

REPUBLIC OF KOREA

Act on Compensation for Nuclear Damage*

Article 1 (Purpose)

The purpose of this Act is to protect victims and to contribute to the sound development of the nuclear industry by establishing matters relating to compensation in the event of nuclear damage arising during the operation of a nuclear reactor.

Article 2 (Definitions)

1. For the purposes of this Act, the following terms shall be defined as follows:
 1. “Operation of a reactor” means such actions falling under any of the following, including transportation, storage and disposal of nuclear fuel material or other material contaminated by nuclear fuel material incidental thereto (including nuclear fission products).
 - a. operation of a reactor,
 - b. conversion as provided for by presidential decree,
 - c. fabrication as provided for by presidential decree,
 - d. processing of spent nuclear fuel as provided for by presidential decree,
 - e. use of nuclear fuel material as provided for by presidential decree,
 - f. storage, treatment or disposal of radioactive waste as provided for by presidential decree.
 2. “Nuclear damage” means any costs provided for in the following Subparagraphs, and damage (including loss of economic interest suffered from significant impairment of the

* Act No. 2094 of 24 January 1969, as amended by: Act No. 2765 of 7 April 1975, Act No. 3549 of 1 April 1982 (the Atomic Energy Act), Act No. 3849 of 12 May 1986, Act No. 4940 of 1 January 1995 (the Atomic Energy Act), and Act No. 6350 of 16 January 2001.

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environment) caused by the effects of the fission process of nuclear fuel material, or by the effects of radiation of nuclear fuel material or other materials contaminated by nuclear fuel material, or by the effects of the toxic nature of such materials, provided however, that damage suffered by the relevant nuclear operator or damage suffered by his employees as a result of performance of their duties is excluded:

- a. the costs of measures taken or to be taken in accordance with the plan pursuant to the Disaster Management Act or other laws relevant thereto in order to reinstate significantly impaired environment,
 - b. the costs of preventive measures (including additional loss or damage resulting from the implementation of preventive measures) taken in accordance with the measures plan pursuant to the Disaster Management Act or other laws relevant thereto in order to mitigate or minimise damage or costs in the case of a nuclear incident, and in order to prevent or minimise damage or costs in the case of a grave and imminent threat of causing such damage.
3. For the purpose of this Act, “nuclear operator” means any person who is or was any of the following:
- a. a person who is granted a construction permit or an operating licence for a nuclear reactor and related facilities,
 - b. a foreign nuclear ship operator who has made a notification for entry into or departure from a Republic of Korea port,
 - c. a person who is granted a licence for a fabricating enterprise (including a conversion enterprise),
 - d. a person who is designated for processing of spent nuclear fuel ,
 - e. a person who is granted a licence to use nuclear fuel material,
 - f. a person who is granted a construction and operation permit for disposal facilities,
 - g. a nuclear energy research and development institution, a nuclear energy specialised safety institution or any other entities which produce or provide services related to nuclear energy.
4. For the purposes of this Act, “nuclear incident” means any occurrence or series of occurrences having the same origin which causes nuclear damage or creates a grave and imminent threat of causing such damage.
2. The definition of terms used in this Act shall follow that of the Nuclear Energy Act, except for those specified in Paragraph 1 of this Article.

Article 2-2 (Scope of Application)

1. This Act shall apply to nuclear damage suffered as a result of a nuclear incident occurring in the territory (including the territorial sea) and the exclusive economic zone of the Republic of Korea.
2. This Act shall apply to any other State on condition of reciprocity, *i.e.* if a State prohibits or restricts compensation for nuclear damage suffered by an individual, legal person, entity or government of the Republic of Korea, this Act may exclude from or restrict in its application thereof any individual, legal person, entity or Government of such State.

Article 3 (Strict Liability, Channelling of Liability. etc.)

1. The nuclear operator concerned shall be liable for nuclear damage caused by the operation of the nuclear reactor, provided however, that this shall not apply to damage caused by an act of armed conflict or hostilities among nations, civil war or insurrection.
2. When nuclear damage is caused as a result of the transportation between nuclear operators of nuclear fuel material or other materials contaminated by it, the nuclear operator who is the consignor of the nuclear fuel material shall be liable for the damage, provided however, that if a special agreement has been made between the nuclear operators with regard to liability, that special agreement shall apply.
3. Where a nuclear operator is liable for nuclear damage in accordance with Paragraphs 1 or 2 of this Article, no other person shall be liable for nuclear damage.
4. The provisions of Articles 746 through 748 and Articles 842 and 848 of the Commercial Code shall not apply to nuclear damage incurred as a result of the operation of a nuclear reactor installed as a source of power on a ship.
5. The provisions of the Product Liability Act shall not apply to nuclear damage caused by the operation of nuclear reactors.

