

Act on Indemnity Agreements for Compensation of Nuclear Damage

(Act No. 148 of 1961)

As Amended by Act No. 19 of 17 April 2009

Section 1 Definitions

As used in this act, “reactor operation etc.” means reactor operation etc. as provided in Section 2, paragraph 1 of the Act on Compensation for Nuclear Damage (Act No. 147, 1961, hereinafter referred to as “the Compensation Act”), “nuclear damage” means nuclear damage as provided in Section 2, paragraph 2 of the Compensation Act, “nuclear operator” means nuclear operator as provided in Section 2, paragraph 3 of the Compensation Act [except the nuclear operator as provided in Section 2, paragraph 3, sub-paragraph (i) 2], “nuclear ship” means nuclear ship as provided in Section 2, paragraph 4 of the Compensation Act, “financial security” means financial security as provided in Section 6 of the Compensation Act, “financial security amount” means the financial security amount as provided in Section 7, paragraph 1 of the Compensation Act, and “liability insurance contract” means liability insurance contract as provided in Section 8 of the Compensation Act.

Section 2 Indemnity agreements for compensation of nuclear damage

The Government may conclude an agreement with a nuclear operator under which the Government undertakes to indemnify the nuclear operator for his loss arising from compensating nuclear damage not covered by a liability insurance contract or other means for compensating nuclear damage in case the nuclear operator becomes liable, and under which the nuclear operator undertakes to pay an indemnity fee to the Government.

Section 3 Indemnified loss

The loss which the Government indemnifies under the agreement as provided in the preceding Section (hereinafter referred to as “indemnity agreement”) shall be the loss suffered by the nuclear operator as a result of compensating nuclear damage in the following cases:

- i) nuclear damage caused by an earthquake or volcanic eruption;
- ii) nuclear damage caused by normal operation (which means reactor operation etc. performed under the conditions provided by the Cabinet Order^{*});
- iii) nuclear damage which can be covered by a liability insurance contract, but for which the persons suffering therefrom have not claimed compensation within a period of ten years from

* Note by the Secretariat: Cabinet Order No. 45 of 6 March 1962 is referred to throughout the act.

the day of the occurrence of the event (with regard to the nuclear damage appearing in such period, this shall apply only to the case where there is a justifiable reason for their failure to claim compensation within such period);

- iv) nuclear damage which occurs due to the visit of a nuclear ship in foreign territorial waters, but which cannot be covered by the financial security or other arrangements for compensation of nuclear damage as provided in Section 7, paragraph 1 of the Compensation Act (limited to the financial security approved as a part of the financial security provided for in Section 7-2, paragraph 1 of the Compensation Act);
- v) nuclear damage as provided in the Cabinet Order other than that mentioned in the preceding sub-paragraphs.

Section 4 Indemnity agreement amount

The contracted amount concerning an indemnity agreement for the nuclear damage mentioned in the preceding Section sub-paragraphs (i) to (iii) and (v) (hereinafter referred to as “indemnity agreement amount”) shall be the amount equivalent to the amount of the financial security as provided in Section 7, paragraph 1 of the Compensation Act (where the financial security includes an arrangement other than the conclusion of a liability insurance contract and an indemnity agreement, this amount shall be reduced by the amount available for compensation of nuclear damage by means of such other arrangement; where an indemnity agreement other than the indemnity agreement concerned has been concluded, this amount shall be reduced by the amount available for compensation of nuclear damage by means of such other indemnity agreement).

2. The indemnity agreement amount for the nuclear damage mentioned in Section 3, sub paragraph (iv) shall be the amount equivalent to the amount of the financial security as provided in Section 7-2, paragraph 1 of the Compensation Act (where the financial security and other arrangements for compensation of nuclear damage as provided in Section 7, paragraph 1 of the Compensation Act are approved as a part of the financial security provided for in Section 7-2, paragraph 1 of the Compensation Act, this amount shall be reduced by the amount available for compensation for nuclear damage by means of such other financial security).

