shall establish an Advisory Board on safety of atomic energy facilities and materials not exceeding eleven in number and appoint the members, to assist and advise the Commission on the health and safety matters arising in connection with atomic energy facility and material licenses, and regulations applicable to such licenses, composed of experts outside the Commission from other government agencies or the private sector or both: *Provided, however,* That the Commission shall have the final decision and responsibility with respect to such matters. The opinions and reports of the Board on license applications shall be made in writing and shall be made available to the public.

SEC. 13. *Continued Operation of Atomic Energy Facility in Case of Revoked License.* - Whenever the Commission finds that the public convenience and necessity or the atomic energy development program of the Commission requires continued operation of an atomic energy facility the license for which has been revoked, the Commission may, after consultation with the Public Service Commission or appropriate agency having jurisdiction, order that possession be taken of such atomic energy facility (including any atomic energy materials which are at the facility for use in operation of the facility) and that it be operated for such period of time as in the judgment of the Commission, the public convenience and necessity or the atomic energy development program of the Commission require, until a license for the operation of the atomic energy facility shall become effective. Just compensation shall be paid for the use of the facility.

SEC. 14. *Additional Requirements in Case of Atomic Energy Facility for Commercial Power; Exemptions.* - Nothing in this Act shall be construed to exempt the operator of an atomic energy facility designed primarily for the generation of electricity for commercial purposes, from complying with other requirements provided by existing laws, such as securing a franchise, a certificate of public convenience and necessity, obtaining approval for rates and services and others, from the appropriate agency having jurisdiction: *Provided, however;* That upon certification by the Commission, importations of nuclear fuel for use in these facilities shall be free from all taxes and duties within a period of ten years commencing from the date of delivery of the first importation of fuel for the first of such atomic energy facility in the country, any provision of existing laws to the contrary notwithstanding.

SEC. 15. *Individual Operators.* - The Commission shall:

(a) Prescribe the classes of atomic energy facilities for which it determines that individual operators' licenses should be required in order to protect the health and safety of the public;

(b) Determine the qualifications of such individuals;

(c) Issue licenses to such individuals in such form as the Commission may prescribe; and

(d) Suspend or revoke such licenses for violations of any provisions of this Act or regulation or order issued by the Commission.

#### PART IV

##### *Regulation and Licensing of Atomic Energy Materials*

SEC. 16. *Activities Subject to Licensing.* - It shall be unlawful for any person to manufacture, produce, receive, possess, own, use, transfer, import or export any atomic energy material except under a license issued by the Commission or except as otherwise authorized by the Commission under this Act: *Provided, however.* That the mining and processing of radioactive ores or minerals shall be governed by the applicable mining laws prior to the removal from its place of deposit in nature.

SEC. 17. *Exemption from Licensing Requirements.* - The Commission may by regulation exempt small quantities of low activity atomic energy materials, and users or uses of such low activity atomic energy materials, from the licensing requirements of this Act if the Commission finds that the exemption of such quantities or such kinds of users or uses will not constitute an undue risk to the health and safety of the public and will otherwise be consistent with the national interest.

SEC. 18. *Safe Transport of Atomic Energy Materials.* - Any person who ships or transports atomic energy materials shall comply with all such regulations and orders of the Commission as the Commission deems necessary to protect the health and safety of the public.

SEC. 19. *Form and Content of Application.* - Each application for a license for atomic energy materials shall be in writing and shall contain such information as the Commission may by regulation or order deem to be necessary to carry out its responsibilities under this Act. All applications and statements shall be signed by the applicant or licensee. Applications for various licenses specified in this Act may be combined in a single application.

SEC. 20. *To Whom License Issued.* - The Commission shall issue a license upon finding:

(1) That the proposed activity is consistent with the policies declared in Section Two of this Act.

(2) That the applicant is technically and financially qualified to engage in the proposed activities in accordance with the requirements of this Act, and the Commission's regulations;

(3) That the proposed activities will not pose undue risk to the health and safety of the public; and

(4) That the applicant, if required by this Act or the Commission's regulations, has financial protection to fulfill obligations for liability for nuclear damage.

