

# NUCLEAR LAW

## Bulletin

S U P P L E M E N T T O N O . 9

JAPAN : LAW NO. 53 OF 1971 ON COMPENSATION  
FOR NUCLEAR DAMAGE

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J A P A N

LAW NO. 53 OF 1971 AMENDING THE 1961 LAW  
ON COMPENSATION FOR NUCLEAR DAMAGE \*

CONTENTS

Chapter I	General Provisions (Articles 1 and 2)
Chapter II	Liability for Nuclear Damage (Articles 3 to 5)
Chapter III	Financial Security
Section 1	Duty to provide Financial Security (Articles 6 to 7 bis)
Section 2	Contract of Liability Insurance for Nuclear Damage (Articles 8 and 9)
Section 3	Indemnity Agreement for Compensation of Nuclear Damage (Articles 10 and 11)
Section 4	Deposit (Articles 12 to 15)
Chapter IV	Measures taken by the State (Articles 16 and 17)
Chapter V	Dispute Reconciliation Committee for Nuclear Damage Compensation (Article 18)
Chapter VI	Miscellaneous Provisions (Articles 19 to 23)
Chapter VII	Penal Provisions (Articles 24 to 26)

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\* Unofficial translation edited by the Secretariat.

## Chapter I

### General Provisions

(Purpose)

#### Article 1

It is the purpose of this Law to protect persons who may suffer nuclear damage and also to contribute to the sound development of the nuclear industry by establishing the basic system for compensation in the case of the occurrence of nuclear damage caused by the operation of a reactor, etc.

(Definitions)

#### Article 2

1. For the purpose of this law, "operation of a reactor, etc." means the performance of any activity which comes under any one of the following items, including transportation, storage and disposal of nuclear fuel material and material contaminated by nuclear fuel material (including nuclear fission products, as is also the case in the next paragraph) incidental thereto, as provided by Cabinet Order \* :

- (i) Operation of the reactor;
- (ii) Fabricating;
- (iii) Reprocessing;
- (iv) Use of nuclear fuel material.

2. For the purpose of this Law, "nuclear damage" means any damage caused by the effects of the fission process of nuclear fuel material, by the effects of radiation from nuclear fuel material or material contaminated by nuclear fuel material (in paragraph 2 of Article 3 referred to as "nuclear fuel material, etc. "), or due to the toxic nature of such materials (which means the effects that cause toxication or deuteropathy; for the human body by ingestion or inhalation of such materials); provided that the damage suffered by a nuclear operator within the meaning of Article 3 and the damage suffered by his employees in the course of performing their professional duty are excluded.

3. For the purpose of this Law "nuclear operator" means :

- (i) Any person who is granted a licence including acknowledgements, as is also the case in sub-paragraphs (ii) and (iii) 7 as provided by Article 23, paragraph 1 of the Law for Regulation of Nuclear Source Material, Nuclear Fuel Material and Reactors

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\* The phrases underlined in the text of this Law indicate the changes made as compared to the original text.

(Law No. 166 of 1957, hereinafter referred to as "Regulation Law"), including a person who is regarded as a reactor operator under the provisions of Article 39, paragraph 5 of the Regulation Law:

- (i) bis A person who is granted a licence as provided by Article 23-2, paragraph 1 of the Regulation Law
- (ii) A person who is granted a licence as provided by Article 13, paragraph 1 of the Regulation Law;
- (iii) A person who is granted a licence as provided by Article 52, paragraph 1 of the Regulation Law;
- (iv) The Japan Atomic Energy Research Institute (JAERI);
- (v) The Power Reactor & Nuclear Fuel Development Corporation (PNC).

4. For the purpose of this Law, "reactor" means a reactor as provided by Article 3, paragraph 4 of the Atomic Energy Basic Law (Law No 186 of 1955), "nuclear fuel material" means nuclear fuel material as provided by Article 3, paragraph 2 of the Atomic Energy Basic Law (including spent fuel as provided by Article 2, paragraph 7 of the Regulation Law), "fabricating" means fabricating as provided by Article 2 paragraph 6 of the Regulation Law, "reprocessing" means reprocessing as provided by Article 2, paragraph 7 of the Regulation Law, "radiation" means radiation as provided by Article 3, paragraph 5 of the Atomic Energy Basic Law and "nuclear ship" or "foreign nuclear ship" means a nuclear ship or a foreign nuclear ship as provided by Article 23-2, paragraph 1 of the Regulation Law.

