

# NUCLEAR LAW

## Bulletin

S U P P L E M E N T   T O   N ° 8

FINLAND:   DRAFT NUCLEAR LIABILITY ACT

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F I N L A N D

DRAFT NUCLEAR LIABILITY ACT \*

GENERAL PROVISIONS

Section 1

For the purposes of this Act:

- (a) "Nuclear fuel" means fissionable material consisting of uranium or plutonium metal, alloy or chemical compound and such other fissionable material as the Government shall determine;
- (b) "Radioactive products" means any radioactive material other than nuclear fuel, and radioactive waste, if the material or waste has been produced in the process of producing or utilizing nuclear fuel or has become radioactive by exposure to radiation incidental to such production or utilization;
- (c) "Nuclear substances" means nuclear fuel other than natural uranium or depleted uranium, and radioactive products other than radioisotopes which are used or prepared to be used for any industrial, commercial, agricultural, medical or scientific purpose;
- (d) "Nuclear reactor" means any structure containing nuclear fuel in such an arrangement that a self-sustaining chain process can occur therein without an additional source of neutrons;

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\* Unofficial translation prepared by the Finnish Authorities.

- (e) "Nuclear installation" means any nuclear reactor other than one with which a ship or any means of transport is equipped for use as a source of power;
- any factory for the production or processing of nuclear substances;
- any factory for the separation of isotopes of nuclear fuel;
- any factory for the reprocessing of irradiated nuclear fuel;
- any facility where nuclear substances are stored with the exception of any facility intended exclusively for storage incidental to the carriage of such substances;
- any such other installation containing nuclear fuel or radioactive products as the Government shall determine;
- (f) "Installation State", in relation to a nuclear installation, means the Contracting State within the territory of which that installation is situated or, if it is not situated within the territory of any State, the Contracting State by which the nuclear installation is operated or which has authorized its operation;
- (g) "Operator" means, in relation to a nuclear installation situated in Finland, the person operating or in charge of the installation, whether authorized thereto or not, and, in relation to a nuclear installation outside Finland, the person recognized under the law of the Installation State as the operator of that installation;
- (h) "Nuclear damage" means
- (1) any damage caused by the radioactive properties of nuclear fuel or radioactive products or a combination of radioactive properties with toxic, explosive or other hazardous properties of such fuel or products;
  - (2) any damage caused by ionizing radiation emitted from any source of radiation outside a nuclear installation other than nuclear fuel or radioactive products;
- (i) "Nuclear incident" means any occurrence or series of occurrences having the same origin which causes nuclear damage;
- (j) "Paris Convention" means the Convention on Third Party Liability in the Field of Nuclear Energy, signed in Paris on 29th July 1960 and amended by the Additional Protocol signed in Paris on 28th January 1964;
- (k) "Supplementary Convention" means the Convention supplementary to the Paris Convention, signed in Brussels on 31st January 1963 and amended by the Additional Protocol signed in Paris on 28th January 1964;
- (l) "Contracting State" means any State Party to the Paris Convention.

## Section 2

The Government may prescribe that any nuclear installation, nuclear fuel or radioactive products shall be excluded from the application of this Act, if the small extent of the risks involved so warrants.

## Section 3

The Government or an authority appointed by the Government may determine that two or more installations operated by one and the same operator and located at the same site shall, for the purposes of this Act, be deemed to be one single installation.

## Section 4

This Act does not apply to nuclear damage resulting from nuclear incidents occurring in the territory of a non-contracting State.

Where liability lies with an operator of a nuclear installation situated in Finland, this Act applies to nuclear damage suffered in the territory of a non-contracting State only if the nuclear incident occurred in Finland. Where liability lies with an operator of a nuclear installation situated outside Finland, the territorial extent of the liability is governed by the law of the Installation State.

In relation to a non-contracting State it may be determined by Statutory Order that compensation for nuclear damage suffered in the territory of that State shall be payable under this Act only if and to the extent that compensation for nuclear damage suffered in Finland would be payable under the law of that State. Such decision shall not, however, affect liability arising under any such international agreement as referred to in Section 15, paragraph 3 by which Finland is bound.

Provisions regarding the right in certain cases of a person who has paid compensation for nuclear damage to bring, notwithstanding the provisions of this Section, an action of recourse against an operator of a nuclear installation are laid down in Section 16.

