

Act on Nuclear Installations (The Nuclear Installations Act)

WE FREDERIK THE NINTH, by the Grace of God King of Denmark, the Wends and Goths, Duke of Schleswig, Holstein, Stormarn, Dithmarschen, Lauenburg and Oldenburg, hereby proclaim: The Folketing has passed and We by Our consent have assented the following act:

Chapter 1

Definitions, etc.

§ 1. In the present Act, the following definitions shall apply:

- a) nuclear fuel: fissile material in the form of uranium or plutonium in metallic form, alloy or chemical compound, and such other fissile material as the Prime Minister may determine should be regarded as nuclear fuel;
- b) radioactive product: radioactive material (including waste) which is formed or has become radioactive by irradiation incidental to the production or utilisation of nuclear fuel, with the exception of
 - 1) nuclear fuel,
 - 2) radioisotopes which are outside a nuclear installation and are used or intended to be used for industrial, commercial, agricultural, medical or scientific purposes;
- c) nuclear material:
 - 1) nuclear fuel, other than natural uranium and depleted uranium;
 - 2) radioactive product;
- d) nuclear installation or installation:
 - 1) reactor facility,
 - 2) facility for production or processing of nuclear material,
 - 3) facility for the separation of isotopes of nuclear fuel,
 - 4) facility for reprocessing of irradiated nuclear fuel,
 - 5) facility for the storage of nuclear materials other than temporary storage incidental to transportation of such material, and
 - 6) by decision of the Prime Minister, other facilities in which there is nuclear fuel or radioactive products;
- e) owner of a nuclear installation: anyone to whom the Prime Minister has licenced as an owner of a nuclear installation in The Kingdom of Denmark, or, in the absence of such a licence, anyone who operates the installation, or, as regards installations in another Paris Convention State, anyone responsible for the installation in accordance with the legislation in the State where the installation is located;
- f) nuclear accident: damage resulting from an incident or a series of incidents having the same origin, caused by, or partly or wholly resulting from, radioactive properties or a combination of radioactive and toxic, explosive or other hazardous properties of nuclear fuel or radioactive products;
- g) the Paris Convention: the Convention on Third Party Liability in the Field of Nuclear Energy signed in Paris on 29 July 1960;
- h) Paris Convention State: a State that has acceded to the Paris Convention.

§ 2. The Prime Minister may exempt from the provisions of this Act, either in whole or in part, certain types of nuclear installations or fuel, as well as radioactive products which constitute no significant hazard.

§ 3. The Prime Minister may determine that an activity comprising two or more of the installations referred to in Section 1, Letter d shall be considered as a nuclear installation.

Chapter 2

Nuclear installations and nuclear-powered means of transport

Licence to operate nuclear installations

§ 4. It shall be unlawful to construct or operate a nuclear installation without a licence granted by the Prime Minister.

(2) A licence may not be granted, if there is deemed to be any cause for concern regarding safety or other significant public interests.

§ 5. The licence shall indicate the installation owner who has liability under Chapter 3. The validity of the licence may be limited to a specific period and is conditional to the owner furnishing and maintaining insurance pursuant to Section 25, or furnishing security pursuant to Section 28.

(2) The licence shall be subject to such conditions as are deemed necessary with regard to safety and the public interest.

(3) Granting of the licence is conditional to the premise that when the operation of the installation is terminated, arrangements are made such as the Prime Minister deems necessary to ensure that the installation, after closure, does not present a public safety hazard and that insurance or other security furnished to ensure that the owner meets his liabilities pursuant to Chapter 3 are maintained for as long as is deemed necessary.

(4) Conditions in the license may be amended and new conditions may be imposed as deemed necessary with regard to safety requirements and the public interest.

§ 6. A licence may be revoked,

- 1) if significant prerequisites for granting the licence were not met,
- 2) if the conditions imposed have been substantially or repeatedly disregarded, or
- 3) if safety considerations or other compelling reasons require that the installation ceases operation or be closed down.

