

UKRAINE

Law on the Licensing of Activities in the Field of Nuclear Energy*

adopted on 11 January 2000

The present Law defines the legal, organisational and economic framework governing the licensing of activities in the field of nuclear energy, as well as basic provisions for the regulation of public relations arising while carrying out such activities, by way of exception to the basic provisions set forth in the Law on Enterprise Activity.

The licensing regime governing the uses of nuclear energy aims to protect national security interests, to prevent individuals from over-exposure and to prevent the contamination of environment beyond established limits, and to observe the requirements of non-proliferation of nuclear weapons.

Chapter I

GENERAL PROVISIONS

Section 1

Basic Terms and Definitions

The terms and definitions that are used in the present Law have the following meaning:

Type of activity in the field of the use of nuclear energy (hereinafter referred to as “type of activity”) shall denote an activity for which additional radiation sources are introduced, or additional groups of individuals are exposed, or the direction of exposure from existing sources is changed which leads to an increase in dose, or the probability of radiation exposure of staff or the number of individuals that are exposed.

Stages of the service life cycle of a nuclear facility shall denote siting, design, construction, commissioning, operation and decommissioning.

Stages of the service life cycle of a storage facility designed for radioactive waste disposal shall denote siting, design, construction, operation and closure.

* This unofficial English translation was kindly provided by the Ukrainian authorities.

The Operating organisation (Operator) shall denote a legal entity designated by the state which performs activities related to siting, design, construction, commissioning, operation or decommissioning of a nuclear facility or siting, design, construction, commissioning, operation or closure of a storage facility designed for radioactive waste disposal; which is responsible for nuclear and radiation safety and is liable for nuclear damage.

The service life cycle of a nuclear facility or storage facility designed for radioactive waste disposal shall denote a combination of interrelated gradually changing processes in the status of a facility or a storage facility, starting with siting and ending where the site is returned to normal use after decommissioning.

Licence of an Operating organisation shall denote a permit officially issued by the state nuclear and radiation safety regulatory authority, which is authorised to do so by the Cabinet of Ministers of Ukraine, confirming the right of the Operating organisation to perform, by its own means or with the involvement of contracted organisations, a series of activities and actions related to the stages of the service life cycle of a nuclear facility or storage facility designed for radioactive waste disposal as defined.

Licence in the field of nuclear energy shall denote a permit officially issued by the state nuclear and radiation safety regulatory authority, confirming the right of an Applicant to perform relevant types of activity provided that conditions governing nuclear and radiation safety are observed.

State nuclear and radiation safety regulatory authority shall denote the central executive authority specifically authorised by the Cabinet of Ministers of Ukraine to perform state regulation of nuclear and radiation safety.

Radioactive materials shall denote any materials containing radio-nuclides where their specific activity or the total activity of the shipment exceeds the limits established by norms, rules and standards of nuclear and radiation safety.

Subject of an activity in the field of nuclear energy (hereinafter referred to as “subject of an activity”) is a legal entity (enterprise, institution or organisation with any type of enterprise activity) or a physical person who performs or has indicated their intention to perform an activity in the field of nuclear energy in respect of which the present Law establishes requirements concerning compulsory licensing, certification or registration.

Section 2

Aims of this Law

The main aims of this Law are:

- legal regulation of relations during all activities subject to licensing in the field of nuclear energy;
- establishment of a legal regime governing the licensing of activities in the field of nuclear energy.

Section 3

Scope of this Law

The present Law shall apply to relations which arise whilst carrying out activities subject to licensing in relation to the use of nuclear energy.

A licensed activity in the field of nuclear energy shall be the activity that is subject to state regulation of nuclear and radiation safety.

Section 4

Objective of Licensing Activities in the Field of Nuclear Energy

The objective of licensing activities in the field of nuclear energy is:

- to ensure that only those nuclear facilities, radiation sources and facilities designed for radioactive waste management, the safety level of which is understood to meet internationally recognised requirements on the basis of a comprehensive assessment of all factors impacting on safety including physical protection, are used;
- to ensure that activities in the field of nuclear energy are performed only by those physical and legal entities which can guarantee fulfilment of requirements of legislation, norms, rules and standards of nuclear and radiation safety.

