

NUCLEAR LAW

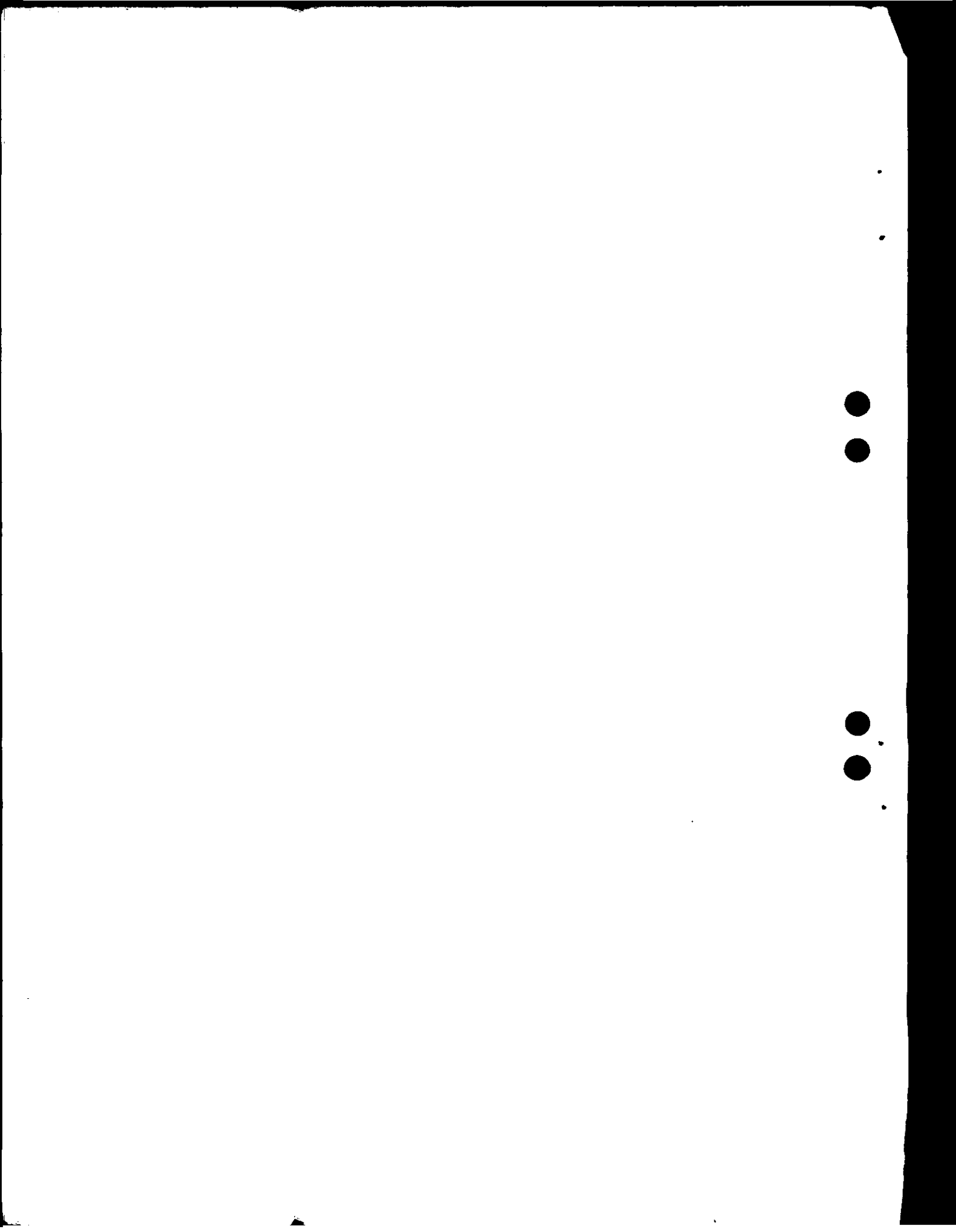
Bulletin

S U P P L E M E N T T O N ° 4

GERMANY

ACT ON THE PEACEFUL USES OF ATOMIC ENERGY
AND PROTECTION AGAINST ITS HAZARDS
OF 23RD DECEMBER 1959
(ATOMIC ENERGY ACT)

December 1969



G E R M A N Y

ACT ON THE PEACEFUL USES OF ATOMIC ENERGY
AND PROTECTION AGAINST ITS HAZARDS
(ATOMIC ENERGY ACT)

23rd December, 1959

(Bundesgesetzblatt 1959 I, p. 814)

The following Act has been enacted by the Bundestag, with the consent of the Bundesrat.

P A R T I

GENERAL

Section 1 - Purpose of the Act

It is the purpose of this Act -

1. to further nuclear research and development and the use of nuclear energy for peaceful purposes;

Note: This translation is taken, subject to some minor formal changes, from Volumes 4 and 10 of the Schriftenreihe des Bundesministeriums für wissenschaftliche Forschung (Gersbach & Sohn Verlag, Munich, 1961 and 1964). The translation of the amendments to the Act has been done by the Secretariat of the European Nuclear Energy Agency in liaison with the Institute of Public International Law at the University of Göttingen (Director: Professor G. Erler), with the agreement of the Bundesministerium für Bildung und Wissenschaft (Federal Ministry for Education and Science).

Asterisks at the end of a paragraph indicate that certain passages have been deleted, amended or added according to the Act given in reference. Passages which have been amended or added have dotted underlining.

2. to protect life, health, and property from the hazards of nuclear energy and from the harmful effects of ionizing radiation, and to provide compensation for damage caused by nuclear energy or ionizing radiation;
3. to prevent danger to the internal or external security of the Federal Republic arising from the use or the release of nuclear energy;
4. to enable the Federal Republic to meet its international obligations in the field of nuclear energy and protection against radiation.

Section 2 - Definitions

For the purposes of this Act

1. "special fissionable material (nuclear fuel)" means:
 - (a) plutonium-239;
 - (b) uranium-233;
 - (c) uranium enriched in the isotope 235 or 233;
 - (d) any substance containing one or several of the aforesaid substances;
 - (e) uranium and substances containing uranium of the natural isotopic mixture of such purity as to enable a continuous self-sustaining chain reaction to be maintained in a suitable installation (reactor).

The expression "uranium enriched in the isotope 235 or 233" means uranium containing isotopes 235 or 233, or both isotopes, in such quantity that the ratio between the sum of these two isotopes and isotope 238 is greater than the natural ratio between isotopes 235 and 238.

2. "source material" means:
 - (a) uranium containing the natural isotopic mixture, but not falling under paragraph 1;
 - (b) uranium containing less than the natural amount of uranium-235;
 - (c) thorium;
 - (d) any of the aforesaid substances in the form of metal, alloy, chemical compound or concentrate; and
 - (e) uranium and thorium ores.

P A R T I I

CONTROL

Section 3 - Import and Export

- (1) Any person who imports or exports nuclear fuel shall require a licence.

(2) An import licence shall be granted, provided:

1. that there are no known facts giving rise to any doubts as to the reliability of the importer; and
2. that it is assured that the nuclear fuel to be imported will be used in conformity with the provisions of this Act, the statutory ordinances made thereunder, and the international obligations of the Federal Republic in the field of nuclear energy.

(3) An export licence shall be granted, provided:

1. that there are no known facts giving rise to any doubts as to the reliability of the exporter; and
2. that it is assured that the nuclear fuel to be exported will not be used in such a way as to endanger the international obligations of the Federal Republic in the field of nuclear energy, or to endanger the internal or external security of the Federal Republic.

(4) Nothing herein contained shall affect any other legal provisions on import or export.

(5) Any other conveyance into or out of the area to which this Act applies shall be deemed to be import or export within the meaning of this Act.