## Section 5

By Statutory Order it may, with due regard to Finland's obligations under the Paris Convention, be determined that a non-contracting State shall for the purposes of this Act be deemed to be a Contracting State.

## COMPENSATION

### Section 6

The operator of a nuclear installation shall be liable to pay compensation for nuclear damage caused by a nuclear incident in his installation. However, except if otherwise stipulated by express terms of a contract in writing, the operator shall not be liable in respect of a nuclear incident involving no nuclear fuels or radioactive products other than such nuclear substances as have been stored incidentally in the installation during the carriage referred to in Sections 7 and 8, and the liability for nuclear damage thereby caused shall lie pursuant to Section 9 with the operator in charge of the carriage of the nuclear substances.

### Section 7

The operator of a nuclear installation shall be liable to pay compensation for nuclear damage caused by a nuclear incident occurring in the course of carriage of nuclear substances from a nuclear installation situated in Finland or in the territory of another Contracting State, except if otherwise provided in paragraphs 2 and 3 of this Section.

In the case of carriage of nuclear substances to a nuclear installation situated in Finland or in the territory of another Contracting State the liability for damage caused by a nuclear incident occurring in the course of the carriage shall lie with the consignee operator as from the time which has been fixed by a written contract between him and the consignor. In the absence of such contract the liability shall be transferred to the consignee when the nuclear substances are taken in charge by him.

In the case of carriage of nuclear substances to a nuclear reactor with which a ship or any other means of transport is equipped and which is intended to be used therein as a source of power, the consignor operator shall cease to be liable when the nuclear substances have been taken in charge by the person duly authorized to operate or be in charge of that reactor.

### Section 8

Where nuclear substances are sent from a non-contracting State to a nuclear installation situated in Finland or in the territory of another Contracting State with the written consent of the operator of that installation, the latter shall be liable for nuclear damage caused by any nuclear incident occurring in the course of the carriage, except if otherwise provided in paragraph 2 of this Section.

In the case of carriage of nuclear substances from a nuclear reactor with which a ship or any other means of transport is equipped and which is intended to be used therein as a source of power, to a nuclear installation situated in Finland or in the territory of another Contracting State, the operator of that installation shall be liable from the time when he takes charge of the nuclear substances.

Liability for nuclear damage caused by a nuclear incident occurring in Finland in the course of carriage of nuclear substances, other than carriage from or to a nuclear installation situated in Finland or in the territory of another Contracting State, shall lie with the person authorized to perform the carriage. The provisions of this Act relating to an operator of a nuclear installation situated in Finland shall in such case apply to the person thus authorized.

#### Section 9

The provisions of Sections 7 and 8 of this Act on liability for nuclear damage caused by a nuclear incident in the course of carriage of nuclear substances shall apply also in respect of nuclear incidents occurring while the substances are stored incidentally to their carriage, except where the substances have been stored in a nuclear installation and the operator of that installation is liable pursuant to such contract as referred to in Section 6.

#### Section 10

Where nuclear damage in cases other than those governed by Sections 6 - 9 of this Act has been caused by nuclear substances which came from a nuclear installation situated in Finland or in the territory of another Contracting State or, prior to the nuclear incident, had been in the course of such carriage as referred to in Section 8 of this Act, the operator who had the substances in his possession at the time of the incident shall be liable for such damage; provided that, if at the time of the incident no operator had the nuclear substances in his possession, liability shall lie with the operator who last had the substances in his possession. However, if prior to the nuclear incident the nuclear substances had been in the course of carriage and no operator had taken charge of the substances after the carriage was interrupted, liability shall lie with the operator who at the time when the carriage ended was liable pursuant to Section 7 or 8 of this Act for nuclear damage caused by a nuclear incident occurring in the course of the carriage.

#### Section 11

On request of a carrier performing such carriage as referred to in Section 7 or 8 the Government, or an authority appointed by the Government, may determine that the carrier shall be liable, in place of the operator of a nuclear installation situated in Finland, for nuclear damage caused by a nuclear incident occurring in the course of or in connection with the carriage. Such decision may be taken only if the operator concerned has consented thereto and the carrier has demonstrated that insurance has been taken out pursuant to Sections 23 - 27 or that other financial security has been furnished pursuant to Section 28 paragraph 2. Where such decision has been taken, any provision of this Act relating to the operator concerned shall apply to the carrier instead of the operator in respect of nuclear incidents occurring in the course of or in connection with the carriage.