## Chapter II

### Liability for Nuclear Damage

(Liability without fault and channelling of liability, etc.)

#### Article 3

1. When nuclear damage has occurred owing to or during the operation of a reactor, etc., the nuclear operator who is engaged in the operation of the reactor, etc. on that occasion shall be liable for the damage, except for the case where the damage is caused by an extraordinarily grave natural disaster or by a serious social disturbance.

2. When nuclear damage is covered by the preceding paragraph and if the damage is caused as a result of the transportation of nuclear fuel material, etc. from one nuclear operator to another, the nuclear operator who is the consignor of the nuclear fuel material, etc. shall be liable for the damage, unless there is a special agreement between the nuclear operators.

#### Article 4

1. In the case where nuclear damage is covered by Article 3, no person other than the nuclear operator who is liable for the nuclear damage in accordance with Article 3 shall be liable for this nuclear damage.

2. In the case where the nuclear damage is covered by Article 3, paragraph 1, the liability of the nuclear ship operator who furnishes the financial security in accordance with Article 7-2, paragraph 2 and who intends to bring the foreign nuclear ship into the territorial waters of Japan is limited to the amount as provided by Article 7-2, paragraph 2.

3. The provisions of Article 690, paragraph 1 and Article 798, paragraph 1 of the Commercial Law (Law No. 48 of 1899) shall not apply to damage of a nuclear nature which has occurred owing to the operation of a reactor, etc.

(Rights of recourse)

#### Article 5

1. In the case where nuclear damage is covered by Article 3 and if the damage is caused by a wilful act of a third party, the nuclear operator who has paid compensation for nuclear damage in accordance with Article 3, retains a right of recourse against such a third party.

2. The provisions of the preceding paragraph shall by no means prevent a nuclear operator from making a special agreement with any person regarding the rights of recourse.

### Chapter III

#### Financial Security

##### Section 1

(Duty to provide financial security)

#### Article 6

A nuclear operator is prohibited from operating a reactor, etc. unless the financial security for compensation of the nuclear damage (hereinafter referred to as "the financial security") has been provided.

(Details of financial security)

#### Article 7

1. Financial security, except in the case referred to in the next Article, shall be provided by means of contracts of liability insurance for nuclear damage and an indemnity agreement for compensation of nuclear damage or a deposit which the Director-General of the Science and Technology Agency approves as an arrangement that makes available for compensation of nuclear damage, the amount of six billion yen (in the case

of such operation of a reactor, etc. as provided by Cabinet Order, this amount which is not more than six billion yen, is provided by the Cabinet Order; hereinafter this amount is referred to as "the financial security amount") per one factory or one undertaking or per one nuclear ship, or any equivalent arrangement which the Director-General of the Science and Technology Agency approves.

2. In the case where the amount available for compensation of nuclear damage becomes less than the amount of financial security as a result of the nuclear operator having compensated for nuclear damage in accordance with Article 3, the Director-General of the Science and Technology Agency may, if he deems necessary for ensuring the payment in full of the compensation, order the nuclear operator to bring the amount available for compensation of the nuclear damage up to the amount of financial security within the designated time.

3. In a case coming under paragraph 2, the provisions of Article 6 are not applied until the order referred to in paragraph 2 is made (until the time designated by the order, in case the order made in accordance with paragraph 2 has elapsed).

#### Article 7 bis

1. The financial security, in the case of a nuclear ship operator bringing a nuclear ship into the territorial waters of a foreign country, shall be provided by means of contracts of liability insurance for nuclear damage and an indemnity agreement for compensation of nuclear damage or any other financial security, which the Director-General of the Science and Technology Agency approves as being sufficient for compensation of the nuclear damage, of an amount to be agreed between the Government of Japan and the Government of the foreign country as the amount for which the nuclear operator of the nuclear ship is liable for compensation of the nuclear damage.