Section 4. - Carriage of Nuclear Fuel

(1) ~~The carriage of nuclear fuel outside an enclosed area where nuclear fuel is kept in Government custody or outside an area where activities licensed under Sections 6, 7 and 9 are carried on, shall require a licence. Such licence shall be delivered to the consignor or the person responsible for ensuring the consignment or carriage of the nuclear fuel.~~(*)

(2) A licence shall be granted, provided:

1. that there are no known facts giving rise to any doubts as to the reliability of the applicant, of the carrier and of the persons actually effecting the carriage (*) (**);
2. that it is assured that the nuclear fuel will be carried in conformity with such legal provisions on the carriage of dangerous goods as are applicable to the particular carrier concerned or, in the absence of such provisions, that otherwise every precaution which is necessary in the light of existing scientific knowledge and technology has been taken in order to prevent damage resulting from the carriage of nuclear fuel;
3. that the necessary financial security has been provided to cover all legal liability to pay compensation for damage (sub-section (5) of Section 13);

(*) Section 1 of the Second Act of 28th August, 1969, to Amend and Supplement the Atomic Energy Act, [BGBl I, p. 1429]

(**) Section 1 of the First Act of 23rd April, 1963, to Amend and Supplement the Atomic Energy Act, [BGBl I, p. 201].

- (3) All authorities of the Bund, the Laender, and all local authorities and other regional authorities whose jurisdiction is involved shall take part in the licensing proceedings. Where any difference of opinion arises between the licensing authority and any Federal authority concerned, the licensing authority shall apply to the Federal Minister of Nuclear Energy and Water Economy (Bundesminister für Atomkernenergie und Wasserwirtschaft ^(*)) for instructions. In all other respects the licensing proceedings shall be governed by a statutory ordinance in accordance with the principles of Sections 17 to 19 and 49 of the Trading and Industrial Code (Gewerbeordnung).
- (4) Sub-sections (1) to (3) shall apply correspondingly to the non-stationary installations. However, the statutory ordinance as specified in the third sentence of sub-section (3) may provide that public announcement of the project and the availability for public inspection of the records may be dispensed with, and that if so objections shall not be examined orally (**).
- (5) Section 26 of the Trading and Industrial Code shall apply, as appropriate, if other premises are affected by a licensed installation.

Section 7(a) ^(***) Provisional Decision

- (1) Upon application, a provisional decision may be given in regard to certain matters on which the granting of a licence relating to an installation within the meaning of Section 7 depends, in particular in regard to the choice of site. Such provisional decision shall become null and void if the applicant fails to file an application for such licence within a period of two years from the date on which such provisional decision became effective and final. This period may on application be extended for two years.
- Sub-sections (3) and (4) of Section 7 and Sections 17 and 18 shall apply accordingly.

Section 7b ^(***) - Public Announcement: Objections by Third Parties

- (1) If the application procedure under Section 7 or Section 7a has been initiated, together with public announcement of the project and availability for public inspection of the records, an official copy of the decision given, including particulars of any right of complaint or objection, shall be made available for inspection for a period of two weeks; the date and the place of availability for inspection shall be announced in the same manner as the project. At the expiry of the period of such availability, the decision shall be considered as having been served on third parties who have not raised objections thereto; this shall be stated in the announcement.
- (2) In so far as in a partial licence or a provisional decision an application has been adjudicated upon in accordance with Section 7 or Section 7a and such decision has become effective and final, third parties shall be precluded in any subsequent proceedings from objecting to the licensing of the installation on the basis of facts already put forward or which such third parties might have put forward after the records had been made available for public inspection or the decision had been publicly announced.
- (*) now: Federal Minister for Education and Science (Bundesminister für Bildung und Wissenschaft)
- (**) Section 1 of the First Act of 23rd April, 1963, to Amend and Supplement the Atomic Energy Act [BGBl I, p. 201]
- (***) New Section introduced by Section 1 of the Second Act of 28th August, 1969, to Amend and Supplement the Atomic Energy Act [BGBl I, p. 1429]

Section 8 - Relation to the Trading and Industrial Code

- (1) The provisions of the Trading and Industrial Code regarding installations requiring a licence under Section 16 of the Trading and Industrial Code, and concerning prohibition of further operation of such installations, shall not apply to installations for which a licence is required under Section 7.
- (2) In particular cases, where installations subject to supervision under Section 24 of the Trading and Industrial Code are used in any installation requiring a licence under Section 7, the licensing authority may grant exemption from the requirements of Section 24 of the Trading and Industrial Code, if such exemption is granted with a view to the special technical character of the installation under Section 7.

Section 9 - Treatment, Processing and Other Uses of Nuclear Fuel, other than in Installations Requiring a Licence

- (1) Any person who treats, processes or otherwise uses nuclear fuel other than in an installation of the kind specified in Section 7, shall require a licence. Furthermore, a licence shall be required by any person who applies a method of treating, processing or otherwise using nuclear fuel in a way materially different from that specified in the licence, or who materially alters the installation or its location as specified in the licence.
- (2) A licence may be granted only -
 1. where there are no known facts giving rise to any doubts as to the reliability of the applicant or of the persons responsible for the administration and control of the use of nuclear fuel, and where such persons responsible for administration and control possess the requisite expert knowledge therefor;
 2. where every precaution has been taken which is necessary in the light of existing scientific knowledge and technology to prevent damage resulting from the use of nuclear energy;
 3. where the necessary financial security has been provided to cover all legal liability to pay compensation for damage;
 4. where all necessary protection is provided against interference or other intervention by third persons.

Section 10 - Exemptions from Licensing Requirements

Exemptions from the provisions of Sections 3 to 7 and 9 may be granted by statutory ordinance, provided that only such quantities or kinds of nuclear fuel or certain protective measures or equipment are involved, which are not likely to cause damage due to a self-sustaining chain reaction or to the effects of ionizing radiation and as far as this is in conformity with the purposes as specified in paragraphs 3 and 4 of Section 1(x).

- (x) Section 1 of the First Act of 23rd April, 1963, to Amend and Supplement the Atomic Energy Act [BGBl I, p. 201]

Section 11 - Enabling Provisions (Licences, Notification, General Permits)

- (1) Save where special provision for nuclear fuel and installations within the meaning of Section 7 has been made under this Act, it may be laid down by statutory ordinance to enable the purposes specified in Section 1 to be achieved -
1. that prospecting for or handling of radioactive substances (extraction, production, storage, treatment, processing or any other use or disposal), transactions in radioactive substances (acquisition, or delivery to others) or the carriage, import or export of such substances shall require a licence or notification;
 2. that the erection or operation of an installation for the production of ionizing radiation shall require a licence or notification;
 3. that a general permit may be issued, after examination of the particular type of construction conducted by an authority to be specified in the statutory ordinance, for installations, apparatus and equipment containing radioactive substances or producing ionizing radiation, and such form of notification may be specified as must be given by the operators of the installation, apparatus and equipment;
 4. that radioactive substances shall not be used in certain ways, to the extent that such prohibition is required for the enforcement of decisions by international organizations of which the Federal Republic of Germany is a member. (x)
- (2) The statutory ordinance may make the granting of licences and general permits within the purposes of this Act subject to personal and objective requirements, and may regulate the procedure for such licences and general permits.

Section 12 - Enabling Provisions (Safety Measures)

- (1) To achieve the purposes specified in Section 1, the following may be laid down by statutory ordinance:
1. the precautionary and supervisory measures which must be taken for the protection of individuals and of the general public in regard to the handling of and transactions in nuclear fuel and other radioactive substances, in the erection, operation and possession of installations as specified in Section 7 and paragraph 2 of sub-section (1) of Section 11, in the handling of and transactions in installations, apparatus and equipment as specified in paragraph 3 of sub-section (1) of Section 11, and in the carriage of such substances, installations, apparatus and equipment;
 2. the precautions which must be taken in order to ensure that certain specified radiation doses and concentrations of radioactive substances in air and water are not exceeded;
- (x) Section 2 of the Act Regarding the Decision of the Council of the Organisation for Economic Co-operation and Development (OECD) dated 19th July 1966 on the adoption of Radiation Protection Standards for Radioluminous Timepieces of 22nd July, 1969 /BGBL II, p. 1309/.