Where a similar decision has been taken according to the law of another Contracting State in respect of nuclear damage for which an operator of a nuclear installation situated in that State would be liable, such decision shall under this Act have the same effect as a decision pursuant to paragraph 1 of this Section.

#### Section 12

The operator of a nuclear installation shall be liable to pay compensation due under this Act even if there has been no fault or negligence on his part.

However, the operator of a nuclear installation situated in Finland shall not be liable under this Act for nuclear damage caused by a nuclear incident directly due to an act of war, armed conflict, civil war or insurrection or caused by a grave natural disaster of an exceptional character. To the operator of a nuclear installation situated in the territory of another Contracting State shall in such case be applicable the law of the Installation State.

In cases referred to in paragraph 2 of this Section, liability under rules of the law of torts other than those laid down in this Act shall arise only to the extent provided for in Section 15 paragraph 2.

#### Section 13

The operator of a nuclear installation shall not be liable under this Act for damage to the nuclear installation itself or to any property which, at the time of the nuclear incident, was on the site of the installation and was used or intended to be used in connection with that installation.

Where the operator of a nuclear installation situated in the territory of another Contracting State is liable for damage caused by a nuclear incident occurring in the course of carriage of nuclear substances, the question whether compensation shall be awarded to damage to the means of transport shall be governed by the law of the Installation State.

In cases referred to in the preceding paragraphs of this Section liability under rules of the law of torts other than those laid down in this Act shall arise only to the extent provided for in Section 15 paragraph 2.

#### Section 14

Except as otherwise provided in this Act, compensation payable under the Act shall be fixed in accordance with the general rules of the law of torts.

Where the person suffering damage has contributed thereto the operator may be exonerated, wholly or partially from his liability only where such person has acted or omitted to act with intent to cause damage or where there has been gross negligence on his part.

#### Section 15

Claims for compensation for nuclear damage covered by the provisions of this Act relating to compensation for such damage or by the corresponding legislation of another Contracting State may be brought against any person other than the operator or the person providing insurance covering the liability of the operator, except as otherwise provided in Section 17 paragraph 2.

Claims for compensation for nuclear damage for which the operator, pursuant to Section 12 or 13 of this Act or the corresponding provisions of the law of another Contracting State, is not liable can be brought against an individual who has caused the damage by an act or omission done with intent to cause damage. The operator shall, however, be liable in accordance with the general rules of the law of torts for such damage to a means of transport as referred to in Section 13 paragraph 2.

As regards liability for nuclear damage caused by a nuclear incident occurring in the course of carriage of nuclear substances or nuclear damage otherwise arising in connection with the operation of a ship or any other means of transport the provisions of paragraphs 1 and 2 of this Section shall not affect the application of any international agreement in force or open for signature, ratification or accession on 29th July 1960 or of any provisions of national legislation based on such agreement. By Statutory Order it may be determined that this shall apply also to other provisions of the law of a Contracting State which are equivalent to the provisions of such agreement.

Provisions on compensation out of public funds are laid down in Sections 29 - 36.

#### Section 16

Any person who has been held liable to pay compensation for nuclear damage under such international agreement or provisions of national legislation as referred to in Section 15 paragraph 3 of this Act or under the law of any foreign State shall acquire by subrogation the rights of the person suffering the damage against the operator liable for the damage under this Act. Where the compensation paid relates to damage covered by a decision taken under Section 4 paragraph 3 of this Act, the person liable shall have a right of recourse against the operator, who would have been liable for the damage if no such decision had been taken.

Any person who has his principal place of business in Finland or in the territory of another Contracting State or who is the servant of such person and who has been held liable to pay compensation for nuclear damage for which the person suffering damage, by virtue of the provisions of Section 4, has no right to compensation under this Act shall, subject to the application, mutatis mutandis, of the provisions of the first sentence of paragraph 1 of this Section, have a right to recourse against the operator who, but for the provisions of Section 4, would have been liable for the damage; provided, however, that in the case of nuclear damage caused by a nuclear incident occurring in the course of carriage of nuclear substances to a non-contracting State, the operator of the nuclear installation from which the nuclear substances were sent shall incur no liability after the substances have been unloaded from the means of transport by which they have arrived in a non-contracting State, and in case of nuclear damage caused by a nuclear incident occurring in the course of carriage of nuclear substances from a non-contracting State the operator of that installation shall incur no liability until the nuclear substances have been loaded on the means of transport by which they are to be carried from the territory of a non-contracting State.