Section 5

Main Principles governing Activities Subject to Licensing in the Field of Nuclear Energy

The main principles governing activities subject to licensing are:

- ensuring the priority of nuclear and radiation safety above other interests;
- taking a differential approach to different types of activity and radiation sources taking into account the potential nuclear and radiation hazard associated with them;
- ensuring the independence and objectivity of state nuclear and radiation safety regulatory bodies in the assessment of safety levels and in the decision-making process;
- fulfilment of the set criteria, requirements and conditions ensuring safety in the field of nuclear energy, taking into account all combinations of ecological, economical and social factors;
- the responsibility of state nuclear and radiation safety regulatory bodies to ensure the respect of the set procedures governing the licensing of activities and the fulfilment of conditions and limits stated in the procedures to perform activities in the field of nuclear energy.

Chapter II

PERFORMANCE OF LICENSED ACTIVITIES IN THE FIELD OF NUCLEAR ENERGY

Section 6

Particular Requirements governing the Performance of Licensed Activities in the Field of Nuclear Energy

The particular requirements governing the performance of licensed activities in the field of nuclear energy shall be defined in relation to the order of priorities for nuclear and radiation safety and associated with the need for a comprehensive safety assessment in order to make decisions on issuance or rejection of a licence.

The licensing of activities shall be an integral part of state regulation in the field of nuclear energy and shall include the following:

- licensing of certain types of activity in the field of nuclear energy;
- licensing of activities of the Operating organisation at different stages of the service life cycle of a nuclear facility or storage facility designed for radioactive waste disposal and issuance of permits to perform certain works or actions at various stages of commissioning, operation and decommissioning of nuclear facilities and at stages of operation and closure of storage facilities designed for radioactive waste disposal;
- licensing of activities related to the direct operation of NPP reactors by their personnel;
- compulsory certification of radiation sources, elements of nuclear facilities which are relevant to safety, packages for storage, shipment and disposal of radioactive waste, casks (packages) designed for transportation of radiation sources and nuclear materials; and
- state registration of radiation sources.

Section 7

Licensing of Certain Types of Activity in the Field of Nuclear Energy

In the field of nuclear energy the following types of activity shall be subject to compulsory licensing:

- design of a nuclear facility or storage facility for radioactive waste disposal;
- processing of uranium ore;
- transportation of radioactive material;
- processing, storage and disposal of radioactive waste;
- fabrication, storage and maintenance of radiation sources;

- utilisation of radiation sources;
- the training of personnel to operate nuclear facilities (in accordance with the list of positions and specialities defined by the Cabinet of Ministers of Ukraine);
- activities related to the physical protection of nuclear materials and nuclear facilities (in accordance with the list of types of activity defined by the Cabinet of Ministers of Ukraine).

Licensing of the afore-mentioned types of activity shall be carried out by the state nuclear and radiation safety regulatory authority which is authorised by the Cabinet of Ministers of Ukraine in accordance with the current legislation.

Activities related to the use of radiation sources shall be exempted from licensing under the following conditions:

- the safe use of radiation sources is ensured by their design;
- the use of radiation sources does not require special training of personnel on nuclear and radiation safety matters that are beyond the limits of their knowledge of instruction on use of such a radiation source;
- feedback and experience show that no records of accidents with radiation consequences are observed.

The list of radiation sources whose use is not subject to licensing shall be defined by the Cabinet of Ministers of Ukraine.