SEC. 21. *Prior and Preferential Rights of the Government over Special Fissionable Material.* - The Government of the Philippines, acting through the Commission, shall have the right to acquire any special fissionable material owned by a person in the Philippines. Such rights may be exercised only when in the view of the Commission the development of atomic energy in the Philippines or the national interest so requires. The acquisition of special fissionable material pursuant to this section shall be made for a fair and reasonable price.

## PART V

### *Common Provisions for Regulation of Atomic Energy Facilities and Materials*

SEC. 22. *Form and Contents of License.* -

(a) Each license shall be in such form and shall contain such terms as the Commission may prescribe to effectuate the provisions of this Act.

(b) Every license issued under this Act shall be subject to the rights of possession or control vested in the Commission under the provisions of this Act and to all of the other provisions of this Act, now or hereafter in effect and to all valid regulations and orders of the Commission.

SEC. 23. *Period of License.* - Each license shall be issued for a specified period, as determined by the Commission depending on the type of activity to be licensed, but not exceeding thirty five years and may be renewed upon the expiration of such period.



SEC. 24. *Transfer of Licenses.* - No license issued by the Commission, and no right granted by any such license, shall be transferred, assigned, encumbered, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, unless the Commission shall, after securing full information, find that such transfer, assignment, encumbrance, or other disposition is in accordance with the purposes and provisions of this Act and shall give its consent in writing.

SEC. 25. *License Subject to Amendment.* - The terms and conditions of all licenses shall be subject to amendment or modification, by reason of amendments of this Act or by reason of amendments of regulations or orders issued in accordance with the terms of this Act.

SEC. 26. *Regulatory Enforcement Powers.* - For the purpose of determining whether the application should be granted or denied or whether a license should be modified, suspended, or revoked, and of otherwise implementing its licensing and regulatory responsibilities under this Act, the Commission may at any time after the filing of the original application and before the expiration of the license (a) require additional written statements which shall, if the Commission so decides, be made under oath or affirmation, and additional technical information and data concerning activities under the application; (b) enter, through authorized representatives, at all reasonable times, the premises where the atomic energy facility is located or where atomic energy material is stored, and perform such inspection as may be necessary; and (c) order the applicant or licensee, where situations or conditions endangering life, health or property are found to exist, to adopt such measures as would eliminate or protect against such situations or conditions.

SEC. 27. *Suspension or Revocation of License.* - Any license may be suspended or revoked for any material false statement contained in the application or contained in any statement, record or report required under this Act or for reasons or conditions revealed by such application or statement of fact or any report, record, or inspection or other means which would warrant the Commission to refuse to grant a license on an original application, or for failure to construct or operate an atomic energy facility in accordance with the terms of the license, or for violation of, or failure to observe, any of the terms and provisions of the Act or for any regulation or order by the Commission.

SEC. 28. *Protective Measures in Cases of Suspension, Revocation or Expiration of License.* - Upon the suspension, revocation, or expiration of a license which is not renewed, and pursuant to Commission order, the Commission shall take, or shall require the licensee to take, such measures as may be necessary to protect the health and safety of the public or the national interest. The Commission may, if necessary to protect the public health and safety or the national interest, take temporary custody of any atomic energy material or facilities held by the licensee pending their appropriate and lawful disposition by or for the licensee.

SEC. 29. *Activities of the Commission.* - Nothing in this Act shall be deemed to require a license for the conduct of activities by or on behalf of the Commission.

SEC. 30. *Combining Applications: Oath or Affirmation.* - The Commission may consider in a single application one or more of the activities for which a licensee is required by this Act and may combine in a single license authorization for one or more of such activities. The Commission may require that any application or statement be made under oath or affirmation.

## PART VI

### *Administrative Procedure and Judicial Review*

SEC. 31. *Notice and Hearing.* -

(a) In any proceeding under this Act for the granting, suspending, revoking or amending of any license, including a provisional license and including an application to transfer control of a license, or upon the issuance of an order under Sections Thirteen, Twenty-one, Twenty-six, or Twenty-eight, the Commission shall hold a hearing upon the request of any person whose interest may be affected and shall admit such person as a party to the proceeding.

(b) Except in cases where immediate action is required in order to protect the health and safety of the public or the national interest, no order for the suspension, revocation or modification of a license, and no order issued under Sections Thirteen, Twenty-one, Twenty-six or Twenty-eight shall become effective until after the licensee has had notice for a hearing and opportunity to be heard.