A person who is himself liable for nuclear damage pursuant to Section 21 of this Act shall have no right of subrogation or recourse under this Section.

#### Section 17

Where a person has simultaneously suffered nuclear damage for which he is entitled to compensation under this Act and other damage, the provisions of this Act regarding liability for nuclear damage shall apply equally to such other damage if and to the extent that such damage is not reasonably separable from the nuclear damage.

The provisions of paragraph 1 shall not, however, limit or otherwise affect the liability of a person other than the operator liable under this Act as regards damage caused by an emission of ionizing radiation not covered by this Act.

#### Section 18

The liability under this Act of an operator of a nuclear installation situated in Finland shall not exceed forty-two million marks in respect of nuclear damage caused by any one nuclear incident. The Government may, taking account of the size or character of a nuclear installation, of the extent of a carriage or of any other circumstances, fix a lower amount, which shall, however, in no event be less than twenty-one million marks. In case of a nuclear incident occurring in the course of carriage of nuclear substances the liability of the operator under this Act for damage other than damage to the means of transport shall in no case be limited to an amount less than twenty-one million marks.

The amounts referred to in paragraph 1 of this Section shall not include any interest or costs awarded by a court.

## Section 19

Where nuclear damage gives rise to the liability of two or more operators, they shall be jointly and severally liable to pay compensation; provided that the liability of each operator shall be limited to the amount established with respect to him pursuant to Section 18 paragraph 1. However, where the damage has arisen in the course of carriage of more than one consignment of nuclear substances carried on one and the same means of transport or while more than one consignment has been stored in one and the same nuclear installation incidentally to their carriage the aggregate liability of the operators shall not exceed the highest amount established with respect to any of them.

The apportionment of the aggregate liability as between the operators liable shall be determined with due regard to the extent to which the damage caused is attributable to each of the nuclear installations involved as well as to any other relevant circumstances.

## Section 20

If the maximum amount of liability applicable pursuant to Section 18 paragraph 1 or Section 19 paragraph 1 is not sufficient to satisfy in full the claims of those who are entitled to compensation, their compensation and any interest accruing thereto shall be reduced proportionally.

If, following a nuclear incident, there are reasons to believe that a reduction pursuant to paragraph 1 of this Section will prove necessary the Ministry for Social Affairs and Public Health may decide that until further notice the compensation payable shall be reduced to a fixed percentage.

## Section 21

In respect of any sum that the operator of a nuclear installation has been held liable to pay as compensation under this Act or under the corresponding legislation of another Contracting State, the operator shall have a right of recourse against any individual who has caused the damage by an act or omission done with intent to cause damage or against any person who has assumed liability for the damage under the express terms of a contract in writing with the operator. Except as otherwise provided in Section 17 paragraph 2 and in Section 19 paragraph 2 the operator of a nuclear installation shall in no other case have a right of recourse against any person in respect of any sum he may have paid as compensation under this Act or under the corresponding legislation of another Contracting State.

## Section 22

The right to bring an action for compensation for nuclear damage under Sections 6 - 10 or 16 of this Act against the operator of a nuclear installation or against the person providing insurance to cover such liability shall be extinguished if a claim for compensation has not been made against the operator within three years from the date at which the person suffering damage had knowledge or by observing due diligence ought reasonably to have known both of the fact that he has suffered damage entitling him to compensation under this Act and of the operator liable or, in cases referred to in Section 16, paragraphs 1 and 2, from the date at which the claim for compensation was made against him.

The right to compensation for nuclear damage shall be extinguished if an action is not brought against the operator or his insurer within ten years from the date of the nuclear incident. In the case of nuclear damage caused by a nuclear incident involving nuclear substances which had been stolen, lost or abandoned and had not yet been recovered, no action for compensation may, however, be brought later than twenty years after the date of the theft, loss or abandonment.

In cases where it is necessary in order to comply with the provisions of the Paris Convention, the Government may determine that a person suffering damage shall, on conditions to be prescribed by the Government, retain his right to compensation, notwithstanding that he has not brought an action before a Finnish Court within the period specified in this Section.

Provisions regarding compensation out of public funds in certain cases where the operator has ceased to be liable are laid down in Section 33.