§ 7. Both during its construction and operation, the installation shall be subject to inspection by the Danish Atomic Energy Commission (Atomenergikommissionen) and the Danish Health Authority (Sundhedsstyrelsen).

(2) The aforementioned authorities shall have the right, at any time, to access the installation and to demand any information needed to perform the inspection. They may impose such instructions as are necessary to ensure that the conditions for granting the licence are met, as well as any other conditions which are considered necessary for safety reasons. If necessary, they may order that the installation shall cease operation for a certain time.

(3) The Prime Minister may lay down more detailed rules regarding supervision.

Control of the peaceful use of nuclear installations, etc.

§ 8. Where international agreements prescribe that control be undertaken to ensure that nuclear installations are only used for peaceful purposes, the Prime Minister may issue provisions to ensure that such control can be carried out. This may include authorising persons to carry out the agreed control to access the installation in order to perform the necessary third-party inspections.

Nuclear-powered means of transport

§ 9. The Prime Minister may issue provisions regarding the presence and use of nuclear-powered vehicles in Danish territory, including provisions regarding nuclear-powered vessels' presence in Danish waters and access to Danish ports and regarding liability to pay compensation for any damage arising from nuclear accidents.

Chapter 3

Compensation and insurance

Scope of the regulations

§ 10. The provisions of this Chapter do not apply to reactors used in vessels or in other means of transport (however, cf. Section 9).

§ 11. Damage caused by a nuclear accident which occurs in a non-Paris Convention State shall not entitle the person suffering damage to claim compensation under this Chapter. The same applies to nuclear damage which occurs in such a State, unless such damage arose from a nuclear accident which occurred in Denmark and for which the owner of the installation in Denmark is liable. If the owner of a nuclear installation in another Paris Convention State is liable to pay compensation, the regulations of that State regarding the territorial scope of the liability shall apply.

(2) If the law in a non-Paris Convention State provides that compensation is not payable for damage arising from nuclear accidents or is payable in a lower amount than under Danish Law, it may be determined by Order in Council that corresponding rules shall apply with regard to compensation for damage arising from a nuclear accident that occurred in the State in question.

§ 12. It may be determined by Order in Council that a non-Paris Convention State may be equated in whole or in part with a Paris Convention State for the purposes of the provisions of this Chapter.

The installation owner's liability

§ 13. If a nuclear accident occurs at an installation in Denmark or in another Convention State, the installation owner shall be liable to pay compensation for damage caused by such accident.

(2) Damage arising from a nuclear accident which occurs during the transportation of nuclear materials shall be compensated according to the provisions of Sections 14 and 15.

(3) If a nuclear accident was caused by a nuclear material which was not located in a nuclear installation at the time of the accident, but which comes from an installation in Denmark or another Convention State, the owner of that installation shall be liable for the damage. However, if another installation owner has taken possession of the nuclear material, that owner shall be liable.

Special provisions on transportation

§ 14. If a nuclear accident occurs during the transportation of a nuclear material from a nuclear installation in Denmark or in another Convention State, the owner of that installation shall be liable to pay compensation for damage arising from the accident, subject to the limitations given in Section 11. However, if the accident occurs after the nuclear material has been taken in charge by the owner of another nuclear installation in Denmark or in another Convention State, that owner shall be liable.

(2) If the nuclear material is consigned from a non-Paris Convention State to a nuclear installation in Denmark or in another Convention State with the consent of the owner of that installation, such an owner shall be liable for any damage arising from a nuclear accident which occurs during transportation, subject to the limitations specified in Section 11.

(3) The owner's liability under this paragraph includes, besides the actual transportation of the material, any temporary storage of the material incidental to transportation.

§ 15. The Minister of Justice may, upon application by a carrier performing transportation pursuant to Section 14, decide that the applicant shall be liable instead of the owner of a nuclear installation in Denmark for nuclear accidents occurring during transportation. Such a decision may only be made if the installation owner has consented to it and the applicant has proved that insurance has been furnished pursuant to Section 25 or that security has been furnished pursuant to Section 28. If such a decision is made, the provisions regarding the installation owner's liability shall, instead, apply to the applicant. The same shall apply where an installation owner's liability under corresponding legislation in another Paris Convention State is transferred to a party other than the owner.