(c) Where an order suspending, revoking or modifying a license, or an order issued under Section Thirteen, Twenty-one, Twenty-six or Twenty-eight is made effective without prior notice for a hearing and opportunity to be heard, the order shall only be temporary pending the hearing and issuance of a final decision in the proceeding.

SEC. 32. *Notice of Regulation.* - No regulation adopted by the Commission shall be effective less than fifteen days after publication of the regulation in the Official Gazette, except that if the Commission finds that the health and safety of the public or the national interest requires, the regulation may be made effective immediately upon publication in the Official Gazette or upon furnishing copies of the regulation to the persons affected.

SEC. 33. *Licensee Incident Reports.* - No report by any licensee of any incident arising out of or in connection with a licensed activity made pursuant to any requirement of the Commission shall be admitted as evidence in any suit or action for damages growing out of any matter mentioned in such report.

SEC. 34. *Hearing Procedure.* - All hearings and investigations before the Commission shall be governed by rules adopted by the Commission: *Provided,* That in the conduct thereof the Commission shall not be bound by the technical rules of evidence, except that the Commission shall as a matter of policy provide for the exclusion of irrelevant, immaterial, or duly repetitious evidence.

SEC. 35. *Orders and Decisions.* - All orders and decisions of the Commission taken in any proceeding after hearing shall be in writing, stating clearly and distinctly the facts and issues involved and the reasons on which the Commission's order or decision is based, and shall be made available to the public.

SEC. 36. *Judicial Review.* - The Court of Appeals is hereby given the power of judicial review over any final order or decision of the Commission rendered under Section Thirty-five and shall modify or set aside such order or decision when it clearly appears that there was no evidence before the Commission to support reasonably such order or decision, or that the same is contrary to law. Any such final order or decision may be reviewed by the Court of Appeals on the application of any party or other person affected thereby, by *certiorari* in appropriate cases, or by petition for review, in accordance with the Rules of Court, within such period as the Commission may by rule prescribe but not exceeding thirty days from notice of such order or decision. An appeal shall not suspend the grant of a license, but shall stay the suspension or revocation of a license until after the final disposition of the appeal by the Court of Appeals, unless said Court determines otherwise. On questions of law only such order or decision may be reviewed by the Supreme Court.

## PART VII

### *Liability for Nuclear Damage*

SEC. 37. *The Operator Liable.* - The installation operator shall be liable for nuclear damage upon proof that such damage has been caused by a nuclear incident -

(a) in his nuclear installation; or

(b) involving nuclear material coming from or originating in his nuclear installation and occurring -

(1) before liability with regard to nuclear incidents involving the nuclear material has been assumed, pursuant to the express terms of a contract in writing, by another installation operator; or

(2) in the absence of such express terms, before another installation operator has taken charge of the nuclear material;

(c) involving nuclear material sent to his nuclear installation, and occurring -

(1) after liability with regard to nuclear incidents involving the nuclear material has been assumed by him, pursuant to the express terms of a contract in writing, from another installation operator; or

(2) in the absence of such express terms, after he has taken charge of the nuclear material:

*Provided*, That if nuclear damage is caused by a nuclear incident occurring in a nuclear installation and involving nuclear material stored therein incidentally to the carriage of such material, the provisions of paragraph (a) of this section shall not apply where another installation operator or person is solely liable pursuant to the provisions of subparagraph (b) or (c) of this paragraph;

(d) Any provision in this section to the contrary notwithstanding, the installation operator shall be liable for nuclear damage upon proof that such damage has been caused by a nuclear incident involving nuclear material in the course of carriage (1) to his nuclear installation from a nuclear installation located outside the Philippines, or (2) from his nuclear installation to a nuclear installation outside the Philippines. The provisions of this paragraph shall be applicable only in the absence of applicable provisions to the contrary in an effective international agreement to which the Philippine Government and the Government of the nuclear installation outside the Philippines are parties.

SEC. 38. *Absolute and Exclusive Liability.* -

(a) The liability of the installation operator for nuclear damage shall be absolute.

(b) The installation operator shall not be relieved of liability for nuclear damage because such damage is caused directly or indirectly by a grave natural disaster of an exceptional character.

(c) Except as otherwise provided in Part VII of this Act, no person other than the installation operator shall be liable for nuclear damage.