Section 5 Period of indemnity agreement

The period of the indemnity agreement concerning the nuclear damage mentioned in Section 3, sub paragraphs (i) to (iii) and (v) shall run from the time of its conclusion to the time when the reactor operation etc. has ceased.

2. The period of the indemnity agreement concerning the nuclear damage mentioned in Section 3, sub paragraph (iv) shall run from the time when the nuclear ship leaves Japanese territorial waters to the time when it arrives back in Japanese territorial waters.

Section 6 Indemnity fee

The annual amount of the indemnity fee shall be equivalent to the amount computed by multiplying the indemnity agreement amount by the rate as provided in the Cabinet Order, taking into account the probability of the occurrence of damage covered by the indemnity agreement and the expenditures of the Government in relation to the indemnity agreement and other conditions concerned.

Section 7 Payment under the indemnity agreement

The Government shall, under an indemnity agreement, indemnify up to the indemnity agreement amount for the loss suffered by the nuclear operator as a result of compensating nuclear damage caused by the reactor operation etc. during the period covered by the indemnity agreement concerned.

2. Where the Government indemnifies the loss suffered by a nuclear operator as a result of compensating the nuclear damage mentioned in Section 3, sub paragraphs (i) to (iii) and (v), if there is any amount to be covered by the liability insurance contract, the total sum paid from the indemnity agreement shall not exceed the amount computed by deducting the amount paid from the liability insurance contract from the financial security amount (or the amount computed by deducting the amount paid from the liability insurance contract from the financial security amount further reduced by the amount available for compensation of nuclear damage by means of other arrangements, which the financial security concerned includes, excepting the liability insurance contract and the indemnity agreement).

Section 8 Financial limit of indemnity agreements

The Government shall conclude indemnity agreements to the extent that the total sum of the indemnity agreement amount does not exceed the budget amount approved by the National Diet for each year.

Section 9 Duty to notify

When concluding an indemnity agreement, a nuclear operator shall, pursuant to the provisions of the Cabinet Order, notify the Government of important facts regarding reactor operation etc. The same shall apply where there is a change in the notified facts.

Section 10 Specifications by Cabinet Order

The conclusion of an indemnity agreement, and the date of payment of the indemnity fee, the date of payment under the indemnity agreement and other necessary matters regarding the payment of the indemnity fee and payment under the indemnity agreement shall be regulated by Cabinet Order.

Section 11 Prescription

The right to receive payment from an indemnity agreement shall be extinguished three years after the nuclear operator has paid compensation.

Section 12 Subrogation etc.

Where the Government has indemnified under an indemnity agreement, if the nuclear operator who is a party to the indemnity agreement has a right of recourse against a third party, the Government shall take over that right up to the smaller of the two amounts following:

- (i) the amount indemnified by the Government; or
- (ii) the amount of the said right of recourse (where the amount mentioned in the preceding paragraph does not cover the amount of the loss giving rise to indemnification under the said indemnity agreement, the said amount of the right of recourse shall be reduced by the amount not covered).

2. Where the nuclear operator who is party to the indemnity agreement has received a payment by virtue of his right of recourse, the Government shall be exonerated from its indemnification obligation up to the smaller of the two amounts following:

- (i) the amount of the payment the said nuclear operator has received by virtue of his right of recourse; or
- (ii) the amount paid by the Government under its indemnification obligation laid down in Section 7 relating to the loss giving rise to indemnification under the said indemnity agreement (where the amount mentioned in the preceding paragraph does not cover the amount of the loss giving rise to indemnification, the said amount paid by the Government pursuant to its indemnification obligation shall be reduced by the amount not covered).

