

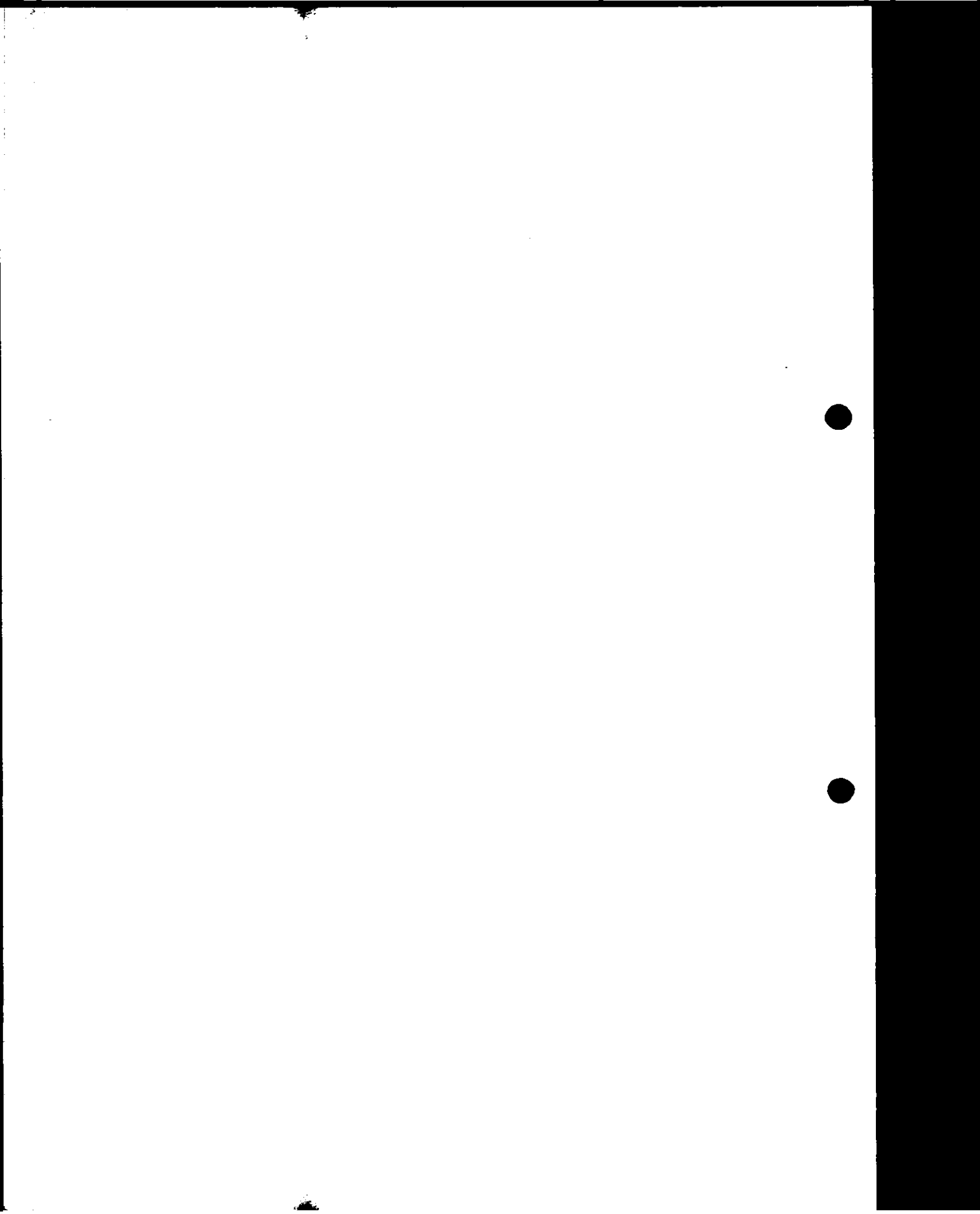
NUCLEAR LAW

Bulletin

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June 1977



F E D E R A L R E P U B L I C O F G E R M A N Y

ORDINANCE
CONCERNING THE PROCEDURE FOR LICENSING INSTALLATIONS
PURSUANT TO SECTION 7 OF THE ATOMIC ENERGY ACT
(NUCLEAR INSTALLATIONS ORDINANCE)*

of 18th February 1977

(Bundesgesetzblatt I, p. 280)

By virtue of Section 7, sub-section 4, 3rd sentence, and sub-section 5, Section 7a, sub-section 2 and Section 54 of the Atomic Energy Act in the version published on 31st October 1976 (BGBl. I, p. 3053), and with the consent of the Federal Council, it is hereby ordered as follows :

P A R T I

SCOPE, APPLICATION AND DOCUMENTS

Section 1 - Scope

For installations referred to in Section 7, sub-sections 1 and 5 of the Atomic Energy Act, the procedure for granting a licence, partial licence or a provisional decision shall be carried out in accordance with this Ordinance, unless otherwise provided for in Section 7, sub-section 4, first and second sentences, Section 7a, Section 7b and Section 8, sub-section 2, second sentence of the Atomic Energy Act.