Section 8

Licensing of Activities of the Operating Organisation for Certain Stages of the Service Life Cycle of a Nuclear Facility or Storage Facility Designed for Radioactive Waste Disposal

The state nuclear and radiation safety regulatory authority shall grant to an Operating organisation of a nuclear facility or storage facility designed for radioactive waste which has submitted the relevant application (hereinafter referred to as “the Applicant”), on the basis of a comprehensive safety assessment of the nuclear facility or storage facility and the capability of the Applicant to perform all necessary safety measures, a licence to perform activities associated with a particular stage of the service life cycle of a nuclear facility or storage facility designed for radioactive waste disposal, in particular:

- design of a nuclear facility or storage facility designed for radioactive waste disposal;
- construction of a nuclear facility or storage facility designed for radioactive waste disposal after a comprehensive analysis of all safety aspects related to design;
- commissioning of a nuclear facility;
- operation of a nuclear facility or storage facility designed for radioactive waste disposal;

- decommissioning of a nuclear facility;
- closure of a storage facility designed for radioactive waste disposal.

The licence granted to an Applicant shall be the basis for commencing activities, actions and work related to the given stage of the service life cycle of a nuclear facility or storage facility designed for radioactive waste disposal, including all on-site facilities or storage facilities which are a part of technological processes. The licence shall establish conditions and limits governing such an activity, performance of work and actions, and shall define the technological processes and site borders that are covered by the licence. One single licence may be granted for a complex comprising of several nuclear facilities or storage facilities designed for radioactive waste disposal located within the boundary of one site.

The conditions attached to a licence granted to an Operating organisation to perform activities at a particular stage of the service life cycle shall define those types of activity or actions, the performance of which is allowed during stages of commissioning, operation and decommissioning of a nuclear facility, or during stages of operation and closure of a storage facility designed for radioactive waste disposal, on the basis of a special permit in writing issued by the state nuclear and radiation safety regulatory authority. The state nuclear and radiation safety regulatory authority shall define conditions and procedures for the issuance of these permits.

Section 9

Licensing of Personnel who Directly Operate the Reactor Facilities of a NPP

A list of those positions within the personnel directly involved in the operation of reactor facilities of a NPP and activities which are subject to licensing shall be approved by the Cabinet of Ministers of Ukraine.

The state nuclear and radiation safety regulatory authority shall define conditions and procedures governing the issue of licences to personnel to directly operate the reactor facilities of a NPP.

Section 10

Certification in the Field of Nuclear Energy

In the field of nuclear energy, the following shall be subject to compulsory certification within the legally-established procedure: radiation sources, packages for storage and disposal of radioactive waste, packages designed for the transportation of radioactive materials, elements of nuclear facilities which are relevant to safety.

Section 11

State Registration of Radiation Sources

Radiation sources shall be subject to compulsory state registration, the procedure governing which shall be determined by the Cabinet of Ministers of Ukraine.

Chapter III

PROCEDURE FOR THE LICENSING OF ACTIVITIES OF AN OPERATING ORGANISATION AT STAGES OF THE SERVICE LIFE CYCLE OF NUCLEAR FACILITIES AND STORAGE FACILITIES DESIGNED FOR RADIOACTIVE WASTE DISPOSAL

Section 12

Procedure for the Issue of Licences to an Operating Organisation at Stages of the Service Life Cycle of Nuclear Facilities and Storage Facilities Designed for Radioactive Waste Disposal

In order to receive a licence to perform licensed activities related to a particular stage of the service life cycle of nuclear facilities and storage facilities designed for radioactive waste disposal, an Operating organisation (Operator) shall submit an application to the state nuclear and radiation safety regulatory authority.

The application shall be accompanied both by copies of the statutes approved pursuant to the established procedure and by supporting documents demonstrating the safety level of the nuclear facility or storage facility designed for radioactive waste disposal, the list of which shall be established by the state nuclear and radiation safety regulatory authority.

Procedures and fees governing the performance of licensing procedures in the field of nuclear energy shall be defined by the Cabinet of Ministers of Ukraine in accordance with the legislation.

The state nuclear and radiation safety regulatory authority shall establish the list, requirements concerning presentation and the content of supporting documents for each stage of the service life cycle of a nuclear facility or storage facility designed for radioactive waste disposal.