Section 13 Reimbursement of the sum paid under an indemnity agreement

Where the Government has indemnified the loss suffered by a nuclear operator as a result of compensating the nuclear damage mentioned in the following sub paragraphs, the Government shall require the nuclear operator to reimburse the amounts received, pursuant to the provisions of the Cabinet Order, for the compensation of:

- i) nuclear damage arising from a fact which the nuclear operator who is a party to the indemnity agreement has failed to notify pursuant to Section 9, or which he has notified falsely;
- ii) nuclear damage caused by the reactor operation etc. during the period from the day when the nuclear operator received from the Government notice of cancellation of the indemnity agreement pursuant to Section 15, to the day prior to the day when the cancellation comes into force.

Cancellation of an indemnity agreement

Section 14

Where the nuclear operator who is a party to the indemnity agreement has provided financial security other than that which was taken into account at the time of the conclusion of the indemnity agreement concerned, the Government may accept an offer for the cancellation of the indemnity agreement, or may cancel it itself.

2. Cancellation of the indemnity agreement as provided in the preceding paragraph shall take effect immediately.

Section 15

The Government may cancel the indemnity agreement where the nuclear operator who is a party to the indemnity agreement has committed one of the following offences:

- i) breached the provisions of Section 6 of the Compensation Act;
- ii) failed to pay the indemnity fee;
- iii) failed to notify pursuant to Section 9 or notified falsely;
- iv) failed to take the measures pursuant to Section 21-2, Section 35, Section 43-18, Section 48, Section 51-16, Section 57, paragraph 1 or 2, Section 57-4, Section 57-5, Section 58, paragraph 1, or Section 59, paragraph 1 of the Act for the Regulation of Nuclear Source Material, Nuclear Fuel and Reactors (Act No. 166 of 1957);
- v) breached the provisions of the indemnity agreement laid down in accordance with the Cabinet Order.

2. Cancellation of an indemnity agreement pursuant to the preceding paragraph shall take effect upon a lapse of 90 days from the day when the nuclear operator, who is a party to the indemnity agreement, has received notice of the cancellation.

Section 16 Fines

Where the nuclear operator, who is a party to the indemnity agreement, breaches a provision of the indemnity agreement laid down in accordance with the Cabinet Order, the Government may impose a fine pursuant to the said Order.

Section 17 Administrative aspects

The interests of the Government as provided in this Act shall be taken in charge by the Minister for Education, Culture, Sport, Science and Technology (MEXT).

2. The Minister for Education, Culture, Sport, Science and Technology (MEXT) shall, on the occasion of the cancellation of an indemnity agreement as provided in Section 15, ask the prior

opinion of the Minister for the Economy, International Trade and Industry (METI) in cases concerning the operation of reactors for the generation of electricity (which means reactors as defined in Section 3, paragraph 4 of the Basic Atomic Energy Act (Act No. 186 of 1955, the term “reactor” being hereinafter given this meaning), the production (as defined in Section 2 paragraph, 7 of the Regulation Act), the reprocessing (as defined in Section 2, paragraph 8 of the Regulation Act), the storage of spent nuclear fuel (as defined in Section 43, paragraph 4 (1) of the Regulation Act) or the disposal of waste consisting of nuclear fuel or materials contaminated by nuclear fuel (meaning the underground disposal of waste and waste management as defined in Section 51, paragraph 2 (1) of the Regulation Act), or the prior opinion of the Minister for Regional Development, Infrastructure, Transport and Tourism (MLIT) in cases related to reactors installed in vessels.

Section 18 Mandate

The Government may, as laid down by Order, grant a mandate for the performance of some of its operations under an indemnity agreement. The authorised agent may, in particular, be a risk insurance company under Section 2, paragraph 4 of the Insurance Act (Act No. 105 of 1995), or a foreign risk insurance company under paragraph 9 of the said Section (this provision applies solely to persons authorised to conduct liability insurance activities).

2. When a mandate is granted under the preceding paragraph, the Minister for Education, Culture, Sport, Science and Technology (MEXT) must communicate the identity of the authorised agent and any other conditions required by a Ministerial Order issued by his department.

Supplementary Provisions

This act (No. 19 of 17 April 2009) shall enter into force on 1 January 2010.