* Unofficial translations established by the Secretariat.

Section 2 - Form and content of the application

- (1) The application shall be submitted to the licensing authority in writing.
- (2) The application shall contain
 1. the name and residence or seat of the applicant,
 2. the statement whether a licence, partial licence or provisional decision is applied for,
 3. the site and data concerning the nature and extent of the installation.

Section 3 - Nature and extent of documents

- (1) The application shall be accompanied by those documents which are necessary to examine the licensing requirements, in particular
 1. a safety report which describes the installation and its operation and illustrates them by maps and drawings, describes the effects and hazards connected with the installation and its operation and specifies the precautionary measures required under Section 7, sub-section 2, no. 3 of the Atomic Energy Act ;
 2. additional plans, drawings and descriptions of the installation and its component parts ;
 3. data concerning measures foreseen for the protection of the installation and its operation against disturbances and other interferences by third persons pursuant to Section 7, sub-section 2, no. 5 of the Atomic Energy Act ;
 4. data enabling examination of the reliability and competence of persons responsible for construction of the installation and for management and control of its operation ;
 5. data making it possible to establish that it is ensured that persons otherwise engaged in the operation of the installation dispose of the knowledge required under Section 7, sub-section 2, no. 2 of the Atomic Energy Act ;
 6. a list which contains all data relevant for the safety of the installation and its operation, the measures provided for the control of incidents and accidents, as well as the structure of a plan concerning controls required of component parts of the installation which are significant from the standpoint of safety technology (safety specifications) ;
 7. proposals concerning the provision of financial security to cover all legal liability to pay compensation for damage ;

8. a list of measures provided for maintaining the purity of water, air and soil.
- (2) The data referred to in sub-section 1, no. 3 shall be submitted separately. If the other documents referred to in sub-section 1 contain a trade or industrial secret, they shall be marked accordingly and submitted separately as well. To the extent that it is possible without divulging the secret, their content must be described in the documents to be made available for public inspection pursuant to Section 6 in such detail that third persons are in a position to determine whether and to what extent they may be affected by the installation.
- (3) Apart from the documents referred to in the second and third sentences of sub-section 1, the applicant shall submit to the licensing authority a short description suitable for public inspection of the installation and the effects it is expected to have on the public in general, and the neighbours. He shall further submit a list of the documents attached to the application, in which those documents which contain a trade or industrial secret are marked specifically.
- (4) If the documents do not suffice for purposes of the examination, the applicant shall complete them within an appropriate period upon request by the licensing authority.

P A R T I I

PARTICIPATION OF THIRD PERSONS

Section 4 - Public announcement of the project

- (1) As soon as the documents required for public inspection (Section 6) are complete, the licensing authority shall publicly announce the project in its official bulletin, as well as in local newspapers circulated in the area of the site of the installation. Such announcement shall be notified in the Federal Bulletin.
- (2) Public announcement and inspection may be dispensed with if, with respect to the installation to which the application relates,
 1. a public announcement and inspection complying with the requirements of sub-section 1 and Sections 5 and 6 have been made previously, and
 2. a renewed public announcement and inspection would not reveal further circumstances of relevance to the interest of third persons.

- (3) Public announcement and inspection may further be dispensed with if the application concerns an installation for the fission of nuclear fuel which serves or is to serve for the propulsion of ships.

