

# NUCLEAR LAW

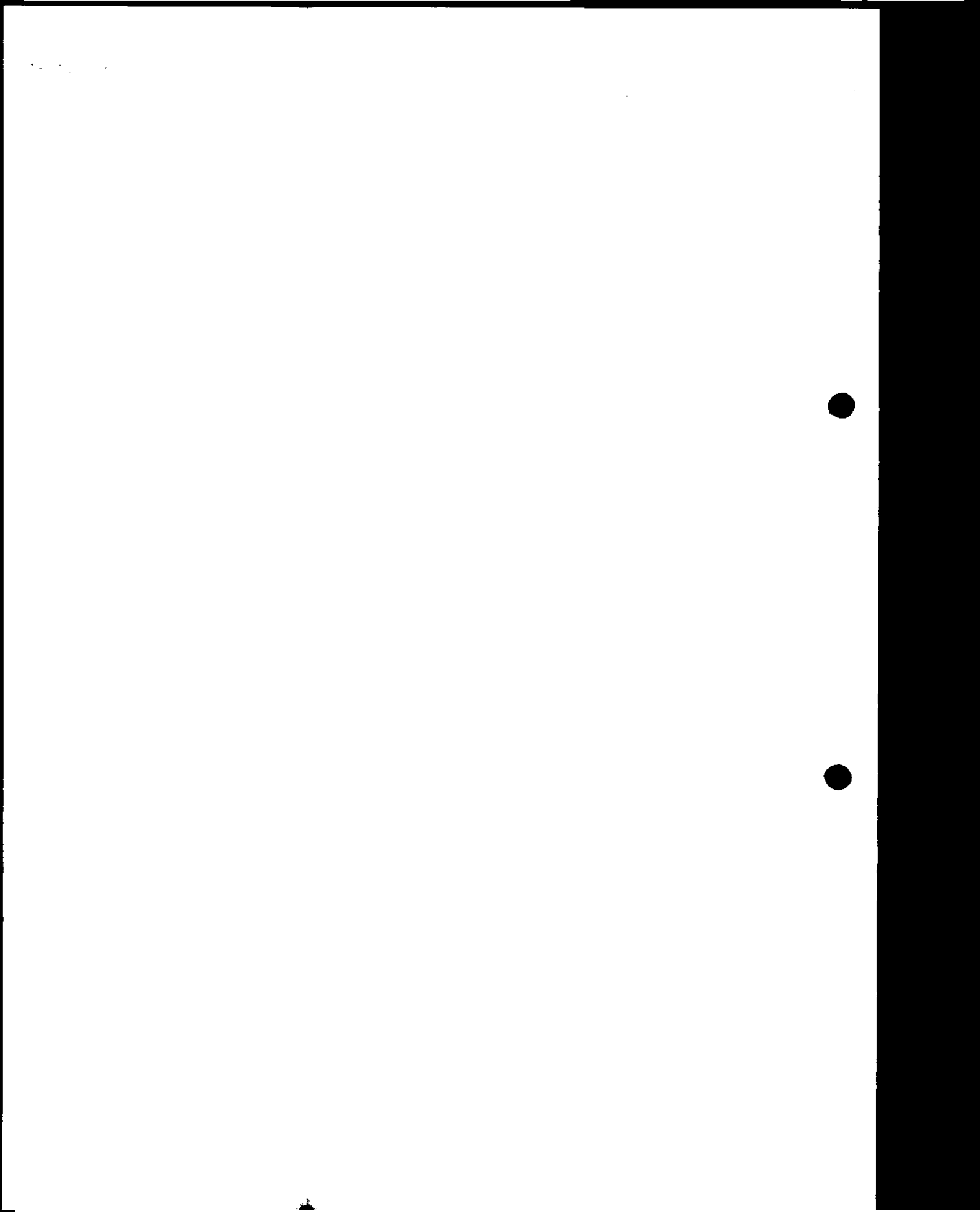
## Bulletin

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FRANCE

ACT No. 68-943 OF 30TH OCTOBER 1968 ON THIRD PARTY LIABILITY  
IN THE FIELD OF NUCLEAR ENERGY, AS AMENDED BY  
ACT No. 90-488 OF 16TH JUNE 1990

December 1990



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ACT No. 68-943 OF 30TH OCTOBER 1968 ON THIRD PARTY LIABILITY  
IN THE FIELD OF NUCLEAR ENERGY, AS AMENDED BY  
ACT No. 90-488 OF 16TH JUNE 1990\*

Section 1

The provisions of this Act lay down those measures which, pursuant to the Convention on Third Party Liability in the Field of Nuclear Energy signed in Paris on 29th July 1960, the Supplementary Convention signed in Brussels on 31st January 1963 and the Additional Protocols to those Conventions signed in Paris on 28th January 1964 and 16th November 1982, are left to the initiative of each Contracting Party.