SEC. 39. *Recourse Actions.* - The installation operator shall have a right of recourse only:

(a) If there is such a right pursuant to the express provision of a written contract with the other installation operator; or

(b) If the nuclear incident results from the act or omission done with intent to cause damage, against the individual who has acted or omitted to act with such intent: *Provided, however*, That the installation operator or any other person including the commission which may be subrogated to the rights of the installation operator shall have no right of action, under any law, against the persons who may be liable for the acts or omissions of such individual such as but not limited to employers, parents and teachers. [As amended by Section 3 of P.D. No. 1484.]

SEC. 40. *Gross Negligence or Intentional Act of Claimant.* - If 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 installation operator from his obligation to pay compensation in respect of the damage suffered by such person.

SEC. 41. *Exceptions to Liability.* - No installation operator shall be liable for any nuclear damage caused by a nuclear incident directly due to an act of armed conflict, hostilities, civil war or insurrection.

SEC. 42. *Limit of Liability.* - The liability of the installation operator for nuclear damage under this Act shall be limited to an amount in Philippine pesos which is equivalent to five million dollars, United States currency, for any one nuclear incident, exclusive of an interest or costs which may be awarded by the Court in actions for compensation of such nuclear damage.

SEC. 43. *Property for Which Installation Operator Not Liable.* - The installation operator shall not be liable under this Act for nuclear damage:

(a) To the nuclear installation itself or to any property on the site of that installation which is used or to be used in connection with that installation; or,

(b) To the means of transport upon which the nuclear material involved was located at the time of the nuclear incident.

SEC. 44. *Liabilities not Affected by this Act.* - Nothing in this Act shall affect

(a) the liability of any individual for nuclear damage for which the installation operator, by virtue of Sections forty-one and forty-three of this Act is not liable under this Act and which that individual caused by an act or omission done with intent to cause damage; or

(b) the liability outside this Act of the installation operator for nuclear damage for which, by virtue of subparagraph (b) of Section forty-three of this Act, he is not liable under the provisions of this Act.

SEC. 45. *Exclusions.* - The Commission may, if it determines that the small extent of the risk involved so warrants, exclude by regulation any small quantities of nuclear material from the application of the provisions in this Part VII, *Provided*, That (a) maximum limits for the exclusion of such quantities have been established by the Board of Governors of the International Atomic Energy Agency; and (b) any exclusion must be within limits so established. [As amended by Section 4 of P.D. No. 1484.]

SEC. 46. *Requirement of Financial Security.* - No license to operate a nuclear installation shall be issued unless the installation operator secures and maintains insurance or other financial security covering his liability for nuclear damage under this Act. The Commission shall by regulation, prescribe the type and terms of financial security herein required, which may include private insurance, private contractual indemnity, self-insurance or other proof of financial ability to pay damages under this Act or a combination of any thereof: *Provided*, That, in fixing the type and terms of such financial protection, the Commission shall be guided by the objectives of assuring to potential victims of a nuclear incident adequate and effective

compensation without imposing an unreasonable burden on the installation operator.

SEC. 47. *Certificate to Carrier.* - In accordance with such regulations as the Commission may issue, the appropriate installation operator shall provide the carrier which furnishes carriage of nuclear material with a certificate issued by or on behalf of the insurer or other financial guarantor furnishing the financial security under Section forty-six. The certificate shall be in such form and contain such information as may be prescribed by the Commission's regulations, including the name and address of the appropriate installation operator, the amount, type and duration of the security and a statement that such information may not be disputed by the person for whom or on whose behalf the certificate was issued. The certificate shall indicate the nuclear material in respect to which the security applies and shall include also a verification by the Commission that the person designated is an appropriate installation operator within the meaning of the provisions of this Part VII.

SEC. 48. *When Non-nuclear Damage Deemed Nuclear Damage.* - Whenever 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 that it is not reasonably separable from the nuclear damage be deemed, for purposes of this Part, to be nuclear damage caused by that nuclear incident. Where, however, damage is caused jointly by a nuclear incident covered by this Part VII by an emission of ionizing radiation not covered by this Part, nothing in this Part shall limit or otherwise affect the liability, either as regards any persons suffering nuclear damage or by way of recourse or contribution, of any person who may be held liable in connection with that emission of ionizing radiation.

