

Republic of the Philippines
HOUSE OF REPRESENTATIVES
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FIFTEENTH CONGRESS
First Regular Session

3696

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Introduced By:	HON. JOSEPH EMILIO A. ABAYA
	HON. ANGELO B. PALMONES

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**CREATING THE PHILIPPINE NUCLEAR AND RADIATION
SAFETY COMMISSION, PROVIDING FOR THE REGULATION
AND CONTROL OF NUCLEAR AND OTHER RADIOACTIVE
MATERIALS, FACILITIES, AND RADIATION GENERATING
EQUIPMENT APPROPRIATING FUNDS THEREFOR, AND FOR
OTHER PURPOSES**

EXPLANATORY NOTE

The Science Act of 1958 (Republic Act No. 2067) created the Philippine Atomic Energy Commission (PAEC). Among many other promoting-functions of the PAEC, two duties are mentioned in the regulatory area:

- to issue rules and regulations for the protection of its personnel and the general public and to undertake their enforcement, and
- to issue licenses for the use of radioactive material.

In an amendment of 1963 (Republic Act No. 3589) these regulatory duties were singled out and placed under a separate article which also specifies that "No person may manufacture, produce, transport, acquire, own, possess, import or export any radioactive material except in pursuance of a license issued in accordance with this Act".

In anticipation of the worldwide utilization of nuclear power plants, a specific Act was drawn up, the Atomic Energy Regulatory and Liability Act of 1968 (Republic Act No. 5207). With this Act the previous Acts are somewhat redundant in the area of nuclear installations. When contracts

were drawn up for the delivery and construction of the first nuclear power plant, a pressurized water reactor of US origin, certain sections of the 'Atomic Energy Regulatory and Liability Act of 1968' on limited indemnity had to be amended by Presidential Decree No. 1484 (11 June 1977).

In 1987, the Philippine Nuclear Research Institute (PNRI), formerly the PAEC, was reorganized and placed under the Department of Science & Technology (DOST) by Executive Order 128 of the new government (Reorganizing the National Science and Technology Authority). The dual role of promotion and control of the peaceful use of atomic energy was maintained in the PNRI functions. The PNRI is currently the only RDI (Research and Development Institute) under the DOST with quasi-judicial functions. The Department of Justice then, opined as a result of subsequent PNRI communications seeking specific clarification, that PNRI has the same scope of work with corresponding responsibilities and authority as the former PAEC. Moreover, the PNRI also operates nuclear facilities which are exempted from licensing by the law which created it. Since the beginning, PNRI laboratories and nuclear facilities have never been subjected to regulatory control and licensing to ensure that international standards of nuclear safety are complied with.

In a related development in 1977, the Radiation Health Office (RHO), later renamed Radiation Health Service (RHS), now the Bureau of Health Devices and Technology (BHDT) was created in the Department of Health (DOH) through Presidential Decree 480 as amended by PD 1372 to control and regulate x-rays and other electrically generated radiation devices, among others. The effective implementation of a national radiation control program for ionizing radiation entails much closer coordination, collaboration and harmonization of standards of two regulatory bodies (PNRI & BHDT) currently under two different line departments (DOST & DOH) who are both operators of radiation devices and nuclear facilities. Technological advances in medical imaging incorporates the use of radioactive materials and electrically generated radiation in one machine and can cause undue burden to medical users in having to deal with two separate regulatory authorities.

At present, several Acts, Decrees and Orders appear to be operative. Earlier actions were not always repealed or revoked when new decisions were put in force. This fragmentation has resulted in differences in interpretation of the

scope, responsibility and authority of the regulatory bodies between the subsequent acts, decrees and orders.

According to its legal mandate, the PNRI is presently performing both regulatory and promoting functions. Although it was a common approach in the early 1960's of nuclear energy application and nuclear power development to have a regulatory body attached to some form of atomic energy organization, present internationally recognized safety principles require that the regulatory body be **effectively independent** of the organization charged with the promotion or utilization of nuclear energy. Even allowing for constitutional differences and approaches between countries, it is imperative to provide the legislative basis for an independent **unified** nuclear regulatory body in the Philippines. This new legislation proposes, among others, to encompass the relocation of all regulatory activities presently performed in the PNRI under DOST and those in the BHDT under DOH, which are specific to ionizing radiation regulation; to a position within the governmental organizational structure, such as the Office of the President, that guarantees that **controlling functions of a regulatory body** are separate from the promoting functions.