Basis for liability

§ 16. The installation owner shall be liable under the provisions of this Chapter even if the damage is accidental.

(2) However, the owner shall not be liable under these provisions if the nuclear accident is due to armed conflict, invasion, civil war or insurrection.

Excluded damage

§ 17. The liability provisions of this Chapter shall not apply to damage caused to the nuclear installation itself or to items which are on the installation site under the owner's custody or control in connection with use of the installation.

(2) Neither shall these liability provisions apply to damage caused to the means of transport which contained the nuclear material at the time of the accident, in the instances given in Section 14. However, if the owner of an installation in another Paris Convention State is liable for the damage, the law of the Installation State shall apply.

Contributory responsibility of person suffering damage

§ 18. If a person suffering damage has contributed to the damage, either wilfully or through negligence, the compensation may be reduced or waived unless the person has only exhibited slight negligence.

(2) The compensation may also be reduced or waived if the person suffering damage has taken unauthorised possession of or interfered with the material that caused the damage.

Preclusion of claims against parties other than the owner

§ 19. If the owner of a nuclear installation is liable for damage under the provisions of this Chapter or corresponding provisions in another Convention State, the person suffering damage may not claim damages against parties other than the owner. If a claim for damages cannot be made against the owner or the owner's estate because the owner has died or the activity has been terminated, the claim can be made against the insurance company or the party who has furnished other security. Such claims shall not be affected by preclusive claims made by the owner's creditors.

(2) The provisions of item 1 shall not have a preclusive effect on claims for damages supported by an international agreement regarding damage in the field of transport if such agreement was in force or open for signature, ratification or accession on 29 July 1960.

Recourse against the owner

§ 20. A party liable to pay compensation for damage arising from a nuclear accident pursuant to Section 19, item 2, or pursuant to the law of a non-Paris Convention State, may claim indemnity against the installation owner who is liable for the damage under the provisions of this Chapter, subject to the liability limit given under Section 21.

(2) If, as a result of the provisions under Section 11, the installation owner is not liable towards the person suffering damage under this Chapter, the party liable for damage arising from the accident who has their principal place of business in a Paris Convention State or who is in the service of a person that meets this criterion shall have the right to indemnity against the installation owner under the provisions set out in item 1. However, when nuclear material is transported to a recipient in a non-Paris Convention State, indemnity cannot be claimed if the accident occurred after the material was unloaded from the means of transport which carried it into the State in question. When a nuclear material is transported from a consigner in a non-Paris Convention State, indemnity cannot be claimed if the accident occurred before the material was loaded onto the means of transport carrying it from the foreign State.

(3) The claim against the installation owner referred to in items 1 and 2 shall not be applicable to the extent that the party making the claim is liable towards the owner pursuant to Section 23.

Limitation of the installation owner's liability

§ 21. The total liability of an owner of an installation in Denmark for occurrences of damage arising from one and the same nuclear accident shall be limited to DKK 70 million. In special cases the Minister for Justice may, depending on the size and type of installation, the scope of transport that the liability concerns as well as other circumstances prescribe a different highest amount, however not less than DKK 35 million. If a nuclear installation is located in another Convention State, that State's laws regarding limitation of liability shall be applicable.

(2) The limitation under item 1 shall not apply to interest and litigation costs.

§ 22. If owners of two or more nuclear installations are liable to pay compensation for the same damage under the provisions of this Chapter or the law of another Paris Convention State, they shall be jointly and severally liable towards the person suffering damage, but each owner shall be liable up to the liability limit applicable to the owner under Section 21. However, if the damage results from a nuclear accident during transportation of nuclear materials, the owners' total liability may not exceed the largest liability limit amount applicable to either of the owners under Section 21.

(2) Liability shall be shared by the owners with consideration to each installation's share in the damage and other circumstances.

The installation owner's right of recourse

§ 23. If damage for which the owner of a nuclear installation is liable under this Chapter or under corresponding provisions in another Paris Convention State was caused intentionally, the owner shall be entitled to claim indemnity against the individual or individuals who intentionally caused the damage. The owner may also claim indemnity if this right has expressly been granted to the owner by agreement.