2. The financial security in the case of the nuclear ship operator bringing a foreign nuclear ship into the territorial waters of Japan shall be provided by the financial security which the Director-General of the Science and Technology Agency approves as being sufficient for compensation of the nuclear damage, of an amount (not less than 36 billion yen in respect of nuclear damage attributed to one incident) to be agreed between the Government of Japan and the Government of the foreign country as the amount for which the nuclear operator of the foreign nuclear ship is liable for compensation of the nuclear damage.

#### Section 2

(Contract of liability insurance for nuclear damage)

#### Article 8

The contract of liability insurance for nuclear damage (hereinafter referred to as "liability insurance contract") shall be the contract under which an insurer (a person who is authorised to engaged in liability insurance in accordance with the Insurance Business Law /Law No. 41 of 1939/ or the Law Concerning Foreign Insurers /Law No. 184 of 1949/ (hereinafter an insurer is limited to this meaning) undertakes to indemnify a nuclear operator for his loss arising from paying compensation for nuclear damage due to certain causes in case the nuclear operator becomes liable, and under which the insured undertakes to pay a premium to the insurer.

## Article 9

1. Any person who may suffer nuclear damage shall, with regard to his claim for nuclear damage, have priority over other creditors to receive compensation from the amount provided by the liability insurance contract.
2. The insured may claim from the insurer the insurance payment only to the extent that the insured has paid, or has acquired the consent of persons suffering nuclear damage, with regard to the amount of compensation paid to them.
3. The right to claim the insurance payment under the liability insurance contract shall not be assigned, mortgaged, or seized; provided that persons who suffer nuclear damage may seize within their right to claim compensation for the nuclear damage.

## Section 3

(Indemnity agreement for compensation of nuclear damage)

## Article 10

1. The indemnity agreement for compensation of nuclear damage (hereinafter referred to as "the indemnity agreement") shall be the contract under which the Government undertakes to indemnify a nuclear operator for his loss arising from paying compensation for the nuclear damage not covered by the liability insurance contract or any other financial security for compensation of nuclear damage in case the nuclear operator becomes liable, and by which the nuclear operator undertakes to pay the indemnity fee to the Government.
2. Matters concerning the indemnity agreement shall be provided by another law.

## Article 11

The provisions of Article 9 shall be applied mutatis mutandis to the indemnity payment provided by the indemnity agreement.

## Section 4

(Deposit)

## Article 12

Deposit as a financial security arrangement shall be made in the Legal Affairs Bureau or the District Legal Affairs Bureau nearest to the main office of the nuclear operator, either in cash or in securities as provided by the Order of the Prime Minister's Office.

(Compensation from deposit)

Article 13

Any person suffering nuclear damage may, with regard to his claim receive compensation out of the cash or securities deposited by the nuclear operator in accordance with Article 12.

(Withdrawal of deposit)

Article 14

1. A nuclear operator may withdraw the cash or securities deposited in accordance with Article 12 with the approval of the Director-General of the Science and Technology Agency :

- (i) in case the nuclear damage has been compensated;
- (ii) in case other financial security has been provided in lieu of deposit; or
- (iii) in case operation of the reactor, etc. has ceased.

2. When the Director-General of the Science and Technology Agency grants his approval in the cases referred to in sub-paragraphs (i) and (iii) of paragraph 1, he may, to extent that he deems necessary for ensuring the payment in full of the compensation of the nuclear damage, designate the time when the nuclear operator can withdraw the cash or securities and the amount thereof.

(Implementation by Order)

Article 15

Matters concerning the deposit, other than those provided by this Section, shall be provided by Order of the Prime Minister's Office and the Ministry of Justice.

Chapter IV

Measures taken by the State

Article 16

1. In the case where nuclear damage occurs, the Government shall give to the nuclear operator (except the nuclear operator of a foreign nuclear ship) such aid as may be required by him to compensate the nuclear damage, when the amount which he should pay in compensation in accordance with Article 3, exceeds the corresponding amount of financial security and when the Government deems this necessary in order to fulfil the purpose of this Law.

2. The aid prescribed by paragraph 1 shall be given to the extent that the Government is authorised to do so by a decision of the National Diet.