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AN ACT

14 CREATING THE PHILIPPINE NUCLEAR AND RADIATION SAFETY COMMISSION,
15 PROVIDING FOR THE REGULATION AND CONTROL OF NUCLEAR AND OTHER
16 RADIOACTIVE MATERIALS, FACILITIES, AND RADIATION GENERATING
17 EQUIPMENT APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

18 ARTICLE I – GENERAL PROVISIONS
19

20 Section 1. Short Title – This Act shall be known as the “Comprehensive Nuclear and Radiation
21 Safety Regulation Act of 2009”.

22
23 Section 2. Declaration of Policy – It is hereby declared to be the policy of the State to:

- 24 (a) harness science and technology including use of nuclear energy and ionizing radiation to
25 improve the health and prosperity of the inhabitants of the Philippines, contribute to the general
26 welfare, and accelerate scientific, technological, agricultural, commercial and industrial progress;
27 (b) regulate and control the development and use for all peaceful purposes of nuclear and other
28 radioactive materials, facilities and radiation generating equipment, hereinafter referred to as
29 ionizing radiation sources, to protect public health and safety, and the environment from the
30 harmful effects of ionizing radiation consistent with the Philippines’ regional and international
31 obligations; and

- (c) establish arrangements for the exchange of safety, security and safeguards-related information, bilaterally or regionally, with neighboring states and other interested states, and with relevant intergovernmental organizations, both to fulfill safety obligations and to promote cooperation.

Section 3. Objectives – The objectives of this Act are:

- (a) to provide a legal framework that adequately protects public health and safety and the environment from possible harmful effects of ionizing radiation; and ensures security of ionizing radiation sources;
- (b) to establish the Philippine Nuclear and Radiation Safety Commission, hereinafter referred to as the Commission, for the purpose of exercising regulatory control over the peaceful uses of nuclear and other radioactive materials, facilities, and radiation generating equipment, hereinafter referred to as ionizing radiation sources, which are conducted in the territory or under the jurisdiction or control of the Republic of the Philippines anywhere, including, but not limited to: production, possession, use, import, export, transport, transfer, handling and management or any other activities or practices identified by the Commission;
- (c) to establish and maintain a regulatory system for the formulation of and/or adoption of standards, licensing, inspection and enforcement to govern all activities and practices falling within the scope of this Act; and
- (d) to enable the Philippines to meet its obligations under relevant international instruments entered into by the Philippines, in particular, the Treaty on the Non-Proliferation of Nuclear Weapons (NPT); the Treaty on Southeast Asia Nuclear Weapon-Free Zone; the Convention on the Physical Protection of Nuclear Material; the Agreement between the Philippines and the International Atomic Energy Agency (IAEA) for the Application of Safeguards in Connection with the NPT (the Safeguards Agreement); and any protocols thereto.

Section 4. Scope

- (a) This Act shall apply to all activities and practices involving ionizing radiation sources including nuclear and other radioactive materials, facilities and radiation generating equipment.
- (b) This Act shall not apply to activities or practices involving exposures that have been excluded from regulatory control through regulations established by the Commission.
- (c) This Act shall not apply to activities or practices involving non-ionizing radiation sources and related facilities which are retained within the responsibilities of the Department of Health.