(2) If a carrier has transported nuclear material through a Paris Convention State without the authorisation of the installation owner who is liable under Section 14, where the owner is subject to a higher liability limit than that given in Section 21, and if the owner, as a result thereof, has incurred liability above the maximum limit given in Section 21, the owner may claim the excess amount to be compensated by the common carrier. However, this shall not apply if the transportation through the State in question was undertaken for the purpose of saving life or property or for reasons beyond the common carrier's control.

(3) With the exception of what is provided in Section 22, item 2, and in items 1 and 2 of this paragraph, the owner shall not have the right to have the amount of compensation he has incurred covered by third parties.

Annulment

§ 24. Claims for compensation or indemnity by a nuclear installation owner pursuant to this Chapter shall be statute-barred under the provisions of Act no. 274 of 22 December 1908.

(2) However, if the extinction period has not occurred under these provisions, the claim shall be annulled 10 years after the occurrence of the accident that caused the damage, cf. Section 1, Letter f, unless the claim has previously been acknowledged by the owner or if the person suffering damage has taken legal action to pursue the claim. If the nuclear accident is attributable to nuclear materials which have been unlawfully removed, lost or abandoned and have not been recovered at the time of the accident, the 10-year period shall be counted from the date of the removal, loss or abandonment.

(3) In cases where the Tribunal referred to in Article 17 of the Paris Convention decides that legal proceedings shall take place in Denmark, cf. Section 33, item 3, the claim shall not be subject to an extinction period in accordance with items 1 and 2 if, before the Tribunal's decision, the claim is pursued in one of the States between whose courts the Tribunal can choose, or if a request is made to the competent authority in the relevant State to obtain a decision from the Tribunal, provided these measures are taken before the extinction period has expired under the law of the relevant Paris Convention State. In such cases, the legal proceedings shall be held in Denmark within a period established by the Tribunal.

Insurance and other security

§ 25. An owner of a nuclear installation in Denmark shall furnish and maintain insurance, which shall be approved by the Minister for Justice, to cover claims for compensation or indemnification that, subject to the limitations set out in Section 21, may be brought against the owner in accordance with this Chapter or the law of another Paris Convention State which may be applied pursuant to the Paris Convention. Separate insurance may be approved to cover liability for nuclear accidents which may occur during transportation.

§ 26. If insurance cover, as referred to in Section 25, is cancelled without new insurance being in place, the insurer shall be liable for damage arising from a nuclear accident which occurs within 2 months after the insurer has given the Minister for Justice written notification that the insurance cover has been cancelled. However, to the extent that the insurance covers damage arising during transport, the insurer shall continue to be liable until the transportation has been completed.

§ 27. The Minister for Justice may lay down more detailed rules regarding the insurance policies referred to in Section 25.

§ 28. The duty to furnish insurance does not apply to installations for which the State is liable.

(2) The Minister for Justice may exempt an installation owner from the obligation to furnish insurance if security is furnished that is deemed equally adequate by the Minister.

(3) If said security is furnished by a party other than the installation owner, the relevant laws regarding insurance shall be applicable.

State liability

§ 29. The State is liable, within the liability limit given in Section 21, to pay the person suffering damage compensation which an installation owner in Denmark is liable to pay pursuant to this Chapter or corresponding rules in another Paris Convention State, if the claim for such compensation could not be settled by the owner's insurance or other security.

§ 30. If a claim for compensation for damage arising in Denmark from a nuclear accident for which the owner of a nuclear installation in Denmark is liable is annulled pursuant to Section 24, item 2, or pursuant to corresponding legal provisions of another Paris Convention State, the compensation shall be paid by the State. Compensation may only be claimed from the State if there is a valid reason why the claim was not brought against the owner before the owner's liability was annulled under the above mentioned provisions. The claim shall be annulled according to the provisions of Act no. 274 of 22 December 1908, and at latest 30 years after the time stated in Section 24, item 2. If claims from other persons suffering damage are not fully covered due to the liability limit referred to in Section 21, cf. Section 31, the compensation amount payable by the State shall be reduced accordingly. Item 2. Compensation under item 1 shall be payable provided there is reciprocity regarding damage which has arisen in another State. Moreover, it may be determined by Order in Council that compensation shall be payable for damage which has arisen outside territory recognised under international law.