## Article 17

The Government shall, in the case of the proviso in Article 3, paragraph 1, or in the case where nuclear damage under Article 7 bis, paragraph 2 occurs and where the amount which the nuclear operator should pay in compensation for the nuclear damage, is deemed to exceed the amount as provided by Article 7 bis, paragraph 2, take the necessary measures to relieve victims and to prevent the damage from being increased.

## Chapter V

### Dispute Reconciliation Committee for Nuclear Damage Compensation

## Article 18

1. The Government may establish a Dispute Reconciliation Committee for Nuclear Damage Compensation (hereinafter referred to as "the Reconciliation Committee") as an Organisation attached to the Science and Technology Agency in accordance with the provisions of a Cabinet Order, which shall be in charge of mediation for the reconciliation of disputes arising from compensation of nuclear damage.
2. The Reconciliation Committee shall :
  - (i) Act as a mediator for the reconciliation of disputes arising from the compensation of nuclear damage, and
  - (ii) Conduct investigations and assessments of the nuclear damage necessary for dealing with matters referred to in sub-paragraph (i).
3. Matters concerning the organisation and operation of the Reconciliation Committee as well as the procedures for application for and conclusion of mediations other than those provided in paragraphs 1 and 2 shall be provided by Cabinet Order.

## Chapter VI

### Miscellaneous Provisions

(Presentation of report and written opinion to the National Diet)

## Article 19

1. The Government shall, in the case where nuclear damage occurs on a comparatively large scale, report to the National Diet, as soon as possible, the extent of the damage and the measures taken by the Government in accordance with this Law.
2. Where nuclear damage occurs, the Government shall submit to the National Diet the written opinion concerning action taken to deal with disposal, prevention, etc. of the damage, which the Atomic Energy Commission has presented to the Prime Minister.

(Application of the provisions of Article 10, paragraph 1 and Article 16, paragraph 1)

Article 20

The provisions of Article 10, paragraph 1 and Article 16, paragraph 1 shall be applied to nuclear damage arising from the operation of a reactor, etc. of which any of the related activities referred to in Article 2, paragraph 1, have been started before 31st December 1981.

(Collection of reports and inspection)

Article 21

1. The Director-General of the Science and Technology Agency may, if he deems necessary for the purpose of ensuring the execution of the provisions of Article 6, require a nuclear operator to present necessary reports or allow his officials to enter the office, factory or place of undertaking of the nuclear operator or the nuclear ship to inspect his books, documents and other necessary objects or to ask questions of the persons concerned.

2. When an official enters premises in accordance with the provisions of paragraph 1, he shall carry an identification card and present it if requested by the persons concerned.

3. The authority based on the provisions of paragraph 1 shall not be exercised for the purpose of criminal investigation.

(Consultation with the Minister of International Trade and Industry or the Minister of Transportation)

Article 22

The Director-General of the Science and Technology Agency shall, in the case where he is going to take an action in accordance with Article 7, paragraph 1, Article 7 bis, paragraph 1 or 2, or to make out an order, in accordance with Article 7, paragraph 2, to consult in advance with the Minister of International Trade and Industry in cases related to reactors for electric power generation or with the Minister of Transportation in cases related to reactors installed in ships.

(Exclusion of application to the State)

Article 23

The provisions of Chapter III, Article 16 and Chapter VII shall not be applied to the State.

## Chapter VII

### Penal Provisions

#### Article 24

A person who violates the provisions of Article 6 shall be punished by a term of imprisonment of not longer than one year, or by a fine not exceeding one hundred thousand yen, or both.

#### Article 25

A person who acts in one of the following ways shall be punished by a fine not exceeding ten thousand yen:

- (i) failing to make a report, or making a false report, in accordance with Article 21, paragraph 1;
- (ii) refusing, interrupting or evading entrance or inspection, or failing to answer to questions or make a false answer to the questions, in accordance with Article 21, paragraph 1.

#### Article 26

When the representative of a juridical person, or the agent or other employee of a juridical person or of a person commits any one of the violations referred to in Articles 24 and 25 in connection with the business of the juridical person or the person, the juridical person or the person shall, in addition to the punishment of the actual offender, be punished by a fine as provided in those respective Articles.