## INSURANCE

### Section 23

The operator of a nuclear installation situated in Finland is required to take out and maintain insurance to cover his liability for nuclear damage under this Act or the corresponding legislation of another Contracting State up to the amount specified in Section 18. The insurance shall be approved by the Ministry for Social Affairs and Public Health.

Insurance may be taken out either :

- (a) to cover the liability for each nuclear incident that may occur; or
- (b) to cover at any time the nuclear installation by an agreed amount as laid down in Section 24.

Liability for damage arising in the course of carriage of nuclear substances may be covered by a separate insurance.

#### Section 24

In cases referred to in Section 23 paragraph 2(a) the insurance amount shall be not less than the amount of liability established with respect to the operator pursuant to Section 18 paragraph 1. In cases referred to in Section 23 paragraph 2(b), the insurance amount shall exceed the aforementioned maximum amount of liability, by not less than one-fifth. The amount covered by the insurance policy shall not include any interest or costs awarded by a court.

Where insurance has been taken out in accordance with Section 23 paragraph 2(b) and an insurance contingency occurs which itself or together with one or more earlier contingencies is deemed likely to entail a reduction of the insurance amount below the amount of liability established with respect to the operator, the operator shall without delay take out such supplementary insurance as will bring the insurance amount up to an amount exceeding the said amount of liability by not less than one-fifth.

#### Section 25

Any person entitled to compensation for nuclear damage shall have a right to bring an action for such compensation directly against the insurer. Except if otherwise provided in the insurance policy, the operator shall thereby be insured against any liability for nuclear damage under this Act or the corresponding legislation of another Contracting State.

#### Section 26

In the insurance policy is cancelled or otherwise ceases to be valid, the insurer shall nevertheless, in relation to any person suffering damage, continue to be liable to pay compensation in respect of nuclear damage caused by a nuclear incident occurring within two months from the date at which the Ministry for Commerce and Industry has been notified in writing of the time of expiry of the policy. Where the insurance policy covers liability for nuclear damage caused by a nuclear incident occurring in the course of carriage of nuclear substances and such carriage has started before the expiry of the said period, the insurer shall, however, in no case cease to be liable for such damage until the carriage has come to an end.

The provisions of paragraph 1 of this Section shall not apply with respect to nuclear incidents occurring after the day on which a new insurance contract has come into force.

Except as provided in paragraphs 1 and 2 of this Section, the insurer may in no case invoke as a defence against a claim for compensation any circumstances due to a person other than the person suffering the damage.

## Section 27

The provisions of Section 25 and 26 shall apply where an action for compensation for nuclear damage under this Act may be brought in Finland and notwithstanding that the law of a foreign State may be applicable to the relationship between the insurer and the operator liable or that the nuclear installation involved is situated outside Finland.

## Section 28

The State shall be exempted from the obligation under this Act to take out insurance.

The Government may relieve an operator from the obligation to take out insurance, provided that the operator furnishes adequate financial security to cover his obligations under this Act and under the corresponding legislation of any other Contracting State and shows that he has taken satisfactory measures to ensure the settlement of any claims for compensation.

The provisions of this Act relating to insurance shall apply, mutatis mutandis, to such other financial security as referred to in the preceding paragraph of this Section or the corresponding provisions of the legislation of another Contracting State.

## COMPENSATION OUT OF PUBLIC FUNDS

## Section 29

If a person who is entitled under this Act or the corresponding legislation of another Contracting State to obtain compensation for nuclear damage from the operator of a nuclear installation situated in Finland shows that he has been unable to recover the compensation due from the operator's insurer, compensation shall be paid by the State.

The total compensation payable under the preceding paragraph of this Section shall not exceed the maximum amount of liability established with respect to the operator pursuant to Section 18 paragraph 1.