SEC. 49. *Several Installation Operators Liable.* - Where nuclear damage engages the liability of more than one installation operator, the following rules shall apply:

(a) In so far as damage attributable to each installation operator is not reasonably separable, the installation operators involved shall be jointly and severally liable.

(b) In case the nuclear incident occurs in the course of carriage of nuclear material, either in one and the same means of transport, or in the case of storage incidental to the carriage, in one and the same nuclear installation and causes nuclear damage which engages the liability of more than one installation operator, the total liability shall not exceed the amount established in Section forty-two of this Act.

(c) In neither of the cases referred to in subparagraphs (a) and (b) of this section shall the liability of any one installation operator exceed the amount established in Section forty-two thereof.

SEC. 50. *Operator of Several Installations.* - Subject to the provision of Section forty-nine, where several nuclear installations of one and the same installation operator are involved in one nuclear incident, such installation

operator shall be liable in respect of each nuclear installation involved up to the amount established in Section forty-two hereof.

SEC. 51. *Carrier or Handler of Nuclear Material as Installation Operator.* - The Commission may, subject to such terms and conditions as it may by regulation or order prescribe, designate a carrier of nuclear material or a person handling radioactive waste, at his request and with the consent of the installation operator concerned, as installation operator in the place of that installation operator in respect of such nuclear material or radioactive waste respectively. Upon such designation, such carrier or such person shall be considered as an installation operator for the purpose of this Part VII.

SEC. 52. *Government Indemnity.* - The Government, through the Commission, shall indemnify the installation operator liable and shall provide the necessary funds for the payment of claims for compensation for nuclear damage which have been established against the operator to the extent that the yield of insurance or other financial security is inadequate to satisfy such claims: *Provided*, That the obligation of the Government under this section, together with the yield of insurance or other financial security, shall not in the aggregate exceed the maximum amount established in Section forty-two for any nuclear incident.

The Republic of the Philippines acting through such officer as may be designated by the President shall enter into agreements of indemnification with contractors or suppliers of goods or services for an atomic energy facility owned or operated by the government, its agencies, instrumentalities or corporations owned or controlled by the government pursuant to which the government agrees to indemnify and hold such contractors or suppliers harmless from any loss or liability arising out of or in relation to a nuclear incident occurring in the Philippines in excess of the yield of the insurance or other security herein set forth: *Provided, however*, that such indemnity shall in no case exceed the amount of Philippine pesos which is equivalent to one hundred twenty million U.S. dollars. [As amended by Section 5 of P.D. No. 1484.]

SEC. 53. *When Claims Exceed Maximum Limit.* -

(a) Upon petition of the installation operator liable or of the Commission, and upon showing that the nuclear damage from a nuclear incident will probably exceed the limit of liability established in Section forty-two hereof, the Court having jurisdiction shall issue such orders as may be necessary to assure the equitable distribution of compensation, including orders apportioning the payments to be made to claimants, orders permitting partial payments to be made before final determination of the total claims, and orders setting aside part of the funds available for possible latent injuries not discovered until a later time.

(b) In any case where it appears that the nuclear damage caused by a nuclear incident exceeds or will probably exceed the limit of liability established in Section forty-two hereof, the Commission shall furnish a report thereon to the Congress with its recommendations, including any

recommendations for the appropriation of additional funds to provide compensation to those suffering nuclear damage.

SEC. 54. *Court Having Jurisdiction.* - The Court of First Instance situated in the place where the nuclear incident occurs shall have exclusive jurisdiction over claims for compensation for nuclear damage under this Act.

SEC. 55. *Intervention of Commission in Court Proceedings.* - When, after the occurrence of a nuclear incident, it appears that the Government will have to pay indemnity pursuant to the provisions of Section fifty-two hereof, the Court having jurisdiction over the claims for compensation arising from the nuclear incident shall allow the Commission, upon its petition, to intervene in the proceedings, at any time before final judgment.

SEC. 56. *Compulsory Examination.* - After the occurrence of a nuclear incident for which it appears compensation may be payable under Part VII of this Act, the Commission may adopt such measures as may be appropriate to determine the persons who were or might have been exposed to radiation resulting from such nuclear incident, which measures may include a summons to such persons to submit themselves to examination before such authority or body as shall be designated by the Commission within three months from the date of summons. In determining the amount of damages or the right to recover damages, the Court may, in its discretion, take into account the inexcusable failure of the claimant to fulfill or comply with the foregoing obligation.