3. that no person shall be employed in areas exposed to radiation hazards unless he produces a certificate issued by a specially authorized medical practitioner, and that if any objections be raised to such employment for reasons of health, the supervisory authority shall decide after consulting medical experts;
 4. that any persons who stay or have been staying in areas exposed to radiation hazards shall be under obligation to have the radiation doses at their bodies measured (the extent of such obligation being specified in the statutory ordinance), to undergo medical examination and, in so far as the protection of other individuals or the general public so requires, to undergo medical treatment, such examination or treatment being given by specially authorized medical practitioners;
 5. that records shall be kept and reports submitted (in such manner as shall be specified in the statutory ordinance) on the production, extraction, acquisition, possession, delivery and any other disposal of source material, nuclear fuel and other radioactive substances, and on the measurement of doses and dose rates of ionizing radiation;
 6. that the supervisory authority shall be given report of any accident or other harmful occurrence during the handling of nuclear fuel or other radioactive substances, during the operation of an installation as specified in Section 7 and paragraph 2 of sub-section (1) of Section 11, during the handling of installations, apparatus and equipment as specified in paragraph 3 of sub-section (1) of Section 11, or during the carriage of such substances, installations, apparatus or equipment;
 7. that such radioactive substances as are no longer in use shall be stored, surrendered, disposed of or be secured by the appropriate authority (in such manner as shall be specified in the statutory ordinance);
 8. the manner in which nuclear fuel and any other radioactive substances, and installations within the meaning of Section 7 and paragraph 2 of sub-section (1) of Section 11, shall be protected against interference or other intervention by third persons;
 9. that the supervisory authority may issue directions for the execution of any provisions made under paragraphs 1 to 8.
- (2) The fundamental right to physical inviolability (first sentence of paragraph (2) of Article 2 of the Basic Law [Grundgesetz]) shall be restricted in accordance with paragraph 4 of sub-section (1).

Section 13 - Financial Security to Cover Legal Liability to Pay Compensation for Damage

- (1) In the licensing proceedings, the public authority shall determine the type, terms and amount of financial security to be provided by the applicant to cover his legal liability to pay compensation for damage. This determination shall be renewed every two years and in the event of any material change in circumstances; the public authority shall prescribe an appropriate time-limit within which the person under obligation to provide financial security must prove that he has done so.

- (2) The financial security to be provided in pursuance of sub-section (1) shall:
1. be in due proportion to the hazards of the installation or the activities involving liability under Section 25; as a general rule, it should not fall short of the maximum insurance cover obtainable on the insurance market at premiums which are in reasonable proportion to the financial or other interests in the operation of such installation or in the exercise of such activities;
 2. ensure fulfilment of the legal liability to pay compensation for damage to an extent appropriate to the particular circumstances, in all other cases where, according to the provisions of this Act, or of a statutory ordinance made thereunder, an activity requires a licence.
- (3) Within the limits laid down by sub-section (2), and in order to achieve the purposes specified in Section 1, more detailed provisions may be made by statutory ordinance as to the measures required to provide financial security to cover legal liability to pay compensation for damage.
- (4) The Bund (with the exception of the Federal German Railways /Deutsche Bundesbahn), in the case of carriage in public transport) and the Laender shall not be required to provide financial security. In so far as a Land is liable under Section 25, the licensing authority shall determine, with appropriate application of sub-sections (1) and (2) and of the statutory ordinance made in pursuance of sub-section (3), the terms and amount of compensation which, notwithstanding further obligations under Section 38, the Land shall pay in fulfilment of the legal liability, without being indemnified by the Bund as provided in Section 36. For the application of this Act, the aforesaid liability shall be deemed equivalent to the provision of financial security.
- (5) For the purposes of this Act legal liability to pay compensation shall mean the liability to pay compensation for damage as laid down in Civil Law. It shall not include liabilities of the nature specified in Section 903 of the Reich Insurance Code (Reichs-versicherungsordnung); but it shall include liability to save harmless in pursuance of sub-section (4) of Section 7 of this Act, in conjunction with Section 26 of the Trading and Industrial Code, and similar liabilities to pay indemnities or compensation only in so far as the damage or impairment has been caused by an accident.

Section 14 - Financial Security and Liability for Incidents Involving Liability under Section 25

The special provisions of Sections 15 and 16 shall apply additionally to the financial security to be provided in respect of installations and activities involving a liability under Section 25.

Section 15 - Third Party Liability Insurance

- (1) Where financial security is provided by means of third party liability insurance, Sections 158(c) to 158(h) of the Insurance Contracts Act (Gesetz Über den Versicherungsvertrag) shall apply as appropriate. Where sub-section (4) of Section 158(c) of the Insurance Contracts

Act applies, indemnification by the Bund under Section 36 shall not apply. Sub-section (3) of Section 156 of the Insurance Contracts Act shall not be applicable.

- (2) Third party liability insurance shall cover the legal liability to pay compensation which is incurred as a result of the effects specified in Section 25 by persons who -
1. with the consent of the person under obligation to provide financial security, operate, use, or have operated or used the installation, in addition to or in place of such person;
 2. being duly authorized, effect or have effected any supply of goods, services or work for the planning, erection, putting into operation, utilization, maintenance or repair of the installation, or for the disposal of waste;
 3. have or had been appointed by the person under obligation to provide financial security, or such other person as specified in paragraph 1 or 2, to perform any act for the planning, erection, putting into operation, utilization, maintenance or repair of the installation, or for the disposal of waste;
 4. ~~in the case to which sub-section (2) of Section 25 refers, in addition to the person responsible for providing financial security, take or have taken part in the carriage or, being duly authorized, effect or have effected any supply of goods or services in connection with the carriage or are or have been engaged in an activity concerned with such carriage (*)~~.

Section 16 - Other Forms of Financial Security

- (1) Where financial security is not provided in the form of third party liability insurance, but in the form of indemnification or a guarantee furnished by a third person, the provisions of Section 15 shall apply correspondingly.
 - (2) Where financial security is provided in a way other than that specified in Section 15 or in sub-section (1) of this Section, the person under obligation to provide such financial security shall, notwithstanding Section 38, be held liable, if compensation is claimed from such persons as are specified in sub-section (2) of Section 15, for damage of the kind specified in Section 25, for an amount determined in accordance with sub-section (1) of Section 13, and in the same manner and to the same extent as an insurer would be liable under Section 15, if the third party liability insurance cover is adequate in accordance with this Act and such statutory ordinances as are made thereunder.
 - (3) Sub-section (2) shall apply correspondingly to the Bund and the Laender.
- (x) Section 1 of the Second Act of 28th August, 1969, to Amend and Supplement the Atomic Energy Act [BGBL I, p. 1429]

Section 17 - Restriction, Conditions, Revocation

- (1) Licences and general permits granted under this Act or under a statutory ordinance made thereunder shall be issued in writing. They may contain restrictions, and may be made subject to certain conditions, with a view to the purposes specified in Section 1. Conditions may subsequently be imposed so far as may be necessary to achieve the purposes specified in paragraphs 2 and 3 of Section 1. A time-limit may be imposed on licences other than those issued under Section 7, and on general permits.
- (2) Licences and general permits may be revoked -
 1. where they have not been used within a period of two years, unless otherwise provided in the licence or general permit;
 2. where one of their pre-requisites has not existed from the beginning, or has subsequently ceased to exist, and no remedial action has been taken within a reasonable period; or
 3. where the provisions of this Act or statutory ordinances made thereunder, or orders or directions issued by the supervisory authorities, or the terms and conditions contained in the notice concerning the licence or general permit, have been seriously or repeatedly violated, or where a condition subsequently imposed has not been complied with and no remedial action has been taken within a reasonable period.
- (3) Licences shall be revoked where the financial security provided does not satisfy the requirements of sub-section (1) of Section 13, and where the person under obligation to provide financial security fails to furnish proof, within a reasonable period to be fixed by the public authority, that he has provided the financial security stipulated.
- (4) Licences or general permits shall also be revoked wherever such revocation is necessary on account of substantial risk to employees, third persons or the general public, and conditions subsequently imposed cannot provide a remedy within a reasonable period.