## Section 30

Where liability for nuclear damage lies with the operator of a nuclear installation, used for peaceful purposes and situated in Finland or in the territory of another State Party to the Supplementary Convention and appearing at the time of the nuclear incident on the list referred to in Article 13 of the Supplementary Convention, and jurisdiction over actions for compensation lies with Finnish courts in accordance with the provisions of Section 36 of this Act, and the amount of liability established pursuant to Sections 18 and 19 is insufficient to satisfy the

claims for compensation due, or the compensation payable has, by virtue of a decision taken under Section 20 paragraph 2, been reduced to a fixed percentage of the full amount due, compensation out of public funds shall be afforded for nuclear damage suffered:

- (a) in Finland or in the territory of another State Party to the Supplementary Convention; or
- (b) on or over the high seas on board a ship or aircraft registered in Finland or in the territory of another State Party to the Supplementary Convention; or
- (c) in any other case on or over the high seas by a State Party to the Supplementary Convention or by a national of such State; provided, however, that compensation shall be payable for damage to a ship or an aircraft only if such ship or aircraft was at the time of the nuclear incident registered in the territory of a State Party to the Supplementary Convention.

By application of the provisions of paragraph 1 of this Section the term "national of a State Party to the Supplementary Convention" shall include any company, whether under public or private law, association or other society, foundation or other similar body, whether corporate or not, established in the territory of such State. Any person who under the law of a State Party to the Supplementary Convention other than Finland is considered to have his habitual residence in that State and in respect of his right to compensation under the Supplementary Convention is under that law assimilated to the nationals of that State shall under this Act be considered to be a national of a State Party to the Supplementary Convention.

### Section 31

Compensation out of public funds pursuant to Section 29 shall be fixed in accordance with the principles laid down in Section 12, paragraph 1, Sections 13 and 14 and Section 18 paragraph 2.

The provisions of Section 16 paragraphs 1 and 3 regarding rights of recourse against an operator shall apply, mutatis mutandis, to rights of recourse against the State in respect of any sum paid as compensation for nuclear damage and for which compensation is payable out of public funds under Section 29.

### Section 32

The total amount of compensation for nuclear damage, caused by a nuclear incident payable pursuant to Sections 6 - 22, 29 and 31 by one or more operators and the State, and payable pursuant to any such agreement as referred to in Article 15 of the Supplementary Convention, shall not exceed an amount equivalent to one hundred and twenty million units of account referred to in the European Monetary Agreement of 5th August 1955 and as defined on 29th July 1960. The amount shall not include any interest or costs awarded by a court.

If the amount available for compensation out of public funds pursuant to Sections 30 and 31 is not sufficient to satisfy in full the claims for compensation due, the amounts of compensation and any interest accruing thereto shall be reduced proportionally. The provisions of Section 20, paragraph 2 shall apply, mutatis mutandis.

### Section 33

If a nuclear incident in respect of which liability lies with the operator of a nuclear installation situated in Finland has caused nuclear damage by way of personal injury in Finland, which has not come to light until after the rights of compensation against the operator have been extinguished pursuant to Section 22 paragraph 2 or the corresponding provisions of the legislation of another Contracting State but within thirty years after the date of the incident, compensation for such damage shall be paid by the State. The State shall also be liable to pay compensation for nuclear damage which has come to light before the rights of compensation have been so extinguished if the person suffering the damage has failed to bring an action against the operator or to take other appropriate measures to preserve his rights within the periods applicable but has had reasonable excuses for not bringing such action or taking such measures.

If compensation has been reduced pursuant to Section 20 paragraph 1 and, whenever applicable, Section 32 paragraph 2 or the corresponding provisions of the legislation of another Contracting State, the compensation payable out of public funds under the present Section shall be reduced accordingly. In other respects, the liability to pay compensation shall be determined as if the operator had been liable for the damage. The right to bring an action for compensation shall be extinguished if a claim for compensation has not been made with the Ministry for Social Affairs and Public Health within the period specified in Section 22 paragraph 1.

The Government may decide that compensation shall, on conditions to be prescribed by the Government, be payable under the present Section in respect of nuclear damage which has occurred outside Finland, but for which an operator of an installation situated in Finland is liable.

### Section 34

Compensation pursuant to Section 29 or 30 shall not be payable for nuclear damage caused by such nuclear incidents as referred to in Section 12 paragraph 2.

### Section 35

In respect of any sums paid out of public funds pursuant to Section 29 the State shall have a right of recourse only against the operator, his insurer and any person against whom the operator has a right of recourse under Section 21.

In respect of any sums paid out of public funds pursuant to Section 30 the State shall acquire by subrogation the right to obtain compensation from the operator that the person suffering the damage may have. With regard to any other sums paid out by the State pursuant to Sections 30-32 or otherwise paid out in accordance with the provisions of the Supplementary Convention in respect of a nuclear incident giving rise under the law of another Contracting State to the liability of the operator of a nuclear installation situated in Finland, the State shall have a right of recourse only against an individual who has caused the damage by an act or omission done with intent to cause damage. The same provisions shall apply, mutatis mutandis, in respect of compensation paid out by the State pursuant to Section 33.