Section 5. Definitions – For purposes of this Act:

- (a) *Activities* means the production, use, possession, import and export, and handling and management of ionizing radiation sources; the transport of radioactive material; mining and

processing of radioactive ores; the decommissioning of facilities; management of radioactive waste and such other activity as the Commission shall from time to time determine;

(b) *Authorization* means a permission granted by the Commission to a legal person who has submitted an application involving ionizing radiation sources. The authorization can take the form of a notification, a registration, or a license;

(c) *Commission* means the Philippine Nuclear and Radiation Safety Commission;

(d) *Decommissioning* means activities aimed at releasing nuclear installation or workplaces with an ionizing radiation source, following the termination of their operation, for their utilization for other purposes, or for the purpose of exempting them from the requirements of this Act;

(e) *Emergency plan* means a set of procedures to be implemented in the event of an accident which describes the objectives, policy and concept of operations for the response to an emergency and of the structure, authorities and responsibilities for a systematic, coordinated and effective response;

(f) *Emergency preparedness* means the capability to take actions that will effectively mitigate the consequences of an emergency for human health and safety, quality of life, property, and the environment;

(g) *Emergency response* means the performance of actions to mitigate the consequences of an emergency for human health and safety, quality of life, property, and the environment. It might also provide a basis for the resumption of normal social and economic activity;

(h) *Exemptions* mean the requirements set by the Commission or any government agency which need not be complied with by an installation operator, licensee or a practice;

(i) *Facilities* mean nuclear installations or radiation facilities in which people may be exposed to ionizing radiation. These include:

- 1) uranium mining and raw material processing facilities such as uranium mines;
- 2) enrichment and fuel manufacturing plants;
- 3) nuclear power plants;
- 4) other reactors such as research reactors and critical assemblies;
- 5) spent fuel reprocessing plants;
- 6) radioactive waste management facilities;
- 7) radiation generator installations;
- 8) irradiation installations;
- 9) nuclear and radiation facilities for medical, industrial, research and education purposes; and
- 10) such other facilities as the Commission shall determine from time to time;

(j) *Income* means the monetary benefits gained by the Commission in the conduct of its regulatory functions;

(k) *Individual operator* means any individual who manipulates the controls of a nuclear installation, radiation facility and radiation generating equipment;

- (l) *Installation operator or Operator* means any person, organization, or government entity licensed or authorized to undertake the operation of a nuclear or radiation facility or a radiation generating equipment;
- (m) *Institute* means the Philippine Nuclear Research Institute;
- (n) *Ionizing radiation* means electromagnetic or particulate radiation capable of producing ion pairs directly or indirectly;
- (o) *Ionizing radiation sources* means nuclear and other radioactive materials, facilities and radiation generating equipment;
- (p) *License* means a legal document issued by the regulatory body granting authorization to perform specified activities related to a facility or activity; or any authorization granted by the regulatory body to the applicant to have the responsibility for the siting, design, construction, commissioning, operation or decommissioning of a nuclear installation;
- (q) *Licensee* means the holder of a current license granted for a practice or source who has recognized rights and duties for the practice or source, particularly in relation to protection and safety; or an organization having overall responsibility for a facility or activity;
- (r) *Nuclear accident* means any accident involving facilities or activities from which a release of radioactive material occurs or is likely to occur and which has resulted or may result in an international transboundary release that could be of radiological safety significance for another State;
- (s) *Nuclear damage* means loss of life, any personal injury or any loss, or damages to, or loss of use of property, which arises out of or results from the radioactive, toxic, explosive or other hazardous properties, or any combination thereof, of nuclear fuel or radioactive products or any waste in, or of nuclear materials coming from, originating in, or sent to, a nuclear installation or from the ionizing radiation emitted by any other sources of radiation inside a nuclear installation. Personal injury includes any physical or mental injury (including death), sickness or disease whether caused directly by a physical trauma or otherwise;
- (t) *Nuclear incident* means any occurrence or series of occurrences having the same origin which causes nuclear damage or, but only with respect to preventive measures, creates a grave and imminent threat of causing such damage;
- (u) *Nuclear installation* means any of the following:
- 1) a nuclear reactor for research or production of nuclear materials for industrial or medical use (including critical and sub-critical assemblies);
 - 2) a plant for preparing or storing fuel for use in a nuclear reactor as described in paragraph (1);

- 3) a nuclear waste storage or disposal facility with an activity that is greater than the activity level prescribed by regulations made for the purposes of this section; or
- 4) a facility for production of radioisotopes with an activity that is greater than the activity level prescribed by regulations made for the purposes of this section.