Division of liability and State subsidy

§ 31. Where there is reason to believe that the damage arising from a nuclear accident for which the owner of an installation in Denmark is liable will exceed the maximum amount given under Section 21, the owner shall promptly notify the Minister for Justice of this. In such cases, the Minister of Justice may decide that for a 6-month period, only a proportion of the due compensation amount needs to be paid. Moreover, the Minister for Justice shall, if necessary, present a bill to the Danish Parliament containing proposals for new rules to ensure that claims for damages are covered proportionally and establishing whether, and if so with which state funds, subsidies should be provided for uncovered damages.

(2) If the owner of an installation that is not located in Denmark is liable for damages, the provisions under item 1 shall apply correspondingly, provided the claim can be pursued in Denmark pursuant to Section 33.

The State's right of recourse

§ 32. If the State has paid compensation pursuant to Sections 29-31 for damage that was caused intentionally, the compensation amount can be reclaimed from the individual or individuals who intentionally caused the damage.

(2) The State can also reclaim compensation paid pursuant to Section 29

- 1) from a party who, in the capacity of insurer or guarantor or otherwise by express agreement, has undertaken to cover the damage, cf. Section 23, item 1, point 2,
- 2) from an owner who, pursuant to Section 22, item 1, is jointly liable for the damage, to the extent that said owner is liable under Section 22, item 2,
- 3) from an installation owner, if the compensation was paid due to the owner's failure to furnish and maintain proper approved insurance or other security, or because the security being found to be inadequate.

Danish jurisdiction

§ 33. Legal actions against an owner of a nuclear installation – or against an insurer or guarantor in the cases given in Section 19, item 1, point 2 – concerning compensation for damage or indemnity pursuant to this Chapter can be brought before a Danish court of law:

- 1) if the claim is brought against an owner of an installation which is located in Denmark, or
- 2) if the nuclear accident occurred during transportation and wholly within Danish territory.

(2) However, the provision under item 1, no. 1 shall not apply if the accident occurred during transportation and wholly within the territory of any other Paris Convention State.

(3) If a claim is brought both against an owner of an installation in Denmark and the owner of an installation in another Paris Convention State, legal action may only be brought in a Danish court of law, pursuant to item 1, no. 1,

- a) if, in the case of a nuclear accident during transportation, the means of transport carrying the nuclear material at the time of the accident was registered in Denmark, or if the Tribunal referred to in Article 17 of the Paris Convention determines that legal action shall be brought in a Danish court of law;
- b) in other cases as determined by the court referred to under a).

(4) If the claim for compensation is only made against an owner of an installation in Denmark, said owner can request that the provisions in item 3 be applied if the owner can prove that there are grounds for also making the claim against an owner in another Paris Convention State.

(5) Requests to have disputes regarding the State of jurisdiction determined by the Tribunal referred to in Article 17 of the Paris Convention shall be submitted to the Minister for Justice.

Enforcement of foreign judgements

§ 34. A judgement regarding compensation for damage arising from a nuclear accident can, subject to the limitation given in Section 21, be enforced in Denmark, provided the judgement was issued by a court in a Paris Convention State based on Article 13 of the Paris Convention and can be enforced in the State in which the determination was reached. This provision does not apply to judgements that only have temporary enforceability.

(2) Requests for enforcement of the foreign judgements referred to in item 1 shall be made to the Minister for Justice. Such requests shall be accompanied by a verified transcript of the judgement and a declaration from the authorities in the State in question that the judgement supports the claims for compensation, in accordance with the provisions of the Convention, and that the judgement can be enforced in the State in which it was issued. The Minister for Justice can require the transcript and declaration to be accompanied by a certified translation.