Section 5 - Content of the announcement

- (1) The announcement must contain the data required under Section 2, sub-section 2. In addition, the announcement shall
1. indicate where and when the application and the documents referred to in Section 6, sub-section 1 have been made available for public inspection ; the first and the last day of the inspection period shall be stated ;
 2. invite all persons to lodge objections, if any, within the inspection period (Section 6, sub-section 1), with an agency to be specified in the announcement ; in doing so, attention shall be drawn to the legal consequences under Section 7, sub-section 1, second sentence ;
 3. determine the time and place of a hearing or indicate that a hearing will be held and that its time and place will be announced in the same way as the project ;
 4. point out that the objections will be discussed at the hearing, even in the absence of the applicant or of all persons having lodged objections ;
 5. point out that the service of the decision on the objections may be replaced by a public announcement in accordance with Section 4, sub-section 1, if more than 300 services have to be made.
- (2) A period of one week shall elapse between announcement of the project and the beginning of the public inspection period ; such dates shall be determined by the expected publication date of the official bulletin or of the last published daily newspaper.
- (3) A period of at least one month shall elapse between the end of the inspection period and the hearing.

Section 6 - Public inspection of application and documents ; inspection of files

- (1) During a period of two months, the following documents shall be made available for public inspection, during office hours, with the licensing authority and a suitable agency in the vicinity of the project's site :
1. the application,
 2. the safety report pursuant to Section 3, sub-section 1, no. 1,

3. a short description pursuant to Section 3, sub-section 3.
- (2) Third persons may request a duplicate or a copy of the short description.
- (3) The licensing authority, exercising due discretion, may grant inspection of files ; Section 29, sub-section 1, third sentence and sub-sections 2 and 3 of the Administrative Procedure Act* shall be applied correspondingly.

Section 7 - Objections

- (1) During the inspection period, objections may be lodged in writing or recorded, with the licensing authority or another agency referred to in Section 5, sub-section 1, no. 2. After expiry of the inspection period, all objections shall be precluded which are not based on special titles under civil law.
- (2) The content of the objections shall be made known to the applicant. The authorities participating pursuant to Section 7, sub-section 4, first sentence of the Atomic Energy Act shall be informed of the content of those objections which involve their jurisdiction.

P A R T I I I

HEARING

Section 8 - Object and purpose

- (1) The licensing authority shall discuss orally the objections lodged within the prescribed time limits with the applicant and the objectors. Objections which have been lodged with the agencies referred to in Section 5, sub-section 1, second sentence, no. 2 within the public inspection period, shall be deemed to have been lodged in time.
- (2) The purpose of the hearing is to discuss the objections lodged in time, to the extent relevant to the examination of the licensing requirements. Objectors shall be given the opportunity to explain their objections.

* Verwaltungsverfahrensgesetz.

Section 9 - Special objections

Objections based on special titles under civil law shall not be examined during the hearing, but shall be referred to the jurisdiction of the civil courts by written decision.

Section 10 - Cancellation

- (1) No hearing shall be held if :
 1. no objections have been lodged against the project, or such objections have not been lodged within the prescribed time limits ;
 2. objections lodged in time have been withdrawn, or
 3. no other objections than those based on special titles under civil law have been lodged.

- (2) The applicant shall be informed of the cancellation of the hearing.

Section 11 - Postponement

- (1) The licensing authority may postpone a hearing already announced if this is necessary in view of its proper conduct. The time and place of the new hearing shall be determined as soon as possible.

- (2) The applicant and those persons who have lodged objections within the prescribed time limits shall be notified of the postponement. They may be notified by public announcement in application of Section 4, sub-section 1, correspondingly.

Section 12 - Procedure

- (1) The hearing shall not be public. The representative of the licensing authority who conducts the hearing (presiding officer) shall decide who shall participate in the hearing apart from the applicant and those persons who have lodged objections within the prescribed time limits.

- (2) The presiding officer may decide that certain objections shall be discussed together. In such a case, he shall make known the order of the discussion. For a specified period, he may limit the right to participation in the hearing to those persons whose objections are to be discussed together.

- (3) The presiding officer shall accord the right to speak and may withdraw it from persons who exceed the time limit allowed by him or who make remarks which do not concern the object of the hearing or are not relevant to the objection under discussion.
- (4) The presiding officer shall be responsible for the orderly conduct of the hearing. He may have persons removed who do not obey his instructions. The hearing may be continued without such persons.
- (5) The presiding officer shall close the hearing if its purpose has been fulfilled. He may further close the hearing if, even after having been adjourned, it is again disturbed by participants in such a way that its orderly conduct is no longer ensured. Persons whose objections were not or not yet discussed in full may explain their objections in writing within one month after the closure.

Section 13 - Minutes

- (1) Minutes of the hearing shall be established. The minutes must contain the following :
 1. the place and date of the hearing ;
 2. the name of the presiding officer ;
 3. the object of the licensing procedure ;
 4. the conduct and the results of the hearing.