(v) *Nuclear material* means:

- 1) source material represented by uranium containing mixtures of isotopes occurring in nature, uranium depleted in the ^{235}U isotope or thorium and each of these items in the form of metal, alloy, chemical compound or concentrate, as well as materials containing one or more of the foregoing in concentration or amount exceeding values established by the Commission;
- 2) special fissionable material; and
- 3) such other materials the Commission shall determine from time to time.

(w) *Nuclear/radiological emergency* is a non-routine situation that necessitates prompt action primarily to mitigate a hazard or adverse consequences for human health and safety, quality of life, property or the environment;

(x) *Nuclear safety* means the achievement of proper operating conditions of nuclear installations, proper handling and use of nuclear material, prevention of accidents or mitigation of accident consequences resulting in protection of workers, the public, and the environment from the harmful effects of ionizing radiation;

(y) *Official Gazette* means the official journal of the Philippine government where this Act and the Commission's regulations may be published; the journal reports all laws, actions and decisions issued by the government and other information on things such as hearing and tribunals, proposed changes and any thing else the government feels should be told to the public;

(z) *Person* means (1) Any individual, organization, corporation, partnership, firm, association, trust, estate, public or private institution, group, political or administrative entity or other person designated in accordance with national legislation, who or which has responsibility and authority for any action taken under this Act; and (2) any legal successor, representative, agent, or agency of the foregoing;

(aa) *Physical protection* means technical and organizational measures for protection of nuclear material or authorized facilities designed to prevent unauthorized access with nuclear installations, nuclear materials and other radioactive materials;

(bb) *Practice* means any human activity that introduces additional sources of exposure or exposure pathways or extends exposure to additional people or modifies the network of exposure pathways from existing sources, so as to increase the exposure or the likelihood of exposure of people or the number of people exposed;

- 1 (cc) *Radiation facility* means a facility that utilizes radioactive materials; x-ray facility; particle
2 accelerator facility; and other such facility that the Commission shall determine from time to
3 time;
- 4 (dd) *Radiation generating equipment* means an equipment that generates ionizing radiation when
5 energized (e.g., x-ray generating equipment) or that would, if assembled or repaired, be capable
6 of producing ionizing radiation when energized or an equipment as the Commission shall from
7 time to time determine;
- 8 (ee) *Radiation protection* means the protection of people and the environment from the harmful
9 effects of ionizing radiation;
- 10 (ff) *Radiation safety* means measures intended to minimize the likelihood of accidents involving
11 radioactive sources and, should such an accident occur, to mitigate its consequences;
- 12 (gg) *Radioactive material* means any material designated in national law or by a regulatory body as
13 being subject to regulatory control because of its radioactivity;
- 14 (hh) *Radioactive waste* means waste substances, objects or equipment for which no further use is
15 foreseen by their owner, with a radionuclide content or surface radionuclide contamination
16 exceeding values permitting their discharge into the environment, these values shall be set out in
17 an implementing regulation;
- 18 (ii) *Radioactive waste disposal* means a permanent emplacement of radioactive waste into areas,
19 facilities or installation without the intention of its retrieval;
- 20 (jj) *Radioactive waste and spent fuel storage* means the holding of radioactive sources, spent fuel or
21 of radioactive waste in a facility that provides for their/its containment, with the intention of
22 retrieval;
- 23 (kk) *Radiological accident* means an event resulting in an inadmissible release of radioactive
24 substances or ionizing radiation, or an inadmissible exposure of people;
- 25 (ll) *Safeguards* means measures undertaken to ensure that the nuclear material, non-nuclear
26 material, services, equipment, facilities, information and certain items are not used for the
27 manufacture of nuclear weapons or any other nuclear explosive devices or to further any military
28 purpose;
- 29 (mm) *Security* means the prevention and detection of and response to, theft, sabotage, unauthorized
30 access, illegal transfer or other malicious acts involving nuclear material, other radioactive
31 substances or their associated facilities;
- 32 (nn) *Special fissionable materials* mean Plutonium-239, Uranium-233, Uranium enriched in the
33 isotopes 235 or 233 and materials containing one or more of the foregoing in concentration or
34 amount exceeding values established by the Commission; and

(oo) *Technical Support Organization* means the outside organization or experts from outside the Commission's permanent staff from whom the Commission may seek advice or recommendations in the conduct of its regulatory responsibilities.