Section 18 - Reparation for Revocation

- (1) Where a licence or general permit granted under this Act or a statutory ordinance made thereunder is revoked, appropriate reparation shall be paid to the licensee. Where the revocation is effected by the Bund, the Bund shall be liable to pay the reparation; where the revocation is effected by an authority of a Land, such Land shall be liable. The amount of reparation to be paid shall be determined with due regard to the public interest and that of the person concerned, and shall take into account the reasons which have led to the revocation. The reparation shall be limited to the expense incurred by the person affected, or in the case of an installation to the current value of such installation. In the event of dispute as to the amount of reparation, legal proceedings may be taken in Civil Courts.
- (2) There shall be no liability to pay reparation-
 1. where a holder of a licence or general permit has obtained such licence or general permit by making statements which are incorrect or incomplete in a material particular;

2. where a holder of a licence or general permit, or persons employed by him to carry out activities thereunder, have by their conduct given cause for the revocation of the licence or general permit, in particular, by serious and repeated violation of the provisions of this Act, or of statutory ordinances made thereunder, or of orders and directions issued by the supervisory authority, or of the terms and conditions of the notice concerning the licence or general permit, or by non-compliance with conditions subsequently imposed;
 3. where the revocation had to be ordered owing to subsequent exposure of employees, third persons or the general public to serious hazards arising from the installation or activity for which a licence has been granted.
- (3) Sub-sections (1) and (2) shall apply correspondingly to conditions subsequently imposed under the third sentence of sub-section (1) of Section 17.
 - (4) Where a Land is liable for reparation, the Bund or another Land shall be under obligation to contribute, according to their respective interests in the revocation, having regard to all the facts. The same shall apply where the Bund is liable to pay reparation.

Section 19 - Government Supervision

- (1) Any handling of or transactions in nuclear fuel or other radioactive substances, the erection, operation and possession of installations of the type specified in Section 7 and paragraph 2 of sub-section (1) of Section 11, and any handling of or transactions in installations, apparatus and equipment of the kind specified in paragraph 3 of sub-section (1) of Section 11, as well as the carriage of such substances, installations, apparatus and equipment, shall be subject to Government supervision. In particular, the supervisory authorities shall ensure compliance with the provisions of this Act and of statutory ordinances made thereunder, with such orders and directions as are issued by the supervisory authorities hereunder, and with the terms and conditions of the notice concerning the licence or general permit, and any conditions subsequently imposed. The provisions of Section 139(b) of the Trading and Industrial Code shall apply correspondingly to the powers and duties of the supervisory authorities.
- (2) Any person commissioned by the supervisory authority, and any expert called in by the said authority in pursuance of Section 20, or any person commissioned by other authorities called in, shall at all times have authority to enter places where there are source material, nuclear fuel and other radioactive substances, installations of the type specified in Section 7 and paragraph 2 of sub-section (1) of Section 11, or if installations, apparatus or equipment of the type specified in paragraph 3 of sub-section (1) of Section 11, or places where there is radiation originating therefrom, and to enter places where there is reason to believe that such conditions exist; and such persons shall have authority to carry out all forms of examination necessary for the performance of their duties. They may request the persons in charge, or employees of such places, to provide them with any information that they may require in the course of such examination. Otherwise, Section 24(b) of the Trading and Industrial Code shall apply correspondingly. The fundamental right to inviolability of domicile as laid down in Article 13 of the Basic Law, shall be restricted so far as may be necessary for the exercise of these powers.

- (3) The supervisory authority may order that a state be discontinued which is contrary to the provisions of this Act or to statutory ordinances made thereunder, or to the terms and conditions of the notice concerning the licence or general permit, or to any condition subsequently imposed, or from which danger to life, health or property might result through the effects of ionizing radiation. In particular, the supervisory authority may order -
1. that safety measures shall be taken, and may specify such measures;
 2. that nuclear fuel and other radioactive substances shall be stored, or kept in custody, in a place designated by it;
 3. that the handling of nuclear fuel or other radioactive substances, the erection or operation of installations of the type specified in Section 7 and paragraph 2 of sub-section (1) of Section 11, or the handling of installations, apparatus or equipment of the type specified in paragraph 3 of sub-section (1) of Section 11 shall be suspended temporarily, or permanently, if the requisite licence has not been granted, or if the revocation has been absolute.
- (4) Nothing herein contained shall affect the supervisory powers conferred by other legal provisions, or such general powers as result from Land legislation.

Section 20 - Experts

Experts may be consulted by the competent authorities in the licensing and control proceedings in accordance with this Act and such statutory ordinances as are made thereunder. Section 24(b) of the Trading and Industrial Code shall apply correspondingly.

Section 21 - Costs

- (1) Fees may be charged, and repayment of expenses claimed, in respect of any licence or general permit issued under this Act or any statutory ordinance made thereunder; such expenses shall include the expenses of any consultation of experts. Fees and expenses shall be paid by the applicant. In so far as objections of third persons to the erection of an installation within the meaning of Section 7 have to be examined, such objectors may be charged with any expenses incurred thereby, where the objections are obviously unjustified.
- (2) Fees may be charged, and repayment of expenses claimed, in respect of Government custody. Such fees and expenses shall be borne jointly and severally by the person delivering and the person entitled to use the material.
- (3) In so far as Government inspection has made it necessary to consult experts, the person subjected to such inspection shall defray such costs as result therefrom.
- (4) The expenses of any safety measures or medical examinations carried out under a statutory ordinance made in pursuance of this Act, or any order issued thereunder, shall be borne by the person who, by virtue of this Act or of any statutory ordinance made thereunder, requires a licence for any activity for which such safety measures or medical examination are necessary.

- (2) The costs to be charged under sub-sections (1) and (2), the conditions under which exemption from such charges shall or may be granted, and the procedure to be observed in making such charges, shall be governed by statutory ordinance.
- (6) To the extent that Land authorities issue licences and general permits under a statutory ordinance pursuant to Section 11, the regulations of the Land concerning fees shall apply.

P A R T I I I

PUBLIC AUTHORITIES

Section 22 - Competence for Import and Export Licences, Import and Export Control

- (1) The Federal Office for Trade and Industry (Bundesamt für gewerbliche Wirtschaft) shall decide on applications for licences under Section 3, and on the revocation of licences already issued. The same shall apply where statutory ordinances made under Section 11 call for import and export licences.
- (2) The Federal Minister of Finance (Bundesminister der Finanzen), or the customs authorities appointed by him, and in the free port of Hamburg the Free Port Authority of the Free and Hanseatic City of Hamburg (Freihafenamt der Freien und Hansestadt Hamburg), shall be responsible for the control of imports and exports.
- (3) In so far as the Federal Office for Trade and Industry makes any decisions by virtue of sub-section (1), it shall be bound by the technical instructions issued by the Federal Minister of Nuclear Energy and Water Economy, notwithstanding its subordination to the Federal Minister of Economics (Bundesminister für Wirtschaft) and his powers to issue instructions based on other legal provisions.

Section 23 - Competence for Custody and for Carriage and Storage Licences

The Federal Institute of Physics and Technology (Physikalisch-Technische Bundesanstalt) shall be competent for Government custody of nuclear fuel, for the issue of licences for the carriage of nuclear fuel, for the issue of licences for storage of nuclear fuel other than Government custody, and for the revocation of such licences. In such cases, the said Institute shall act in accordance with the technical instructions issued by the Federal Minister of Nuclear Energy and Water Economy.

Section 24 - Competence of Land Authorities

- (1) All other administrative functions under Part II and any statutory ordinances made thereunder shall be discharged by the Laender on behalf of the Bund. Control of any carriage of nuclear fuel and of other radioactive substances by rail and by sea which is effected by the German Federal Railways (Deutsche Bundesbahn) shall, however, be exercised by such bodies of the German Federal Railways as have been designated by the Federal Minister of Transport (Bundesminister für Verkehr). (*)

(*) Section 1 of the First Act of 23rd April, 1963, to Amend and Supplement the Atomic Energy Act [BGBl I, p. 201]

- (2) The supreme Land authorities (oberste Landesbehörden) designated by the Land governments shall be competent to issue and revoke licences under Sections 7 and 9. These authorities shall exercise control over installations as under Section 7, and over the use of nuclear fuel outside such installations. In particular cases, they may delegate their functions to subordinate authorities. Any complaints against their directions shall be decided upon by the supreme Land authorities. In so far as provisions other than those laid down in this Act confer supervisory powers on any other authorities, such competencies shall not be affected.
- (3) In matters concerning the sphere of activity of the Federal Armed Forces (Bundeswehr), the Federal Minister of Defence (Bundesminister für Verteidigung), or the authorities designated by him, shall, together with the Federal Minister of Nuclear Energy and Water Economy, be the competent authority referred to in sub-section (1) and (2).