Article 3-2 (Limit of Liability)

1. The liability of the nuclear operator for nuclear damage shall be limited, for any one nuclear incident, to not less than 300 million SDRs. However this provision shall not apply if the nuclear damage was caused by a wilful act or omission of the nuclear operator done with intent to cause damage.
2. The SDRs (Special Drawing Rights) referred to in Paragraph 1 of this Article means the unit of account defined by the International Monetary Fund.

Article 4 (Rights of Recourse)

1. Where nuclear damage is caused by the wilful act or gross negligence of a third party, a nuclear operator who has provided compensation for nuclear damage in accordance with Article 3 shall have a right of recourse against such third party, provided however, that where the nuclear

damage occurs due to the supply of material or services (including labour) for the operation of a nuclear reactor (hereinafter referred to as “supply of material”), the nuclear operator shall have a right of recourse only insofar as there has been a wilful act or gross negligence by the supplier of the materials concerned or by his employees.

2. If, in the circumstances described in Paragraph 1 of this Article, a special agreement has been made regarding rights of recourse, such agreement shall govern.

Article 5 (Duty of Providing Financial Security)

1. A nuclear operator is prohibited from operating a nuclear reactor unless financial security for the compensation of nuclear damage (hereinafter referred to as “financial security”) has been provided.
2. Financial security shall be provided by means of a contract of liability insurance for nuclear damage, an indemnity agreement for loss of compensation for nuclear damage, or through the establishment of a public deposit.

Article 6 (Amount of Financial Security)

1. The amount of liability insurance for nuclear damage, of the indemnity agreement for loss of compensation therefor or of the deposit required pursuant to Article 5, Paragraph 2 shall be an amount, within the limit of liability stipulated in Article 3-2, determined by presidential decree (hereinafter referred to as “financial security amount”), taking into account the type of facility utilising nuclear energy, the characteristics of the nuclear fuel material to be handled therein and the potential consequences of a nuclear incident occurring at that facility.
2. Where the amount available for compensation of nuclear damage is less than the financial security amount required, due to the prior payment of compensation for nuclear damage, the Minister of Science and Technology may, if he deems it necessary to ensure that compensation will be paid, order the nuclear operator to restore the amount available for compensation of the nuclear damage up to the financial security amount within a designated period of time.
3. In the circumstances described in Paragraph 2 of this Article, the provision of Article 5, Paragraph 1, shall not apply.

Article 7 (Contract of Liability Insurance for Nuclear Damage)

1. A contract of liability insurance for nuclear damage (hereinafter referred to as “liability insurance contract”) means a contract under which an insurer (a person who is authorised to engage in liability insurance in accordance with the Insurance Business Act) agrees to indemnify a nuclear operator for loss arising from compensation of nuclear damage resulting from specified causes and under which the nuclear operator agrees to pay a premium to the insurer, in case the operator becomes liable for the compensation of nuclear damage in accordance with the provisions of Article 3.
2. Any nuclear operator who wishes to enter into a liability insurance contract shall obtain the approval of the Minister of Science and Technology to the terms and conditions thereof.

Article 8 (Priority of Claims for Nuclear Damage)

1. A victim shall, with respect to his claim for nuclear damage, have priority over other creditors as regards receiving compensation provided by the liability insurance contract.
2. An insured may make a claim against its insurer for payment only up to the amount for which the insured has paid or for which consent has been acquired from the victim with regard to the amount of compensation.
3. The right to claim insurance proceeds under a liability insurance contract shall not be assigned, mortgaged, nor seized, provided however, that this shall not apply if the victim levies an attachment on his right to claim for nuclear damage.

Article 9 (Indemnity Agreement of Compensation for Nuclear Damage)

1. The indemnity agreement of compensation for nuclear damage (hereinafter referred to as “indemnity agreement”) as specified in Article 5, Paragraph 2, in case the nuclear operator becomes liable for compensation for nuclear damage in accordance with Article 3, is the contract under which the Government agrees to indemnify a nuclear operator for loss arising from compensation for nuclear damage not covered by the liability insurance contract, and under which the nuclear operator agrees to pay an indemnity fee to the Government.
2. Matters concerning indemnity agreements shall be as provided for in other laws.

Article 10 (Priority of Claims for Indemnity)

The provisions of Article 8 shall be applied *mutatis mutandis* to the claim for indemnity.

Article 11 (Deposit)

The deposit, as a means of financial security, shall be made in the District Court having jurisdiction over the principal place of business of the nuclear operator, either in cash or in securities as determined by presidential decree.

Article 12 (Receiving from Deposit)

A victim may, with regard to his claim for nuclear damage, receive compensation from the cash or securities deposited by the nuclear operator.

Article 13 (Return of Deposit)

1. The nuclear operator may take back the deposited cash or securities, upon approval of the Minister of Science and Technology, in the following circumstances:
 1. an alternative financial security has been provided in lieu of the deposit, or
 2. operation of the nuclear reactor is terminated.

2. When the Minister of Science and Technology grants an approval pursuant to the provisions of Paragraph 1 of this Article, he may, to the extent that he deems it necessary for ensuring the payment of compensation for nuclear damage, designate the time and amount of the return.