ARTICLE II - THE PHILIPPINE NUCLEAR AND RADIATION SAFETY COMMISSION

Section 6. Creation of the Philippine Nuclear and Radiation Safety Commission – The Philippine Nuclear and Radiation Safety Commission, hereinafter referred to as the Commission, is hereby created and shall be the agency of the State to regulate and control the utilization of ionizing radiation sources. The Commission shall have authority over all aspects of safety and security involving the peaceful uses of nuclear energy. The Commission shall be attached to the Office of the President.

Section 7. Use of Income – The Commission shall be allowed to use 100% of its income for upgrading of its physical and human resources, for the conduct of its activities, and for augmentation of its budget in case of shortfalls.

Section 8. Organizational Structure of the Commission – The head of the Commission shall draw up its organizational structure to be submitted to the President for approval. The Commission shall be headed by a Commissioner who shall be appointed by the President for a term of five (5) years with a rank equivalent to an Undersecretary. The Commissioner shall be assisted by two Associate Commissioners who shall be appointed by the President with a term of four (4) years and three (3) years respectively. Thereafter, the successors shall be appointed for five (5) years.

The Commissioner shall not be removed from service for political considerations, but only for just cause which includes misconduct, demonstrated lack of competence, unlawful behavior, inability to perform assigned duties, and the like.

Section 9. General Authority of the Commission – In the performance of its functions under this Act, the Commission is authorized to:

- (a) define policies, safety and security principles, standards and associated criteria as a basis for its regulatory actions;
- (b) establish, issue, amend, revoke, promote or adopt regulations, orders and guides;
- (c) establish system of authorization in the form of notification, registration, and licensing;
- (d) review and assess submissions on safety and security from the operators both prior to authorization and periodically during and after operation as required;
- (e) issue, amend, modify, suspend or revoke authorizations, subject to any necessary conditions as determined by the Commission;

- 1 (f) carry out regulatory inspections to ensure compliance with regulations and undertake the
- 2 necessary enforcement action in the event of non-compliance;
- 3 (g) define exemptions and exclusions from regulatory control;
- 4 (h) ensure the applications of safeguards and security requirements consistent with international
- 5 obligations;
- 6 (i) charge and collect reasonable fees in the performance of its regulatory functions, provided that
- 7 such fees shall be imposed by regulation on the basis of such published criteria as the
- 8 Commission deems appropriate;
- 9 (j) hold hearings, conduct investigations and for these purposes, administer oaths and affirmations
- 10 and issue subpoenas to any person to appear and testify, or to appear and produce documents at
- 11 any designated time and place;
- 12 (k) call upon other government agencies and instrumentalities for assistance and cooperation in
- 13 carrying out the provisions of this Act;
- 14 (l) establish and implement, in cooperation with other relevant authorities, a system of control over
- 15 the export and import of nuclear and other radioactive materials, sources, equipment, information
- 16 and technology determined to be necessary to protect the safety and security of the Philippines
- 17 and to implement relevant international commitments of the Philippines;
- 18 (m) cooperate with other relevant agencies of the Philippines in establishing and maintaining a plan
- 19 for preparedness and response to emergencies involving nuclear or other radioactive materials in
- 20 accordance with the national emergency response plan;
- 21 (n) carry out or contract the conduct of research on radiation safety and security necessary to
- 22 implement its functions;
- 23 (o) establish appropriate mechanisms and procedures for informing the public, press, media and
- 24 other stake-holders about the regulatory process and the safety and security aspects of regulated
- 25 activities and practices, including incidents, accidents and abnormal occurrences;
- 26 (p) establish accreditation criteria as may be required, including but not limited to, for certification
- 27 of training institutes, training programs, and organizations on nuclear and radiation safety, and
- 28 for qualifications of operating and other personnel in nuclear installations and radiation facilities;
- 29 (q) conduct such other relevant functions as may be necessary to attain the objectives of this Act;
- 30 and
- 31 (r) Nothing in this Act shall preclude the **authorized** agents of the Department of National Defense
- 32 to make inspections of atomic energy facilities, materials or any activity jointly with the
- 33 authorized representatives of the Commission after prior consultation with the latter when the
- 34 security of the state is involved.
- 35