P A R T I V

LIABILITY

Section 25 - Liability for Installations

- x (1) The operator of an installation within the meaning of Section 7, ~~or of a manufacturing installation for the preparation or processing of nuclear fuel~~, shall, subject to Section 38, be liable to pay compensation, in accordance with Sections 27 to 34 of this Act, for loss of life, personal injury or deterioration of health, caused to any person, or for damage caused to property, as a result of any process of nuclear fission carried out in such installations or of radiation from any radioactive substance emanating from such installations or from any equipment or any activity, including waste disposal, ~~in connection with the operation of such installations.~~ (*)
- x (2) The operator of an installation situated in the area to which this Act applies shall be liable to pay compensation in accordance with sub-section (1) even where the above-mentioned effects are caused by nuclear fuel /except substances specified in (e) of sub-section (1) of section (2)/ in the course of carriage from such installation; this provision shall not apply if the incident giving rise to the damage occurs after the consignee has taken charge of the nuclear fuel. If the nuclear fuel is being carried to an installation situated in the area to which this Act applies, the operator of such installation shall be liable, in accordance with sub-section (1), to pay compensation if such incident occurs after he has taken possession of such substances. When nuclear fuel is being carried to a consignee outside the area to which this Act applies, liability to pay compensation as laid down in the first sentence above, shall apply only if the incident occurs before the nuclear fuel has been unloaded from the means of transport which conveyed it across the frontier. In the case of carriage of nuclear fuel coming from a consignor outside the area to which this Act applies, liability to pay compensation provided for in the second sentence above shall apply only if the incident occurs after

(*) Section 1 of the Second Act of 28th August, 1969, to Amend and Supplement the Atomic Energy Act [BGBL I, p. 1429]

the nuclear fuel has been loaded on the means of transport by which it is to be conveyed across the frontier. In so far as the damage occurs in a foreign country, in the cases referred to in the third and fourth sentences above, liability to pay compensation for damage shall not arise if a statutory ordinance so stipulates in relation to such country; such ordinance may be enacted only where there is no guarantee of reciprocity; (*)

- (3)_x For the application of this Part, damage to property shall also be deemed to exist where the serviceability of property has been impaired by the effects of radiation from any radioactive substance.

Section 26 - Liability for Possession of Radioactive Substances or Substances Affected by Nuclear Fission or Nuclear Fusion in Other Instances

- (1)_x Where, in cases other than those specified in Section 25, loss of life, personal injury or deterioration of health has been caused to any person or damage has been caused to property through the effects of any nuclear fission process, or of radiation from any radioactive substance, the holder of such substance affected by nuclear fission, or of the radioactive substance from which the radiation is emitted, shall be liable to pay compensation for such injury or damage in accordance with Sections 27 to 34. There shall be no liability to pay compensation if the damage be caused by an event which the holder and such persons as are acting for him in connection with the possession could not avoid, even by taking every reasonable precaution under the circumstances, and which is due neither to any defective condition of the safety devices nor to any failure in their performance.
- (2) Sub-section (1) shall apply correspondingly where damage of the kind specified in sub-section (1) has been caused by the effect of nuclear fusion.
- (3)_A Any person who has lost possession of the substance, without having transferred it to a person entitled to such possession in accordance with this Act or any statutory ordinance made thereunder, shall be liable as if he were the holder.
- (4) The provisions of sub-sections (1) to (3) shall not apply-
1. where the radioactive substances have been applied to the injured person by a doctor, or a dentist, or under the supervision of a doctor or dentist, in the course of medical treatment;
 2. where a legal relationship exists between the holder and the injured person under which the latter has accepted the risk associated with the substance.
- (5)_A The carrier of substances on behalf of a third party shall not be liable to pay compensation under the provisions of sub-sections (1) to (3). So long as such substances have not come into the possession of the consignee, the liability to pay compensation under such provisions rests with the consignor, irrespective of his being the holder of such substances or not.
- (*) Section 1 of the Second Act of 28th August, 1969, to Amend and Supplement the Atomic Energy Act, [BGBl I, p. 1429]

Section 27 - Contributory Negligence of the Injured Person

Where negligence of the injured person has contributed to the injury sustained, Section 254 of the Civil Code (Bürgerliches Gesetzbuch) shall apply; in the event of damage to property, the negligence of the person in actual control of the property shall be deemed to be that of the injured person.

Section 28 - Extension of Compensation in Case of Death

- (1) In the event of death, compensation shall be made by payment of the costs of any attempted cure, and for such pecuniary loss as has been sustained by the deceased during his illness by reason of loss or reduction of earning capacity, increase of needs or handicap in regard to his career. In addition, the person liable shall refund funeral costs to the person responsible for paying such costs.
- (2) If, at the time of the injury, the deceased was, or might have become, legally responsible for the maintenance of a third person who loses this right as a result of the decease the person liable shall pay compensation to such third person, to the extent of the maintenance for which the deceased would have been liable during his expected life. The liability to pay compensation shall likewise exist where, at the time of the injury, the third person was conceived but not yet born.

Section 29 - Extent of Compensation in Case of Personal Injury

In the event of personal injury or injury to health, compensation shall be such as to cover medical expenses and the pecuniary loss sustained by the injured person by reason of temporary or permanent loss or reduction of earning capacity, increase of his needs or handicap in regard to his career as a result of the injury.

Section 30 - Periodic Payments

- (1) Compensation for any loss or reduction of earning capacity, any increase of needs or any handicap in regard to the career of the injured person, and any compensation due to a third person under sub-section (2) of Section 28, shall for the future be discharged by periodic payments.
- (2) The provisions of sub-sections (2) to (4) of Section 843 of the Civil Code, and of paragraph 6 of Section 708 of the Code of Civil Procedure (Zivilprozessordnung) shall apply correspondingly.
- (3) Where no security has been required from the person ordered by court decision to make periodic payments, the claimant shall nevertheless be entitled to demand security, if the financial circumstances of the person liable have considerably deteriorated; in the same circumstances, the claimant shall also be entitled to demand an increase in the amount of any security awarded in the judgement.

Section 31 - Maximum Amounts of Compensation

The person liable to pay compensation for damage under Section 25 or 26 shall be liable to pay -

1. in the event of the death of or injury to a person, in so far as compensation as specified in Section 30 is concerned, an annual payment not exceeding DM 15,000;

2. in the event of damage to property, an amount not exceeding the ordinary value of the damaged property plus the cost of protection against radiation hazards originating therefrom.

Section 32 - Limitation of Action

- λ (1) Claims for compensation under this Part shall be barred after two years from the date when the claimant became aware of the damage and of the identity of the person liable and, irrespective of such knowledge, after thirty years starting from the date of the incident which caused the damage.
- (2) Where negotiations concerning compensation are pending between the person liable for compensation and the claimant, the run of the limitation period shall be suspended until such time as either party refuses to continue such negotiations.
- (3) Otherwise, the provisions of the Civil Code concerning limitation of action shall apply.

Section 33 - Additional Liability

Save as otherwise provided in Section 38, nothing herein contained shall affect any other legal provision under which the operator of an installation, or the holder of a substance affected by nuclear fission or fusion, or of a radioactive substance, is liable to a greater extent than under the provisions of this Part, or under which another person is liable for the damage. (*)

Section 34 - Several Persons Liable

- (1) Where two or more persons are legally liable, as operators of an installation or as holders of substances affected by nuclear fission or fusion or of radioactive substances, to pay compensation to a third person for damage resulting from the effects of nuclear fission, nuclear fusion or radiation from radioactive substances, the liability and the extent of compensation due from each of the persons liable shall be apportioned between them according to the particular circumstances of the case and, in particular, to the extent to which the damage has mainly been caused by one or the other person. The same shall apply to the liability of one operator or holder towards another, if the operator of an installation or the holder of a substance has suffered damage. (*)
- (2) Sub-section (1) shall apply correspondingly where, in addition to the operator of the installation or the holder of the substance, any other person is legally liable for the damage.