The minutes shall be signed by the presiding officer, as well as by the reporter, if any. Anything recorded in a document annexed to the minutes and designated as an annex shall be deemed to be recorded in the minutes ; such annex shall be referred to in the minutes. The licensing authority may record the hearing on sound recording media for the purpose of establishing the minutes. Such records shall be destroyed after establishment of the minutes.
- (2) The applicant shall be given a copy of the minutes. Upon request, a copy shall also be given to those persons who have lodged objections within the prescribed time limits.

P A R T I V

L I C E N C E

Section 14 - Examination

The examination by the licensing authority shall extend both to the licensing requirements provided for in Section 7, sub-section 2 of the Atomic Energy Act and to the observance of all other relevant provisions of public law concerning the project.

Section 15 - Decision

- (1) The authority shall make its decision by taking account of the overall result of the procedure.
- (2) The application shall be denied where the examination reveals that the licensing requirements have not been met and compliance with them cannot be secured by additional provisions. The application may be denied if the applicant does not comply, within an adequate time limit fixed, with a request to complement the documents.
- (3) The decision and the grounds supporting it shall be rendered in writing and shall be served on the applicant and those persons who have lodged objections.
- (4) If the procedure is terminated otherwise, notice thereof shall be given to the applicant and persons having lodged objections.

Section 16 - Content of the licensing decision

- (1) The licensing decision shall contain :
 1. the name and the residence or seat of the applicant ;
 2. the statement that a licence or a partial licence is granted and the legal basis thereof ;
 3. the exact designation of the object of the licence, including the site of the installation ;
 4. any additional provisions to the licence ;
 5. the grounds showing the principal reasons of fact and law that have led the authority to its decision, as well as the consideration of the objections lodged.

- (2) The licensing decision should contain :
1. the statement that the licence is granted without prejudice to decisions of other authorities which are required for the project as a whole by virtue of other provisions of public law, and
 2. the instruction as to the right of appeal.

Section 17 - Service by public notice

- (1) If the decision is to be served (Section 15, sub-section 3) upon more than 300 persons apart from the applicant, such service may be replaced by public notice. The public notice shall be effected by announcing the operative part of the decision and the instruction on the right of appeal in the manner provided for in Section 4, sub-section 1 ; attention shall be drawn to any conditions.
- (2) A copy of the entire decision shall be made available for inspection with the licensing authority and the other agency referred to in Section 6, sub-section 1, for two weeks as from the date of the notice. The beginning of this period shall be determined by the date on which the official bulletin or the last appearing daily newspaper are likely to be published. The public notice shall state where and when the decision and the grounds supporting it may be inspected, and copies thereof requested under sub-section 3. At the end of the inspection period, the decision shall be deemed to have been served ; this shall be indicated in the notice.
- (3) After issue of the public notice, copies of the decision and the grounds supporting it may be requested in writing by persons having lodged objections, until expiry of the period for lodging appeals.
- (4) Where, in the case referred to in Section 15, sub-section 4, more than 300 persons have to be notified, such notice may be effected in accordance with Section 4, sub-section 1.

P A R T V

SPECIAL PROVISIONS FOR PARTIAL LICENCE
AND PROVISIONAL DECISION

Section 18 - Partial licence

- (1) A partial licence may be granted upon application if a provisional examination shows that the licensing requirements concerning construction and operation of the entire installation will be met and there is a legitimate interest in granting a partial licence.
- (2) When an application within the meaning of sub-section 1 has been made, the licensing authority may permit that the documents should provide final data only with respect to the object of the partial licence. In addition, data shall be submitted enabling, upon preliminary examination, an adequate assessment as to whether the licensing requirements will be met with respect to the construction and operation of the entire installation.

Section 19 - Provisional decision

- (1) The application for granting a provisional decision shall be made in writing to the licensing authority of the Land in which the project is to be carried out.
- (2) With respect to applications not confined to a site, the licensing authority shall announce the project in its official bulletin, the Federal Bulletin and any suitable daily newspapers.
- (3) The provisional decision shall contain :
 1. the name and the residence or seat of the applicant ;
 2. the statement that a provisional decision is granted and the legal basis thereof ;
 3. the exact designation of the object of the provisional decision ;
 4. the requirements and conditions under which the provisional decision is granted ;
 5. the grounds showing the principal reasons of fact and law that have led the authority to its decision, as well as the consideration of the objections lodged.