36 **Section 10. Regulatory Policy** – In issuing licenses and regulations under this Act, the

37 Commission shall:

- 1 (a) impose the minimum requirements consistent with the Commission's obligations under this Act
2 to protect the health and safety of the public and the environment, and ensure the security of
3 ionizing radiation sources; and
4 (b) prevent the spread of nuclear weapons and prevent nuclear or radiological terrorism consistent
5 with the obligations of the Philippines under relevant international instruments.
6

7 **Section 11. Advisory Bodies** – The Commission may choose to establish advisory bodies or
8 seek expert opinion and recommendations from Technical Support Organizations whose technical advice
9 will not have conflict of interest or improper influence on its regulatory decision making. Any advice
10 offered shall not relieve the Commission of its responsibilities under this law, other relevant laws and
11 applicable regulations of the State.
12

13 **Section 12. Advisory Board on Safety of Nuclear Installations and Radiation Facilities and**
14 **Materials.** – Upon the recommendation of the Commission, the *Secretary of the Department of Science*
15 *and Technology* (OR TO WHICHEVER DEPARTMENT THE COMMISSION IS REPORTING TO)
16 shall establish an Advisory Board on safety of nuclear installations and radiation facilities and materials
17 not exceeding eleven in number and appoint the members, to assist and advise the Commission on the
18 health and safety matters arising in connection with nuclear installations and radiation facilities and
19 material licenses, and regulations applicable to such authorizations, composed of experts outside the
20 Commission from other government agencies or the private sector or both: *Provided, however, that the*
21 *Commission shall have the final decision and responsibility with respect to such matters. The opinions*
22 *and reports of the Board on authorization applications shall be made in writing and shall be made*
23 *available to the public.*
24

25 **ARTICLE III – REGULATION AND AUTHORIZATION OF NUCLEAR INSTALLATIONS**
26 **AND RADIATION FACILITIES**
27

28 **Section 13. Activities Subject to Authorization.** – It shall be unlawful for any person to
29 transfer, construct, receive, own, possess, operate, import or export any nuclear installations and radiation
30 facilities except under an authorization issued by the Commission under this Act.
31

32 **Section 14. Form and Content of application.** – Each application for an authorization for
33 nuclear installations and radiation facilities shall be in writing and shall contain such information as the
34 Commission may by regulations or order deem to be necessary to carry out its responsibilities under this
35 Act. Such information shall include, but shall not be limited to, information bearing on the technical and
36 financial qualifications of the applicant, the character of the applicant, and the citizenship of the
37 applicant. In addition, the applicant shall state such technical information as to the proposed nuclear

1 installations and radiation facilities, the amount, kind, and source of reactor fuel requirements, the
2 proposed location and site of the nuclear installations and radiation facilities, the operational procedure
3 for the nuclear installations and radiation facilities and such other information as the Commission may by
4 regulation deem necessary in order to enable it to decide whether operation of the nuclear installations
5 and radiation facilities will not pose undue risk to the health and safety of the public and the
6 environment.

7
8 **Section 15. Citizenship Requirement.** — No authorization to acquire, own, or operate any
9 nuclear installations and radiation facilities shall be issued to an alien, or any corporation or other entity
10 which is owned or controlled by an alien, a foreign corporation, or a foreign government.

11
12 For purposes of this Act, a corporation or entity is not owned or controlled by an alien, a foreign
13 corporation of a foreign government if at least sixty percent (60%) of its capital stock is owned by
14 Filipino citizens.

15
16 **Section 16. Provisional Authorization.** — In all cases of application for authorization to
17 construct a nuclear installation and radiation facility, if the Commission finds that, on the basis of the
18 technical information and data so far made available to it, there is reasonable assurance that the proposed
19 facility can be constructed and operated at the proposed location without undue risk to the health and
20 safety of the public and the environment, and security of the ionizing radiation sources, it shall initially
21 issue a provisional license to the applicant. Such a provisional authorization may be granted even if the
22 health, safety, and security information then available is less than would be needed for an authorization to
23 operate provided that the Commission is satisfied that there is reasonable assurance that questions of
24 health, safety, and security will be so resolved as to warrant the issuance of an authorization to operate
25 the installation.