Section 35 - Repealed (*)

Section 36 - Indemnification by the Bund

- λ (1) Where any person under obligation to provide financial security under paragraph 1 of sub-section (2) of Section 13, or any person as specified in sub-section (2) of Section 15, has incurred legal liability to pay compensation as a result of effects of the kind specified in Section 25, the Bund shall indemnify such person against his liability to pay compensation, to the extent that such liability
- (*) Section 1 of the Second Act of 28th August, 1969, to Amend and Supplement the Atomic Energy Act [BGBl I, p. 1429]

is not covered, or cannot be met by the financial security provided; provided that the requisite licence has been granted, and operation of such installation or performance of such activity has been started by 31st December 1980. In the cases specified in sub-section (2) of Section 25, the Bund shall be under no obligation to indemnify to the extent that under the terms of a statutory ordinance issued by virtue of Section 10, no financial security is required for the carriage of nuclear fuel. Indemnification against liability resulting from an incident causing damage shall be limited to a maximum amount of DM 500 million, less the amount to which the liability incurred is covered, or can be met by the financial security provided. (*)

(2) Indemnification under sub-section (1) shall not apply to liability to pay compensation -

1. in respect of damage to installations or to property, equipment, apparatus or materials of any kind, including nuclear fuel, appertaining thereto;
2. in respect of any damage sustained by the person under obligation to provide financial security, or any person as specified in sub-section (2) of Section 15, during operation of an installation or such activity as specified in sub-section (2) of Section 15.

(3) Save as otherwise hereinafter provided, Sections 34, 62 and 67 and the provisions of Chapter 6 of Part 2 of the Insurance Contracts Act, including provisions on compulsory insurance, shall apply as appropriate.

Section 37 - Apportionment

(1) Where legal liability to pay compensation resulting from an incident causing damage is expected to exceed the amount of DM 500 million, apportionment of the moneys available as compensation for damage, and the procedure to be observed therein, shall be governed by an Act and, pending enactment, by statutory ordinance.

(2) The statutory ordinance referred to in sub-section (1) may only make such stipulations regarding apportionment of the moneys available as compensation for damage as are required to avert hardship. Such statutory ordinance shall ensure that satisfaction of the claims of the injured persons as a whole shall not be unduly prejudiced by the satisfaction of individual claims.

Section 38 - Exclusion of Claims

(1) No compensation in excess of the amount stipulated in sub-section (1) of Section 36 shall be paid by virtue of any legal liability to pay compensation for damage which has resulted from such effects as are specified in Section 25 and is covered by an indemnification by the Bund.

(2) In the case of damage not covered by indemnification under sub-section (1), second sentence and sub-section (2) of Section 36, ~~liability to pay compensation~~ in pursuance of Section 25 shall be excluded. Any person under obligation to provide financial security, and the persons specified in sub-section (2) of Section 15, can only be made liable by virtue of another legal liability to pay compensation for damage, if the injured person cannot obtain compensation in another way. No consideration will be given to any other

(*) Section 1 of the Second Act of 28th August, 1969, to Amend and Supplement the Atomic Energy Act [BGBl I, p. 1429]

possibility of compensation, if a legal claim for compensation against a third person is involved. (*)

- (3) The provisions of sub-section (1), and the second and third sentences of sub-section (2) shall not apply, where the damage has been wilfully caused by the person liable, or, in the case of a body corporate, by its legal representative in the discharge of his functions.
- (4) To the extent that the Bund is liable for damage of the kind specified in Section 25, sub-sections (1) to (3) shall apply as appropriate.
- (5) Any person entitled under sub-section (3) to compensation in excess of that specified in sub-section (1) may claim such compensation only in so far as he has not yet obtained, or obviously cannot obtain, satisfaction under the procedure specified in Section 37.

Section 39 - Exemption from Liability. Recourse

- (1) Save in such cases as result from application of the provisions already laid down in sub-section (3) of Section 36, the Bund shall be exempt from the obligation to indemnify a person who is to be indemnified against liability in accordance with Section 36-
 1. where the damage has been wilfully caused by such person or, in the case of a body corporate, by its legal representative in the discharge of his functions;
 2. where such person is a national of a foreign state, in respect of which an order to that effect has been issued by statutory ordinance, such order shall only be issued if there be no guarantee of reciprocity;
 3. where such person has acknowledged or satisfied a claim for compensation without the consent of the Bund, unless such acknowledgment or satisfaction could not have been refused by him without obvious inequity.
- (2) Furthermore, the Bund shall be exempt from the obligation to indemnify the person under obligation to provide financial security in so far as the security provided falls short of the amount determined in pursuance of sub-section (1) of Section 13 or fails to satisfy claims.
- (3) The Bund may not invoke exemption from liability under sub-sections (1) and (2) as against the injured person.
- (4) The Bund shall have a right of recourse against -
 1. any person in respect of whom the Bund is exempt from liability, in so far as the Bund has to pay compensation in pursuance of sub-section (3);
 2. any person under obligation to provide financial security, in so far as the Bund, in the event of claims against any person specified in sub-section (2) of Section 15, has to pay compensation for which the person under obligation to provide financial security is also held liable; but not in excess of the extent to which such person has to provide financial security to cover such liabilities.

(*) Section 1 of the Second Act of 28th August 1969 to Amend and Supplement the Atomic Energy Act [BGBl I, p. 1429]

- 2
- (5) Where the Bund is under obligation to indemnify, as a result of the insurer of a person to be indemnified, a guarantor or any other person jointly liable having acknowledged or satisfied a claim for damages without the consent of the Bund, although it was to be expected that the damage would exceed the amount determined in accordance with sub-section (1) of Section 13, the Bund shall have a right of recourse against such persons, unless such acknowledgement or satisfaction could not have been refused by these persons without obvious inequity.

P A R T V

PENALTIES AND FINES

Section 40 - Causing an Explosion by Nuclear Energy

- (1) Any person who causes or attempts to cause an explosion by the release of nuclear energy, and thereby to endanger the life or health of another person, or property of considerable value belonging to another person, shall be liable to penal servitude for a term of not less than five years.
- (2) Any person who causes an explosion by the release of nuclear energy, thereby negligently endangering the life or health of another person, or property of considerable value belonging to another person, shall be liable to penal servitude for a term not exceeding ten years. Where extenuating circumstances exist, the penalty shall be imprisonment for a term of not less than one year.
- (3) In particularly grave cases, offences under sub-section (1) shall be punishable with penal servitude for a term of not less than ten years, or for life, and offences under sub-section (2) with penal servitude for a term of not less than five years. In general, a case shall be deemed to be particularly grave where the offender has caused the death of another person by his gross negligence. (*)

Section 41 - Misuse of Ionizing Radiation

- (1) Any person who, with intent to injure the health of another person, exposes or attempts to expose such person to ionizing radiation of such kind as will injure the person's health, shall be liable to penal servitude for a term not exceeding ten years. Where extenuating circumstances exist, the penalty shall be imprisonment for a term of not less than six months.
- (2) Where the offender exposes or attempts to expose a great number of persons to such radiation, he shall be liable to penal servitude for a term of not less than five years.
- (3) In particularly grave cases, offences under sub-section (1) shall be punishable with penal servitude for a term of not less than five years, and offences under sub-section (2), with penal servitude for a term of not less than ten years, or for life. In general, a case shall be deemed to be particularly grave where the offender has caused the death of another person by his gross negligence. (*)
- (4) Any person who, with intent to impair the serviceability of property of considerable value belonging to another person, exposes such pro-
- (x) Section 3 of the Seventh Act of 1st June, 1964 to Amend the Penal Code [BGBl I, p. 337]

perty to ionizing radiation of such kind as will impair the serviceability of the property shall be liable to imprisonment. The attempt shall be punishable.

Section 42 - Preparatory Acts

Any person who, in preparation for an offence punishable under sub-section (1) of Section 40 or sub-section (2) of Section 41, produces, imports, obtains for himself or for another person, stores or makes available to another person nuclear fuel or radioactive substances, or such appliances as are necessary for the execution of such offence, or performs an equally dangerous act of this kind, shall be liable to penal servitude for a term not exceeding ten years. Where extenuating circumstances exist, the penalty shall be imprisonment for a term of not less than six months.