- (4) The provisional decision should contain :
1. a reference to Section 7a, sub-section 1, second sentence of the Atomic Energy Act ;
 2. the statement that the provisional decision does not entitle the applicant to construct the installation or component parts thereof ;
 3. the statement that the provisional decision is granted without prejudice to administrative decisions required for the project as a whole pursuant to other provisions of public law ;
 4. the instruction as to the right of appeal.
- (5) Section 18, sub-section 2 shall apply correspondingly.

P A R T VI

FINAL PROVISIONS

Section 20 - Transitional provisions

Procedures already begun shall be completed in accordance with the provisions of this Ordinance. Time limits, the running of which has begun before the entry into force of this Ordinance, shall be calculated pursuant to the provisions previously in force. To the extent that new documents are required under Section 3, sub-section 1, they shall be submitted subsequently ; the authority shall fix an appropriate time limit for this purpose. The service of decisions may be replaced by public notice pursuant to Section 17, even if this was not pointed out according to Section 5, sub-section 1, no. 5 in the announcement of the project.

Section 21 - Berlin clause

This Ordinance shall also apply to the Land Berlin in accordance with Section 14 of the Third Transition Act of 4th January 1952 (BGBI. I, p. 1) in conjunction with Section 58, second sentence of the Atomic Energy Act.

Section 22 - Entry into force

- (1) This Ordinance shall enter into force on the first day of the calendar month following publication*.
- (2) At the same time, the Nuclear Installations Ordinance in the version published on 29th October 1970 (BGBl. I, p. 1518) shall cease to have effect.

* The Ordinance was published in the Federal Gazette on 23rd February 1977 ; accordingly, it entered into force on 1st March 1977.

F I N L A N D

NUCLEAR LIABILITY ACT*

(8th June 1972)

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 utilising nuclear fuel or has become radioactive by exposure to radiation incidental to such production or utilisation;
- (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;

* Unofficial translation of the Act prepared by the Finnish authorities, as amended to take account of the accession by Finland to the Brussels Supplementary Convention on 14th January 1977.

- (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;
- (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 authorised its operation;
- (g) "Operator" means, in relation to a nuclear installation situated in Finland, the person operating or in charge of the installation, whether authorised thereto or not, and, in relation to a nuclear installation outside Finland, the person recognised 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 inside 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, by reciprocity, 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 authorised 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 authorised 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 authorised.

Section 9

The provisions of Section 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 for 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 compensation may be reduced reasonably 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 of 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 not 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 of 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 only 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

The insurance shall be of such character, that any person entitled to compensation for nuclear damage has 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

If 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 of 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 37 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 this state itself or its part, 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 or group of persons which under the law of a State Party to the Supplementary Convention 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 30 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 30.

Section 32

The total amount of compensation for nuclear damage, caused by a nuclear incident payable pursuant to Sections 6 - 22, 30 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

Should the amount laid down in Section 18 paragraph 1, Section 19 paragraph 1, or in the corresponding provision of the law of another Contracting State not suffice to satisfy in full the claims for compensation for damage suffered in the Finnish territory and, according to Section 30 or otherwise according to the Supplementary Convention, the amount is not payable out of public funds, compensation shall be paid out of public funds according to criteria confirmed, subject to the consent of Parliament, by the State Council. Such compensation can be

paid in the cases provided for in this Section also as a supplement to compensation payable in pursuance of Section 33 for damage occurring in the territory of Finland, if such compensation has been reduced pursuant to Section 33 paragraph 2.

Compensation in accordance with this Section shall also be paid for damage occurring in Finland in the event that compensation for such damage pursuant to Section 20 paragraph 2 has been reduced to a fixed percentage, and compensation is not payable out of public funds in accordance with the Supplementary Convention.

Section 35

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

Section 36

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 Sections 30 or 34 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 37

Actions for compensation due under Sections 6 - 10 or 16 against the operator of a nuclear installation or against his insurer shall be brought before the 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 38

Jurisdiction over actions for compensation in respect of nuclear damage brought before Finnish courts pursuant to Section 37 and over actions for compensation against the State pursuant to Sections 29, 30, 33 or 34 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 39

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:

- (a) The original judgment or a copy thereof certified by the competent public authority;
- (b) 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
- (c) 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(a) and (b) 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 40

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 Sections 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 or the person, who has guaranteed the financial security provided in Section 28 paragraph 2 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 41

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 42

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

Section 43

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, and with regard to Sections 30 - 32 of this Act, also for the bringing into force of the Supplementary Convention.