Section 2

The provisions of this Act shall apply to any individuals or bodies corporate, public or private, operating a civil or military nuclear installation to which the Paris Convention applies, and which is regulated by the implementing Decrees made under Section 8 of Act No. 61-842 of 2nd August 1961 on Air Pollution and Odours and amending the Act of 19th December 1917.

In implementation of this Act, where several nuclear installations or a nuclear installation and any other installation where radioactive material is held have one operator and are located on the same site, they shall be treated as a single nuclear installation.

A Decree shall establish the procedure whereby a carrier meeting the requirements set forth in Section 7 may, in agreement with the operator of a nuclear installation, request that he be made liable under Section 4 in place of the operator.

Section 3 (Repealed)

Section 4

The maximum liability of the operator shall be 600 million francs per nuclear incident.

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\* Unofficial translation by the Secretariat.

However, the above amount may be reduced to 150 million francs per nuclear incident where only installations presenting a lower risk are operated on a given site. The characteristics of such installations shall be determined by decree following the published opinion of the Interministerial Committee for Large Nuclear Installations.

#### Section 5

Compensation in excess of the operator's liability shall be paid by the State under the conditions and within the limits specified in the Brussels Supplementary Convention.

In the case of installations for other than peaceful purposes, victims who under the terms of the Brussels Convention would have been entitled to compensation if the installation were for peaceful uses shall be compensated by the State, provided that the total compensation paid shall not exceed 2 500 million francs per incident.

#### Section 6

Operators shall inform the law agent to the Treasury of all claims for compensation.

#### Section 7

Each operator shall provide and maintain insurance or other financial security equal to the amount of his liability for a single incident. Any financial security must be approved by the Minister for Economic Affairs and Finance.

Upon the proposal of the Minister responsible for atomic energy, the Minister for Economic Affairs and Finance may provide a State guarantee for operators of nuclear installations and such guarantee shall, pro tanto, take the place of insurance or other financial security.

Insurers or any other persons who have provided financial security shall be required to give at least two months written notice to the Minister responsible for atomic energy before suspending or cancelling the insurance or security.

#### Section 8

If the victims of a nuclear incident are unable to recover compensation from the insurer, guarantor or operator, this shall be met in the last resort by the State, up to the limit set in Section 4 and without prejudice to the application of Section 5.

## Section 9

Subject to the provisions of Section 9-2, the maximum liability of the operator in case of transport of nuclear substances shall be 150 million francs per nuclear incident.

### Section 9-1

In the case of transport of nuclear substances between the territory of the French Republic and that of a State in which the Brussels Supplementary Convention is not in force, the operator of the nuclear installation situated in the territory of the French Republic sending or receiving the said substances shall, in accordance with the provisions of this Act, be liable for nuclear incidents occurring in the course of transport in the territory of the French Republic.

### Section 9-2

It shall be a condition of the transport of nuclear substances in transit in the territory of the French Republic that the carrier provide proof of insurance or equivalent financial security to cover damage which may be caused by a nuclear incident in course of transport up to the amount established in Section 9 in the case of transport governed by the Paris Convention, and 1 500 million francs in other cases.

### Section 9-3

In the case of international transport which is not covered by the Paris Convention, the carrier shall provide proof of the existence of financial security by furnishing a certificate from the insurer or any other person having provided the equivalent financial security, giving the name of the insurer or guarantor, his address, as well as the amount, type and duration of the security. The certificate shall also designate the nuclear substances and the itinerary covered by the security.

Where the international transport is covered by the Paris Convention, the certificate shall be established in accordance with Article 4(c) of that Convention.

A joint order by the Minister responsible for atomic energy and the Minister responsible for transport shall establish model certificates.

## Section 10

As regards bodily injuries, a Decree issued after a report from the Minister responsible for atomic energy and the Minister for Social Affairs shall establish, having regard to the irradiation and the contamination received, and to the time elapsed before the disorder was observed, a non-restrictive list of disorders that shall be presumed to have been caused by the incident, in the absence of proof to the contrary.

## Section 11

The provisional or final compensation actually paid to victims may not be recovered on account of the limits of liability and financial security provided for in Sections 4 and 5 above.

## Section 12 (Repealed)

## Section 13

If at the time of a nuclear incident it appears that the maximum sums available under this Act are likely to be insufficient to compensate for the whole of the damage sustained by the victims, a Decree made in Council of Ministers and published not later than six months after the date of the incident shall recognise this exceptional situation and specify the manner in which the sums referred to in Sections 4 and 5 above are to be disbursed.