SEC. 57. *Investigation of Nuclear Incidents.* - The Commission shall make an investigation of the cause and extent of any nuclear incident for which it appears compensation may be payable under this Act and its findings shall be made available to the public, to the parties involved and to the Courts.

SEC. 58. *Several Installations on Same Site.* - The Commission may determine that several nuclear installations of one installation operator which are located at the same site shall be considered as a single nuclear installation for purposes of this Part VII.

SEC. 59. *Exemption of Government from Financial Security.* - Nothing herein contained shall be construed to require the government or any government agency or instrumentality operating a nuclear installation to secure and maintain financial security to cover its liability as installation operator.

SEC. 60. *Cancellation or Suspension of Financial Protection.* - It shall be unlawful for any insurer or other financial guarantor to suspend or cancel the insurance or other financial security provided pursuant to the provisions of this Act without giving such prior notice in writing as may be required by the Commission's regulations.

SEC. 61. *Against Whom Action for Compensation Brought.* - Persons entitled to compensation for nuclear damage under this Act may, at their option, bring the action for recovery of such compensation against the operator liable or against the insurer or other persons furnishing financial security as required by this Act.



SEC. 62. *Prescription of Rights and Actions.* - Rights of compensation under this Act shall prescribe after ten years from the date of the nuclear incident. Furthermore, actions for compensation under this Act shall be barred unless brought within three years from the date on which the person suffering nuclear damage had knowledge or should have had knowledge of the damage and of the installation operator liable for the damage: *Provided, however,* That any person who claims to have suffered nuclear damage and who has brought an action for compensation within the period applicable pursuant to this section may amend his claim to take into account any aggravation of the damage, even after the expiry of that period: *Provided further,* That final judgment has not been entered in the case.

SEC. 63. *Prescription with Respect to Nuclear Materials Lost, Stolen, etc.* - Where nuclear damage is caused by a nuclear incident involving nuclear material which at the time of the nuclear incident was stolen, lost, jettisoned or abandoned, the period established pursuant to Section sixty-two of this Act shall be computed from the date of that nuclear incident, but the period shall in no case exceed a period of twenty years from the date of the theft, loss, jettison or abandonment.

## PART VIII

### *Penal Provisions*

SEC. 64. *Violation of Specific Provisions of the Act.* - Any person who wilfully violates, attempts to violate, or conspires to violate, any provision of Section six or sixteen of this Act, shall upon conviction thereof, suffer the penalty of imprisonment of not more than five years or a fine of not more than Ten thousand pesos (P10,000.00) or both.

SEC. 65. *Violation of Other Provisions of this Act.* - Any person who shall wilfully violate, attempt to violate, or conspire to violate any provision of this Act for which no penalty is specifically provided or of any regulation, order or license issued under the authority of this Act shall, upon conviction thereof, suffer the penalty of imprisonment of not more than two years or a fine of not more than Five thousand pesos (P5,000.00), or both.

## PART IX

### *Final Provisions*

SEC. 66. *Separability Clause.* - If any provision or part of a provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of the provisions of this Act or the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 67. *Repealing Clause.* - All Acts, executive orders, administrative orders, proclamations, rules and regulations inconsistent with any provisions of this Act are repealed or modified accordingly.

SEC. 68. *Effectivity Date.* - This Act shall take effect on the tenth day following its publication in the Official Gazette.

Approved,

GIL J. PUYAT  
*President of the Senate*

J. B. LAUREL, JR.  
*Speaker of the House of  
Representatives*

This Act, which originated in the Senate was finally passed by the same on May 8, 1968.

Finally passed by the House of Representatives on May 7, 1968.

ELISEO M. TENZA  
*Secretary of the Senate*

INOCENCIO B. PAREJA  
*Secretary of the House of  
Representatives*

Approved: June 15, 1968

FERDINAND E. MARCOS  
*President of the Philippines*

NOTES: Published in the Official Gazette on May 5, 1969.

The Amendatory Act, Presidential Decree No. 1484, took effect upon its approval on June 11, 1978.