Section 43 - Fines and Police Supervision

In addition to penal servitude or imprisonment under Sections 40 to 42, a fine of unlimited amount and subjection to police supervision may be imposed.

Section 44 - Acts of Repentance

- (1) ~~The Court may, in the cases specified in sub-section (1) of Section 40 and sub-section (2) of section 41, impose at its discretion a less severe penalty (Section 15 of the Penal Code), if the offender voluntarily abandons his activity or otherwise averts the danger. (*)~~
- (2) ~~The Court, may, in the cases specified in sub-section (2) of Section 40, sub-section (1) of Section 41 and Section 42, at its discretion, impose a less severe penalty (Section 15 of the Penal Code), or impose no penalty under those provisions, if the offender voluntarily abandons his activity or otherwise averts the danger. (*)~~
- (3) If the danger is averted without the help of the offender, it shall suffice that he has seriously endeavoured to avert it of his own free will.

Section 45 - Punishable Handling of Nuclear Fuel and Ionizing Radiation

- (1) Any person who, without such licence as is required under this Act, wilfully:
 1. imports or exports nuclear fuel,
 2. carries nuclear fuel,
 3. stores nuclear fuel outside Government custody,
 4. erects, operates or otherwise holds an installation for the production or fission of nuclear fuel, or for the reprocessing of irradiated nuclear fuel, or materially alters the installation or its operation,

(*) Section 70 of the First Act of 25th June, 1969, to Amend the Penal Code [BGBL I, p. 645]

5. treats, processes or otherwise uses nuclear fuel outside an installation for the production or fission of nuclear fuel, or for the reprocessing of irradiated nuclear fuel, or any person who deviates to a considerable extent from the procedure laid down in a licence issued under sub-section (1) of Section 9 for treatment, processing or other use, or who materially alters the installation or its location as specified in the licence,

shall be liable to imprisonment and a fine not exceeding DM 100,000, or to one or the other of these penalties.

- (2) The same penalties shall be incurred by any person who wilfully -
1. fails to surrender nuclear fuel without delay, in contravention of sub-sections (3) and (4) of Section 5;
 2. issues nuclear fuel to unauthorized persons, in contravention of sub-section (5) of Section 5;
 3. contravenes any provision of an ordinance made under Sections 11 and 12, where such ordinance refers to this penal provision.
- (3) Any person who, by an act of the kind specified in sub-section (1) or (2), knowingly endangers the life or health of another person, or property of considerable value belonging to another person, such danger originating from nuclear fission or ionizing radiation, shall be liable to imprisonment for a term of not less than three months. In addition, a fine not exceeding DM 100,000 may be imposed.
- (4) Any person who, through negligence, commits one of the acts specified in sub-sections (1) and (2) shall be liable to imprisonment for a term not exceeding two years and a fine not exceeding DM 100,000, or to one or the other of these penalties.

Section 46 - Statutory Offences

- (1) Any person who, wilfully or negligently, contravenes the determination under sub-section (1) of Section 13, conditions imposed under sub-section (1) of Section 17, or immediately enforceable orders by the Government supervisory authority under sub-section (3) of Section 19, shall be guilty of a statutory offence.
- (2) A person shall also be guilty of a statutory offence if he wilfully or negligently-
1. contravenes any provision of an ordinance made under Section 11 or 12;
 2. contravenes any immediately enforceable direction, issued by the supervisory authority under an ordinance made in pursuance of paragraph 9 of sub-section (1) of Section 12,
- where such ordinance refers to this provision on fines.
- (3) The statutory offences specified under sub-section (1) or (2) shall make the offender liable to a fine not exceeding DM 100,000. (*)

(*) Section 78 of the Act for Incorporating the Act on Statutory Offences into Existing Legislation of 24th May 1968 [BGBl I, p. 503].

- (4) ~~It shall furthermore be deemed to be a statutory offence if, in the course of the carriage, a person wilfully or negligently fails to carry the proof of the licence required under Section 4 or under a statutory ordinance made in pursuance of Section 11 or 12. (*)~~ Such offence may render the offender liable to a fine not exceeding DM 1,000.
- (5) Where the import or export of radioactive substances requires a licence, by virtue of an ordinance made under Section 11, the Federal Office for Trade and Industry shall be competent to prosecute, and impose penalties in respect of statutory offences committed by failure to comply with such requirement, or by violation of any condition imposed by the Federal Office in respect of such licence. (**)

Section 47 - Punishable Violation of Safety Regulations, Conditions and Orders

Any person who, by a wilful act as specified in sub-section (1) or (2) of Section 46, wilfully or negligently endangers the life or health of another person, or property of considerable value belonging to another person, through nuclear fission or ionizing radiation, shall be liable to imprisonment and a fine not exceeding DM 100,000, or to either of these penalties. Where the offender causes the danger knowingly, the penalty shall be imprisonment for a term of not less than three months; in addition, a fine not exceeding DM 100,000 may be imposed.

Section 48 - Violation of Obligations concerning Production and Supply

- (1) Any person who knowingly produces or supplies defective installations for the production or fission of nuclear fuel, or for the reprocessing of irradiated nuclear fuel, or who produces or supplies defective objects intended for the erection or operation of such installation, and thereby knowingly endangers the life or health of another person, or property of considerable value belonging to another person, such danger being connected with the effects of a nuclear fission process or radiation from a radioactive substance, shall be liable to imprisonment for a term of not less than six months.
- (2) The attempt shall be punishable.
- (3) In particularly grave cases the penalty shall be penal servitude for a term of not more than ten years.
- (4) Any person who, not knowingly, but wilfully or negligently, causes danger in the cases specified in sub-section (1), shall be liable to imprisonment.

(*) Section 1 of the First Act of 23rd April, 1963, to Amend and Supplement the Atomic Energy Act [BGBl I, p. 201]

(**) Section 78 of the Act for Incorporating the Act on Statutory Offences into Existing Legislation of 24th May, 1968 [BGBl I, p. 503].

Section 49 - Confiscation

Where an offence punishable under Sections 40 to 42, sub-sections (1) to (3) of Section 45, Section 47 or Section 48 has been committed:

1. any object produced by such act or which was used or intended for the commission of such act; and
2. any object to which an offence punishable under Section 42, sub-sections (1) to (3) of Section 45, Section 47 or Section 48 relates,

may be confiscated. Where an offence punishable under sub-section (1) or (2) of Section 46 has been committed wilfully, the provisions of sub-paragraph 2 of the first sentence hereof shall apply accordingly (x).

Section 50 - Repealed (x)

Section 51 - Relation to Other Penal Provisions

- (1) Offences under Section 40, sub-section (2) of Section 41, and Section 42, are crimes constituting a public danger, within the meaning of Section 138 of the Penal Code (Strafgesetzbuch).
- (2) They shall be deemed equivalent to the crimes involving the use of explosives within the meaning of paragraph 3 of sub-section (3) of Section 4 of the Penal Code.
- (3) Where an act is punishable under the provisions of this Act only, or in conjunction with the provisions of the Penal Code, Sections 9 and 11 of the Act on the Criminal Use of Explosives Constituting a Public Hazard (Gesetz gegen den verbrecherischen und gemeingefährlichen Gebrauch von Sprengstoffen) of 9th June 1884 (Reichsgesetzblatt, page 61) shall not apply. (xx)
- (4) Crimes under Section 40 or sub-section (2) of Section 41 shall be under the jurisdiction of the Courts of Assizes (Schwurgerichte) (Sections 79 and 80 of the Judicature Act Gerichtsverfassungsgesetz).

Section 52 - Disclosure of Secrets

- (1) Any person who, without authority, discloses a business or technical secret, or a secret confided or known to a medical practitioner or dental surgeon or person working under him, in their respective capacities, which has come to his knowledge as a member of an authority entrusted with the execution of this Act or as an officially appointed expert during his work in connection with this Act, shall be liable to imprisonment for a term not exceeding two years, or to a fine. Legal proceedings shall be taken only at the request of the injured person.
- (x) Section 78 of the Act for Incorporating the Act on Statutory Offences into Existing Legislation of 24th May 1968 BGBL I, p. 503.
- (xx) Section 3 of the Seventh Act of 1st June, 1964 to Amend the Penal Code BGBL I, p. 337.