(3) Corresponding provisions are applicable to settlements reached or confirmed before the above mentioned courts.

Certificates

§ 35. Whenever a nuclear material is consigned from or to an installation in Denmark under circumstances according to which, pursuant to Section 14, the owner would be liable for damage occurring during transportation, the owner shall provide the carrier with a certificate issued by the insurer or by another guarantor who, pursuant to Section 28, has furnished security to cover the liability for damages or on behalf of such parties. The carrier may not commence transportation before obtaining this certificate.

(2) The certificate shall contain details of the name and address of the liable owner, the material and transportation to which the security applies, as well as the amount, type and duration of the security. It shall be accompanied by a declaration from the Danish Atomic Energy Commission stating that the party named in the certificate is a nuclear installation owner as set out under the Paris Convention.

(3) The person issuing the certificate or the person on whose behalf it is issued shall be responsible for ensuring that the certificate accurately states the owner's name and address and the amount, type and duration of the security.

Chapter 4

Relationship to other laws, penalty clauses and final provisions

§ 36. Persons who work at a nuclear installation and are covered by insurance furnished by the responsible owner of the installation pursuant to the Accident Insurance Act (Ulykkesforsikringsloven) may only claim compensation under this Act if their loss is not covered through such insurance. Notwithstanding the provisions of Section 4 of the Accident Insurance Act, the insurance company shall not be entitled to claim compensation from the installation owner that the company has paid to such persons.

§ 37. The provisions of Act no. 94 of 31 March 1953 on the use etc. of radioactive substances (Sundhedslovgivningen) and of the Workers' Protection Act (Arbejderbeskyttelseslovgivningen) are not affected by this Act.

§ 38. Any person who constructs or operates a nuclear installation without a licence or who violates the criteria or conditions for obtaining such licence shall be liable to a fine or imprisonment for a period of up to 2 years. The same sanctions shall be applicable to any person who provides false or misleading information in connection with issues concerning licences or in order to meet the criteria and conditions for obtaining a licence or who, when applying for a licence, conceals information that has an important bearing on the application. If these violations are ascribable to negligence, the offender shall be liable to a fine.

(2) Any person who violates requirements of regulatory authorities pursuant to Section 7 or who provides regulatory authorities with incorrect information or violates the provisions of Sections 25 and 31, item 1, point 1 and Section 35, item 1 shall be liable to a fine or imprisonment.

(3) The violation of any regulations issued on the basis of this Act may be punishable by a fine or imprisonment.

(4) The owner of the installation may be liable to a fine even if the violation was not committed with intent or negligence. For violations committed by limited companies, cooperative societies, etc., the company itself may be liable to a fine. No alternative penalty shall be stipulated in lieu of a fine imposed pursuant to this item.

§ 39. Matters concerning violations of this Act or of regulations issued under this Act shall be treated as a police matter. The legal remedies referred to in Chapters 68, 69, 71 and 72 of the Administration of Justice Act (retsplejeloven)

Unauthorised translation based on "Sundheds- og Ældreministeriets lov nr. 170 af 16. maj 1962 om nukleare anlæg (atomanlæg) (Atomanlægsloven)". Only the Danish document has legal validity.

are applicable to the matters in question to the same extent as to matters that are normally dealt with by the public prosecutor.

§ 40. This Act takes effect on 1 July 1962.

(2) This Act does not extend to the Faroe Islands, but may be brought into force by an Order in Council for the Faroe Islands, after negotiation with the Faroese Home Rule Government and subject to such amendments as are necessitated by the specific conditions prevailing in the Faroe Islands.

(3) An owner of a nuclear installation that is in operation when this Act comes into force shall apply to the Prime Minister for a licence to operate the installation within three months after the date this Act comes into force.

(4) Until the Paris Convention comes into force, on the basis of Article 19 of this convention, the provisions of this Act regarding liability for nuclear accidents shall only be applicable to accidents which occur in Danish territory.

Given at Christiansborg Palace, 16 May 1962.

Under Our Royal Hand and Seal

FREDERIK R.

/ Hans Hækkerup