The state nuclear and radiation safety regulatory authority shall carry out a preliminary review of the application in order to assess an Applicant's fulfilment of requirements for the nomenclature and content of the documents submitted.

The state nuclear and radiation safety regulatory authority shall notify an Applicant of the results of the preliminary review of the application within 30 days from the day of receipt.

An examination of the completeness and veracity of the documents submitted and their assessment shall be carried out by the state nuclear and radiation safety regulatory authority by performing state examinations of these documents and inspection (for stages of commissioning, operation and decommissioning of a nuclear facility and for stages of operation and closure of a storage facility designed for radioactive waste disposal).

Procedures governing the state examination of the documents submitted and the inspection of nuclear facilities or storage facilities designed for radioactive waste disposal shall be determined by norms, rules and standards of nuclear and radiation safety.

The examination of the completeness and veracity of the documents and their assessment shall be completed within three months from the day upon which a full set of supporting documents was received. In the event of circumstances resulting in the necessity to conduct additional studies, the

state nuclear and radiation safety regulatory authority may establish a longer period, but not more than six months.

A decision to grant or to reject a licence shall be made by the state nuclear and radiation safety regulatory authority within one month following receipt of the conclusions of the state examination of the documents submitted and of the Inspection Report (Act).

Not later than ten days after the decision is made, the state nuclear and radiation safety regulatory authority shall issue a licence to the Applicant or shall submit notification of a refusal in writing providing reasons for such a refusal and providing conditions for additional review.

Section 13

Refusal of a Licence

The state nuclear and radiation safety regulatory authority may refuse to grant a licence to an Applicant on the basis of inspection results and conclusions of the state examination in the following cases:

- in the absence or lack of documents confirming compliance of the safety level of such nuclear facility or storage facility designed for radioactive waste disposal, or of the financial, material and other resources, the organisational structure or the personnel of an Applicant with the established requirements;
- where documents submitted by an Applicant contain inadequate information or uncertainties.

An Applicant may appeal a refusal to grant a licence before the courts.

Section 14

Content of Licence and Procedure for Modification

The licence shall contain the following information:

- title of the authority which granted the licence;
- title and legal address of the licence-holder;
- identification of the area where the activity is being performed (site boundaries of nuclear facility or storage facility designed for radioactive waste disposal);
- a list of principal facilities and buildings which are part of the technological process of the nuclear facility or storage facility designed for radioactive waste disposal;
- a list of documents on the basis of which the licence is granted;
- a list of officials responsible for the safe performance of activities covered by this licence;

- conditions governing the performance of activities;
- registration number of the licence;
- date of issue and term of validity of the licence.

The licence shall be signed and sealed by the head of the state nuclear and radiation safety regulatory authority.

The term of validity of the licence shall be determined in accordance with the envisaged period of validity, established by the documents submitted, concerning the relevant stage of the service life cycle of the nuclear facility or storage facility designed for radioactive waste disposal.

During the term of validity of the licence, the state nuclear and radiation safety regulatory authority may introduce modifications.

The grounds upon which modifications may be made to the licence are:

- where an Operating organisation (Operator) applies for an extension of the scope of the licence to cover additional facilities, storage, buildings or installations, or to enlarge the territory of site covered by the licence; to prolong the term of validity of the licence;
- where new regulatory acts on nuclear and radiation safety enter into force;
- where feedback and experience or state supervision over the fulfilment of particular licence conditions provide evidence that there are cases where a modification in licence conditions is necessary.

Review of applications made by the Operating organisation (Operator) to introduce modifications into licence or to re-issue licences shall be subject to the same procedure as for the initial issue of licences.

Section 15

Supervision over Observance of Licence Conditions

The supervision over observance of licence conditions shall be performed by the state nuclear and radiation safety regulatory authority by means of inspections and analysis of the nuclear and radiation safety status based on reports and documentation submitted by the Operating organisation.