26
27 **Section 17. Authorization to Operate.** — Upon the filing of any additional information and
28 data needed to enable the Commission to make a determination of the safety aspects of the complete
29 nuclear installations and radiation facilities, and upon finding that the facility authorized has been
30 constructed and will operate in conformity with the application as amended and in conformity with the
31 provisions of this Act and of the regulations of the Commission, and in the absence of any good cause
32 being shown to the Commission why the granting of an authorization would not be in accordance with
33 the provisions of this Act, the Commission shall thereupon issue an authorization to the applicant to
34 operate the facility.

35
36 **Section 18. Continued Operation of Nuclear Installations and Radiation Facilities in Case**
37 **of Revoked Authorization.** — Whenever the Commission finds that the public convenience and necessity

of the country require continued operation of a nuclear installation and radiation facility the authorization for which has been revoked, the Commission may, after consultation with the appropriate agency having jurisdiction and after determining that there could be no significant risk to the health and safety of the public and the environment, and security of the ionizing radiation sources, order that possession be taken of such nuclear installation and radiation facility and materials and that it be operated for such period of time as in the judgment of the Commission, the public convenience and necessity for the nuclear energy development program of the Commission require, or until an authorization for the operation of the nuclear installations and radiation facilities shall become effective. Just compensation shall be paid for the use of the facility.

Section 19. Additional Requirements in Case of Nuclear Installation for Commercial Power: Exemptions. — Nothing in this Act shall be construed to exempt the operator of a nuclear facility designed primarily for the generation of electricity for commercial purposes, from complying with other requirements provided by existing laws, such as securing a franchise, a certificate of public convenience and necessity, obtaining approval for rates and services and others, from the appropriate agency having jurisdiction: Provided, however, that upon certification by the Commission, importations of nuclear fuel for use in these facilities shall be free from all taxes and duties in accordance with incentives under the pertinent provisions of the Board of Investment (BOI) Act.

Section 20. Individual Operators. — The Commission shall:

- (a) Prescribe the classes of nuclear installations and radiation facilities for which it determines that individual operators' authorization should be required in order to protect the health and safety of the public and the environment;
- (b) Determine the qualifications of such individuals;
- (c) Issue authorization to such individuals in such form as the Commission may prescribe; and
- (d) Suspend or revoke such authorization for violations of any provisions of this Act or regulation or order issued by the Commission.

ARTICLE IV - REGULATION AND AUTHORIZATION OF NUCLEAR AND OTHER RADIOACTIVE MATERIAL AND RADIATION GENERATING EQUIPMENT

Section 21. Activities Subject to Authorization. — It shall be unlawful for any person to manufacture, produce, receive, possess, own, use, transfer, import or export any nuclear and other radioactive material and radiation generating equipment except under an authorization issued by the Commission or except as otherwise authorized by the Commission under this Act: Provided, however,

1 that the mining and processing of radioactive ores or materials shall be governed by the applicable
2 mining laws prior to the removal from its place of deposit in nature.

3
4 **Section 22. Exemption from the Authorization Requirements.** – The Commission may, by
5 regulation, exempt nuclear and other radioactive material and radiation generating equipment from the
6 authorization requirements of this Act if the Commission finds that the exemption will not constitute an
7 undue risk to the health and safety of the public and the environment and to the security of the ionizing
8 radiation sources.

9
10 **Section 23. Form and Content of Application.** – Each application for an authorization for
11 nuclear and other radioactive material and radiation generating equipment shall be in writing and shall
12 contain such information as the Commission may, by regulation or order, deem to be necessary to carry
13 its responsibilities under this Act. All applications and statements shall be signed by the applicant or
14 licensee.

15
16 **Section 24. Prior and Preferential Rights of the Government over Special Fissionable**
17 **Material.** – The Government of the Philippines, acting through the Commission, shall have the right to
18 acquire any special fissionable material owned by a person in the Philippines. Such right may be
19 exercised only when in the view of the Commission the development of nuclear energy in the Philippines
20 or the national interest so requires. The acquisition of special fissionable material pursuant to this section
21 shall be made for a fair and reasonable price.