Such a Decree may, inter alia, establish special control measures for the population in order to detect any such persons as may have sustained injury and, having regard to the insufficiency of the sums referred to in the previous paragraph and to the following order of priority, lay down rules for calculating the compensation to which each victim is entitled for bodily injury or damage to property.

In this event, the sums available under the present Act shall be allocated as follows:

- a) priority shall be given to the compensation of bodily injuries, in manner to be determined by analogy with the legislation concerning industrial accidents;
- b) any sums remaining after payment of the compensation aforesaid shall be allocated among the victims in proportion to any bodily injury left uncompensated and to damage to property, assessed in accordance with the principles of common law.

## Section 14

Any victims sustaining damage shall be entitled to bring direct action against the insurer of the operator liable or any other person who has provided financial security.

The person compensating the victims shall have the rights of recourse to which the operator is entitled by virtue of the Conventions referred to in Section 1 above. In this event, the State shall have priority in recovering such sums as it may have disbursed.

### Section 15

Claims for compensation must be brought within three years either of the date at which the person suffering damage has knowledge or from the date at which he ought reasonably to have known of both the damage and the operator liable; provided, however, that in no case may proceedings be instituted more than ten years after the incident.

In the event of an incident occurring within the territory of the French Republic and being recognised by the Paris Convention as falling within the jurisdiction of a French court, the State shall likewise pay compensation for damage which, having manifested itself more than ten years after the incident, cannot be claimed. Even in this case, the sum total of the compensation awarded, on whatever basis, shall not exceed the maximum amount established by this Act. Claims for compensation must be brought against the State no more than five years after expiration of the ten-year period specified in the foregoing paragraph.

### Section 16

This Act does not derogate from the rules established by the legislation concerning social insurance and compensation for industrial injuries and occupational diseases and by the legislation on these subjects special to various occupations, more particularly as concerns proceedings.

Except in cases where the victim, having been employed by the operator at the time of the nuclear incident, has received compensation as for an industrial accident proper or an occupational disease, proceedings shall be instituted against the operator, his insurance company or the persons providing financial security.

Should a victim employed by the operator at the time the nuclear incident occurred receive compensation as for an industrial accident proper or an occupational disease, in respect of an incident caused by a person other than the operator or his agents and servants, the victim and the agency paying him insurance benefits shall be entitled to use their right of recourse against the person causing the incident, to pursue the operator.

Claims may be brought within the limits and subject to the conditions specified in Sections 4 and 5 above.

### Section 17

In implementation of this Act, where the nuclear incident occurs in the territory of the French Republic or where, in implementation of the Paris Convention, a French court has jurisdiction, such jurisdiction shall lie only with the "Tribunal de Grande Instance de Paris".

However, the Public Prosecutor and the examining magistrate of the court within whose jurisdiction the nuclear incident occurred are empowered to take any emergency measures required. The records of proceedings are subsequently transferred to the "Tribunal de Grande Instance de Paris".

In no case shall a criminal court in which proceedings may be instituted entertain a civil claim.

#### Section 18

- I. Failure to comply with the obligation to have and maintain insurance or other financial security as provided under Sections 7 and 9-2 above, shall make the offender liable to imprisonment from two months to five years or to a fine of 100 000 to 1 000 000 francs or to both.

Failure to furnish the certificate as provided under Section 9-3 above, shall make the offender liable to imprisonment from two months to one year or to a fine of 10 000 to 100 000 francs or to both.

- II. If it is officially noted in a report that the operator or the carrier cannot furnish proof of insurance or financial security as provided under Sections 7, 9-2 and 9-3 above, the competent administrative authority may suspend operation of the installation or performance of the transport until provision of the proof required.

If operation of the installation or performance of the transport has been suspended, the competent administrative authority may take any measures to ensure the safety of persons and property at the expense of the operator or the carrier.

#### Section 19

The provisions of the present Act override the special rules concerning the prescription of claims against the State, departments, local administrations and public bodies.

#### Section 20

This Act shall apply to the overseas territories and to the "collectivité territoriale" of Mayotte.

#### Section 21 (Repealed)

#### Section 22

Until publication in the Official Gazette of the French Republic of the Protocol to amend the Brussels Convention, done in Paris on 16th November 1982, or after expiry of that Convention or withdrawal therefrom by the Government of the Republic, the additional compensation by the State provided for in the first paragraph of Section 5 above shall apply, in the amount of 2 500 million francs, only in respect of damage suffered in the territory of the French Republic.

**Section 23**

The whole of the provisions of the present Act shall cease to have effect upon termination of the Paris Convention, whether by withdrawal or by expiration.

**Section 24 (Repealed)**