Procedures governing the performance of such inspections, their periodicity and reporting requirements shall be determined by the state nuclear and radiation safety regulatory authority.

Methods and means of inspection shall not impede the activities of the Operating organisation subject to inspection.

Section 16

Suspension or Cancellation of Licences

Licences may be suspended and, at the stage of design or construction of a nuclear facility or storage facility designed for radioactive waste disposal, may be cancelled by the state nuclear and radiation safety regulatory authority which issued the licence, in the following cases:

- where a relevant application has been submitted by the Operating organisation;
- where activities of a legal entity have been cancelled by verdict of a court or due to any other circumstances;
- breach of licence conditions;
- suspension of validity or non-fulfilment of requirements of documents that formed part of the application, and on the basis of which the conclusion was drawn as to the capability of the Applicant to perform activities in accordance with the established requirements.

In the case of suspension of a licence, the Operating organisation shall continue to bear responsibility for the safety of the nuclear facility or storage facility designed for radioactive waste disposal.

When a licence is suspended, the state nuclear and radiation safety regulatory authority shall inform the Operating organisation in writing providing reasons for the suspension and information as to the conditions under which the suspension could be lifted and the period of time necessary for the Operating organisation to eliminate the problems revealed. If these problems are not eliminated within the period of time determined at the design and construction stages, the licence shall be cancelled and the Operating organisation shall be informed in writing about this.

Following notification of the cancellation of the licence, the Operating organisation shall be obliged to do the following:

- immediately suspend the previously licensed activity and carry out measures to ensure the safety of working conditions, health protection of personnel and environmental protection;
- within ten days from the date of notification, submit both original documents and notification of the suspension of the licensed activity to the state nuclear and radiation safety regulatory authority which granted the original licence.

The state nuclear and radiation safety regulatory authority is obliged to submit information on the cancellation of licences to the state administrative authorities in the field of nuclear energy use and radioactive waste handling within five days from the date of cancellation.

Procedures governing the cancellation of licences for commissioning of a nuclear facility shall be defined by the licence conditions.

Licences for the operation or decommissioning of a nuclear facility and licences for the operation or closure of a storage facility designed for radioactive waste disposal may only be cancelled following a complete withdrawal of nuclear materials and radioactive waste from the facility or storage facility, or when a licence for this facility or storage facility has been issued to a third party.

Before a licence is granted to a third party for operation or decommissioning of a nuclear facility or for operation or closure of a storage facility designed for radioactive waste disposal, the Operating organisation holding the licence shall continue to bear responsibility for the safety of the nuclear facility or storage facility designed for radioactive waste disposal.

Chapter IV

RIGHTS AND OBLIGATIONS OF SUBJECTS OF ACTIVITY IN THE AREA OF NUCLEAR ENERGY UTILISATION

Section 17

Rights and Obligations of Subjects of an Activity in the Field of Nuclear Energy

Subjects of an activity have the right to:

- receive information about the progress and results of review of applications;
- provide the state nuclear and radiation safety regulatory authority and organisations involved in considering applications with additional explanations in writing or orally, comments, or recommendations on the issues in question;
- submit a petition to the state nuclear and radiation safety regulatory authority for changes in the list of expert organisations involved in considering the applications;
- make claims in respect of the unauthorised actions of certain officials in the event of breaches to the established procedure for consideration of applications and supporting documents, leading to a decision which is later questioned;

A subject of an activity in the field of nuclear energy is obliged to:

- provide information on their intention to perform activities subject to licensing in the field of nuclear energy;
- provide the state nuclear and radiation safety regulatory authorities and organisations involved in considering applications, with documentation and accompanying information necessary for comprehensive and objective analysis, assessment and decision making as to the activity concerned;
- assist the bodies and organisations concerned in the fulfilment of their duties;
- transfer, pursuant to the established terms, required documents, calculations, data, complimentary information related to the safety of licensed activities to the state nuclear and radiation safety regulatory authorities;

- notify the state nuclear and radiation safety regulatory authorities of changes in conditions governing the performance of the activity;
- pay a licence fee in accordance with the current legislation.