#### COMPETENT COURTS AND ENFORCEMENT

##### Section 36

Actions for compensation due under Sections 6, 7, 8, 9, 10 or 16 against the operator of a nuclear installation or against his insurer shall be brought before Finnish courts, if

- (a) the nuclear incident has occurred wholly or partly in Finland; or
- (b) the nuclear installation involved is situated in Finland and either the nuclear incident has occurred wholly outside the territory of any Contracting State or the place of the nuclear incident cannot be determined with certainty.

Whenever required in order to comply with the provisions of Article 13(c)(ii) of the Paris Convention the Government may restrict the jurisdictional competence conferred upon Finnish courts under paragraph 1 of this Section.

##### Section 37

Jurisdiction over actions for compensation in respect of nuclear damage brought before Finnish courts pursuant to Section 36 and over actions for compensation against the State pursuant to Sections 29, 30 or 33 of this Act shall lie with the general court of first instance of the jurisdictional area within which the nuclear incident occurred. Where competence would thus lie with two or more courts, the action may be brought before either of them.

Should there be no competent court under paragraph 1 of this Section, the action shall be brought before the City Court of Helsinki.

## Section 38

Where in accordance with the provisions of the Paris Convention jurisdiction over actions for compensation for nuclear damage lies with the courts of another Contracting State, any judgment entered by such court in such action shall, as soon as the judgment has become enforceable under the law of that State, on request be enforceable also in Finland, without the merits of the claim being subject to any further proceedings. This provision shall, however, not entail any obligation to enforce a judgment to the extent that the applicable maximum amount of liability of the operator would thereby be exceeded.

An application for enforcement shall be made before the Helsinki Court of Appeal. The application shall have attached to it:

1. The original judgment or a copy thereof certified by the competent public authority;
2. A declaration issued by the competent public authority of the State where the judgment was entered that the judgment relates to compensation due under the Paris Convention and that it is enforceable in that State; and
3. If the relevant documents are in a language other than Finnish or Swedish, an officially certified translation into Finnish or Swedish shall be attached to the document.

The documents mentioned in paragraph 2(1) and (2) shall contain a certificate concerning the due competence of the person having signed the documents. Such certificate shall be issued by a Finnish Embassy or Consul or by the Minister of Justice of the State concerned.

No application for enforcement shall be granted unless the defendant has had an opportunity to submit his comments on the application.

Where the application is granted, the judgment shall be enforceable in the same manner as a judgment entered by a Finnish court, unless the Supreme Court has decided otherwise upon an appeal.

## MISCELLANEOUS PROVISIONS

## Section 39

Where nuclear substances are sent from a nuclear installation situated in Finland to a consignee outside Finland or to such installation from a consignor outside Finland and under such circumstances that the operator of the said installation is liable pursuant to Section 7 or 8 for nuclear damage arising in the course of the carriage, the operator shall provide the carrier with a certificate issued by the insurer and stating the name and address of the operator, the nuclear substances and the carriage in respect of which the insurance applies as well as the amount, type and duration of the insurance. The certificate shall include a statement by the Ministry for Commerce and Industry, or by the authority appointed by this Ministry that the operator named therein is

an operator of a nuclear installation within the meaning of the Paris Convention. The person by whom the certificate is issued shall be responsible for the correctness of the certificate as regards the name and address of the operator and the amount, type and duration of the insurance.

The form of certificate to be issued under paragraph 1 of this Section shall be established by the Ministry for Commerce and Industry.

#### Section 40

Any person who fails to fulfil his obligations under this Act to take out and maintain insurance or to furnish financial security as laid down in Section 28 paragraph 2 shall be liable to fines or to imprisonment not exceeding six months.

#### Section 41

Provisions for the enforcement and application of this Act may be enacted by Statutory Order.

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This Act shall become applicable as determined by Statutory Order upon the existence of the conditions precedent for the bringing into force of the Paris Convention signed on 29th July 1960, and with regard to Sections 30 - 32 of this Act, also for the bringing into force of the Supplementary Convention signed in Brussels on 31st January 1963.