- (2) Any person who misuses a secret of the nature specified in sub-section (1), which has come to his knowledge under the circumstances referred to therein, in order to procure pecuniary benefit for himself or for another person, or to cause injury to another person, shall be liable to imprisonment. In addition, a fine may be imposed.

P A R T V I

FINAL PROVISIONS

Section 53 - Registration of Damage due to Unknown Causes

Damage which, in the light of existing scientific knowledge, has been caused by the effects of radiation from radioactive substances but cannot be traced to any particular person, shall be registered with and investigated by the Federal Minister of Nuclear Energy and Water Economy.

Section 54 - Issue of Statutory Ordinances

- (1) Statutory ordinances under Sections 11, 12, 13 and sub-section (5) of Section 21, shall be issued by the Federal Government. The same shall apply to statutory ordinances issued under Section 10, in so far as exemption is granted from the requirement of a licence under Section 7. All other statutory ordinances for which this Act provides shall be issued by the Federal Minister of Nuclear Energy and Water Economy.
- (2) The statutory ordinances require the consent of the Bundesrat. This shall not apply to statutory ordinances which merely stipulate physical, technical and radiation biology standards, in place of those laid down in statutory ordinances pursuant to Sections 11 and 12.
- (3) The Federal Government may by statutory ordinance delegate the enabling powers specified in Sections 11 and 12, wholly or in part, to the Federal Minister of Nuclear Energy and Water Economy.

Section 55 - Repeal of Legal Provisions

- (1) The following legal provisions shall cease to have effect:
 1. sub-paragraphs (a) and (b) of paragraph 1 of Article 1 of Law No. 22 of the Allied High Commission of 2nd March 1950, concerning the Control of Materials, Facilities and Equipment Relating to Atomic Energy (Official Gazette of the Allied High Commission for Germany, page 122), as amended by the Laws of the Allied High Commission for Germany No. 53 of 26th April 1951 (Official Gazette of the Allied High Commission for Germany, pages 882 and 990) and No. 68 of 14th December 1951 (Official Gazette of the Allied High Commission for Germany, page 1361);
 2. the Bavarian Act on the Provisional Regulation of the Erection and Operation of Nuclear Reactors and of the Use of Radioactive Isotopes of 13th July 1957 (Bayerisches Gesetz- und Verordnungsblatt, page 147) as amended by the Act of 12th November 1958 (Bayerisches Gesetz- und Verordnungsblatt, page 330);

3. the Hessian Act on the Provisional Regulation of the Erection and Operation of Nuclear Research Reactors and on Radiation Protection of 1st October 1957 (Gesetz- und Verordnungsblatt für das Land Hessen, page 141) as amended by the Act of 30th April 1959 (Gesetz- und Verordnungsblatt für das Land Hessen, page 9);
 4. the Hamburg Act on the Provisional Regulation of the Use of Nuclear Energy of 18th October 1957 (Hamburgisches Gesetz-und Verordnungsblatt, page 465);
 5. the Land North Rhine-Westphalia Act on the Provisional Regulation of the Erection and Operation of Nuclear Installations of 4th February 1958 (Gesetz- und Verordnungsblatt für das Land Nordrhein-Westfalen, page 39);
 6. the Land Baden-Württemberg Act on the Provisional Regulation of the Use of Nuclear Energy of 12th May 1958 (Gesetzblatt für Baden-Württemberg, page 129);
 7. the Berlin Act on the Regulation of the Scientific Use of Nuclear Energy (Atomic Energy Act) of 26th June 1958 (Gesetz- und Verordnungsblatt für Berlin, page 563); this does not apply to Section 8, in so far as contraventions under Section 40 of the First Ordinance under the Atomic Energy Act (Radiation Protection Ordinance) of 22nd October 1958 (Gesetz- und Verordnungsblatt für Berlin, page 1029) are concerned;
 8. the Land Schleswig-Holstein Act on the Erection and Operation of Nuclear Research Reactors and for the Regulation of Radiation Protection of 30th June 1958 (Gesetz- und Verordnungsblatt für Schleswig-Holstein, page 225); this does not apply to Sections 11 to 13, in so far as contraventions under Sections 47 and 48 of the (Police) Ordinance on the Protection against Radiation Hazards (Gesetz- und Verordnungsblatt für Schleswig-Holstein, page 229) are concerned.
- (2) On the coming into force of the first statutory ordinance made under Sections 11 and 12, the following provisions shall cease to have effect:
1. sub-section (4) of Section 4 and sub-section (2) of Section 5 of the Roentgen-Ordinance of 7th February 1941 (Reichsgesetzblatt 1, page 68) as amended by the Ordinance of 17th January 1942 (Reichsgesetzblatt 1, page 31);
 2. such provisions of Law No. 22 of the Allied High Commission as are not superseded by paragraph 1 of sub-section (1) of this Section, and bye-law No. 1 to Law No. 22 of 28th April 1951 (Official Gazette of the Allied High Commission for Germany, page 883);
 3. Section 8 of the Berlin Act of 26th June 1958, in so far as this provision is not superseded by paragraph 7 of sub-section (1);
 4. Sections 11 to 13 of the Schleswig-Holstein Act of 30th June 1958, in so far as these provisions are not superseded by paragraph 8 of sub-section (1);

5. the Bavarian First Ordinance on the Protection of the General Public against Radiation Hazards (First Atomic Energy Ordinance) of 29th August 1957 (Bayerisches Gesetz- und Verordnungsblatt, page 183);
 6. the Schleswig-Holstein (Police) Ordinance on the Protection against Radiation Hazards (Radiation Protection Ordinance) of 17th July 1958 (Gesetz- und Verordnungsblatt für Schleswig-Holstein, page 229);
 7. the Berlin First Ordinance under the Atomic Energy Act (Radiation Protection Ordinance) of 22nd October 1958 (Gesetz- und Verordnungsblatt für Berlin, page 1029).
- (3) Paragraph 10 of sub-section (3) of Section 24 of the Trading and Industrial Code, as amended by the Act of 29th September 1953 (Bundesgesetzblatt 1, page 1459) shall be deleted.

Section 56 - Licences Issued under Land Legislation

- (1) Any licences, exemptions or approvals granted under Land legislation for the erection and operation of installations within the meaning of Section 7, shall continue to have effect. They shall be deemed equivalent to licences granted under Section 7, and the conditions attaching to them shall be equivalent to such conditions as are imposed under sub-section (1) of Section 17. In so far as a licence issued under Land legislation includes stipulations for the provision to be made by the operator of the installation in regard of financial security to cover legal liability to pay compensation for damage, such stipulations shall, subject to the provisions of sub-section (2), be considered a determination within the meaning of sub-section (1) of Section 13.
- (2) Within three months after the coming into force of this Act, the public authority (sub-section (2) of Section 24) shall determine the amount which the operator of the installation must provide as financial security. The latter half of the second sentence of sub-section (1) of Section 13 shall apply correspondingly. Where a liability has been established in pursuance of sub-section (4) of Section 13, such liability shall be retroactive as from the date of the coming into force of this Act.

Section 57 - Exclusion of Certain Legal Provisions

Sections 1 to 4 of the Act on the Criminal Use of Explosives Constituting a Public Hazard of 9th June 1884 (Reichsgesetzblatt, page 61), as amended by the Ordinance of 8th August 1941 (Reichsgesetzblatt 1, page 531), and such legal provisions as are made under the said Act, as well as legal provisions of the Laender concerning explosives, shall not apply to any handling of nuclear fuel.

Section 58 - Validity in Berlin

In accordance with sub-section (1) of Section 13 of the Third Transition Act (Drittes Überleitungsgesetz) of 4th January 1952 (Bundesgesetzblatt I, page 1), this Act shall also be valid in the Land Berlin. Statutory ordinances made under this Act shall apply to the Land Berlin in accordance with Section 14 of the Third Transition Act.

Section 59 - Coming into Force

This Act shall come into force on the day following its promulgation; Sections 40 to 52 shall not come into force in the Land Berlin, however, until the day after promulgation of the Application Act (Übernahmegesetz) in the Gesetz- und Verordnungsblatt für Berlin.

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