Chapter V

FINAL PROVISIONS

1. This Law shall enter into force upon the date of publication.
2. Licences to perform activities in the field of nuclear energy which were valid in the territory of Ukraine before the adoption of this Law shall lose their validity not later than three years after the entry into force of this Law. During the above-mentioned period of time, legal and physical entities which perform activities in the field of nuclear energy are obliged to re-register their licences in accordance with this Law.
3. Before other legislative instruments are brought into line with the norms of this Law, such instruments shall remain in effect to the extent that they do not contradict the terms of this Law.
4. The Cabinet of Ministers of Ukraine, within six months from the date of entry into force of this Law, shall:
 - prepare and submit proposals to the Verkhovna Rada (the Parliament) of Ukraine on introducing changes to legislative instruments of Ukraine resulting from this Law;
 - bring their own regulatory and legislative instruments into line with this Law;
 - ensure the adoption of regulations (normative and legislative instruments) envisaged by this Law by the competent authorities;
 - ensure that ministries and other central executive authorities review and cancel their regulations which are in conflict with this Law.
5. Section 33 of the Law of Ukraine on the Use of Nuclear Energy and Radiation Safety (Vedomosti of Verkhovna Rada of Ukraine, 1995, N12, 81 pages)** is amended to read as follows:

Section 33

Operating Organisation (Operator)

An Operating organisation (Operator) shall be a legal entity appointed by the government, which perform activities related to siting, design, construction, commissioning, operation, decommissioning of a nuclear facility or siting, design, construction, commissioning, operation, closure of a radioactive

** The full text of this Law in English was reproduced in the Supplement to *Nuclear Law Bulletin* No. 56 (December 1995).

waste disposal facility and shall ensure nuclear and radiation safety and bear liability for nuclear damage.

An Operating organisation (Operator) shall:

- obtain a permit to perform activities at certain stages of the service life of a nuclear facility or radioactive waste disposal facility pursuant to the legislation;
- develop and implement safety upgrading measures of a nuclear facility or radioactive waste disposal facility;
- be entitled to organise the occupancy of workplaces with a view to ensuring the safety of a nuclear facility or radioactive waste disposal facility;
- ensure radiation protection of personnel, the population, and the environment;
- be responsible for the physical protection of nuclear materials and radioactive waste;
- inform, on a timely basis and fully in accordance with established procedures, of any case of malfunction in the operation of nuclear facilities or radioactive waste disposal facilities;
- ensure financial coverage for its liability for nuclear damage in the amounts and on terms as are determined by the legislation of Ukraine;
- make contributions to the nuclear facility decommissioning fund;
- be liable for damage or loss incurred by personnel during their service in accordance with the legislation of Ukraine.

An Operating organisation (Operator) shall periodically and in accordance with nuclear and radiation safety regulations, rules, and standards, re-assess the safety of nuclear facilities or radioactive waste disposal facilities and submit the results thereof to the state nuclear and radiation safety regulatory authority.

When significant changes are made to the design of a nuclear facility or where the operating experience shows the invalidity of previous assessments, a safety re-assessment shall be performed at the request of the state nuclear and radiation safety regulatory authority.

An Operating organisation (Operator) shall not perform any acts or demonstrate any intentions thereof which may force personnel to violate the provisions of this Law, or of nuclear and radiation safety regulations, rules, and standards.

An Operating organisation (Operator) shall include in the electric energy production costs, expenses incurred for the following:

- implementation of safety improvement programmes for nuclear facilities;
- storage of spent nuclear fuel, processing and disposal of radioactive waste;
- scientific, technical, design and technological support for the operation of nuclear facilities;

- staffing, training and retraining of personnel;
- nuclear damage insurance coverage for personnel and the population;
- decommissioning and mothballing of a nuclear facility;
- social and economic development of the territory where a nuclear facility or a radioactive waste disposal facility is located.