Article 13-2 (Extinction, Prescription)

1. The right to make a claim for nuclear damage in accordance with this Act shall lapse by prescription if not exercised within three years commencing from the date on which the injured party or his agent by law becomes aware of such damage and of the identity of the person who caused it.
2. The right to make a claim for nuclear damage shall lapse by prescription if not exercised within ten years commencing from the date on which the nuclear incident occurred, provided however, that the right to make a claim for personal injury, disease or loss of life shall lapse by prescription if not exercised within thirty years commencing from the date on which the nuclear incident occurred.

Article 14 (Measures to be taken by the Government)

1. Where nuclear damage occurs, the Government shall give necessary assistance to a nuclear operator when the amount which the nuclear operator must compensate exceeds the financial security amount, and the Government deems such assistance necessary in order to fulfil the purposes of this Act.
2. The Government shall, where the proviso of Article 3, Paragraph 1, applies, take necessary measures to rescue victims and to prevent the increase of damage.
3. The assistance by the Government, prescribed in Paragraph 1 of this Article, shall be made within the limit authorised by the National Assembly.

Article 15 (Deliberation Committee of Nuclear Damage Compensation)

1. The Deliberation Committee of Nuclear Damage Compensation (hereinafter referred to as “Deliberation Committee”) may be established under the Ministry of Science and Technology for the purpose of conciliating disputes arising from the compensation of nuclear damage.
2. The Deliberation Committee shall be in charge of the following affairs:
 1. conciliation of disputes, and
 2. investigation and assessment of nuclear damage necessary for carrying out the activities referred to in Subparagraph (1).
3. Matters necessary for the organisation and operation of the Deliberation Committee, as well as the conciliation of disputes, shall be provided for by presidential decree.

Article 16 (Reports and Inspection)

1. The Minister of Science and Technology may, if he deems it necessary, order a nuclear operator to present reports, or have relevant officials enter the offices, factories or sites of a nuclear operator (or a nuclear ship where such ship is powered by a nuclear reactor), to inspect the books, documents and other necessary objects or to ask questions of the persons concerned.
2. An official conducting an investigation or asking questions in accordance with the provisions of Paragraph 1 shall carry an identification card with him and present it if requested by persons concerned.

Article 17 (Consultation with Heads of Ministries and Agencies)

The Minister of Science and Technology shall consult with heads of ministries and agencies concerned when he intends to make an order pursuant to the provisions of Paragraph 2 of Article 6.

Article 18 (Exclusion of Application to the Government)

The provisions of Articles 5 to 13 shall not apply to cases where the Government is engaged in a nuclear undertaking.

Article 19 (Penal Provision)

A person who violates the provision of Article 5 shall be punished by imprisonment for not longer than three years, or by a criminal fine not exceeding 3 million won, or by both.

Article 20 (Fine for Negligence)

1. A person who commits any of the following acts shall be punished by a fine for negligence not exceeding 500 000 won:
 1. failing to make a report as provided for in Article 16 or making a false report;
 2. refusing, hindering or evading inspection, or failing to answer questions as provided for in Article 16 or giving false answers to questions.
2. The fine for negligence referred to in Paragraph 1 of this Article shall be imposed and collected by the Minister of Science and Technology in accordance with the presidential decree.
3. Any person who objects to imposition of the fine for negligence referred to in Paragraph 2 of this Article may file a complaint with the Minister of Science and Technology within thirty days after the day on which he becomes aware of such imposition.
4. If a person who is subject to imposition of a fine for negligence under Paragraph 2 of this Article raises an objection under Paragraph 3, the Minister of Science and Technology shall notify the competent court without delay which shall, upon receiving such notification, bring the case to trial under the Non-Contentious Case Litigation Procedure Act.

5. When an objection to the imposition is not raised within the period provided for under Paragraph 3 of this Article, and the fine for negligence is not paid, then it shall be collected by use of the means available for collecting national taxes that are in arrears.

Article 21 (Joint Penal Provision)

If a representative of a legal person, or an agent, servant or any other employee of a legal person, or an individual commits an offence provided for in Article 19 in connection with the business of such legal person or individual, the fine prescribed in the same Article shall be imposed on such legal person or individual, in addition to the punishment of the actual offender.

Article 22 (Report to the National Assembly)

In the event of large-scale nuclear damage, the Government shall report to the National Assembly without delay on the state of the damage and on the measures taken by the Government in accordance with this Act.

Addenda (16 January 2001)

1. (Enforcement Date) This Act shall enter into force on 1 January 2002, provided that the amended provisions of Paragraph 5 of Article 3 shall enter into force on 1 July 2002.
2. (Application Example Regarding the Compensation for Nuclear Damage) The amended provisions of Article 2, Article 2-2, Paragraphs 1, 4 and 5 of Article 3, Article 3-2 and Article 13-2 shall apply starting with the compensation amount for nuclear damage which resulted from the first nuclear incident after the date of enforcement of this Act.