22
23
24 **ARTICLE V -- COMMON PROVISIONS FOR REGULATION OF IONIZING RADIATION**
25 **SOURCES.**
26

27 **Section 25. Form and Content of Authorization.**

- 28 (a) Each authorization shall be in such form and shall contain such terms as the Commission may
29 prescribe to effectuate the provisions of this Act.
30 (b) Every authorization issued under this Act shall be subject to the rights of possession or control
31 vested in the Commission under the provisions of this Act and to all of the other provisions of
32 this Act, now or hereafter in effect and to all valid regulations and orders of the Commission.

33
34 **Section 26. To Whom Authorization Issued.** – The Commission shall issue an authorization
35 upon finding:

- 36 (a) That the proposed activities are consistent with the policies declared in Section Two of this Act;

- 1 (b) That the applicant is technically and financially qualified to engage in the proposed activities in
2 accordance with the requirements of this Act and the Commission's regulations, and has met all
3 relevant requirements;
- 4 (c) That the proposed activities will not pose undue risk to the health and safety of the public and
5 the environment, and security of the ionizing radiation sources; and
- 6 (d) That the applicant, if required by this Act or the Commission's regulations, has financial
7 security to fulfill the obligations for liability for nuclear damage.
8

9 **Section 27. Period of Authorization.** - Each authorization shall be issued for a specified
10 period, as determined by the Commission depending on the type of activity to be authorized and may be
11 renewed upon the expiration of such period.
12

13 **Section 28. Transfer of Authorization.** - No authorization issued by the Commission, and no
14 right granted by any such authorization, shall be transferred, assigned, encumbered, or in any manner
15 disposed of, either voluntarily, or involuntarily, directly or indirectly, unless the Commission shall, after
16 securing full information find that such transfer, assignment, encumbrance, or other disposition is in the
17 accordance with the purposes and provisions of this Act and shall give its consent in writing.
18

19 **Section 29. Authorization Subject to Amendment.** - The terms and conditions of all
20 authorization shall be subject to amendment or modification, by reason of amendments of this Act or by
21 reason of amendments of regulations or orders issued in accordance with the terms of this Act.
22

23 **Section 30. Regulatory Enforcement Powers.** - For the purpose of determining whether the
24 application should be granted or denied or whether an authorization should be modified, suspended, or
25 revoked, and of otherwise implementing its licensing and regulatory responsibilities under this Act, the
26 Commission may at any time after the filing of the original application and before the expiration of the
27 authorization (a) require additional written statements which shall, if the Commission so decides, be
28 made under oath or affirmation, and additional technical information and data concerning activities under
29 the application; (b) enter, through authorized representatives, at all reasonable times, the premises where
30 the nuclear installations and radiation facilities and materials are located or where ionizing radiation
31 sources are stored, and perform such inspection as may be necessary; and (c) order the applicant or
32 licensee, where situations or conditions endangering life, health or property are found to exist, to adopt
33 such measures as would eliminate or protect against such situations or conditions.
34

35 **Section 31. Modification, Suspension or Revocation of Authorization** - Any authorization
36 maybe modified, suspended or revoked, in whole or in part, for any material false statement contained in
37 the application, or contained in any statement, record or report required under this Act or for reasons or

1 conditions revealed by such application or statement of fact or any report, record, or inspection or other
2 means which would warrant the Commission to refuse to grant an authorization on an original
3 application, or for failure to construct or operate nuclear installations and radiation facilities in
4 accordance with the terms of the authorization, or for violation of, or failure to observe, any of the terms
5 and provisions of the Act or any rule, regulation or order of the Commission.

6
7 Except in cases of willful violation or those in which the public interest, health, safety, or
8 security requires otherwise, no authorization shall be modified, suspended or revoked until the licensee
9 shall have been accorded an opportunity to demonstrate or achieve compliance with all lawful
10 requirements.

11
12 **Section 32. Protective Measures in Cases of Suspension, Revocation or Expiration of**
13 **Authorization .** – Upon the suspension, revocation, or expiration of an authorization which is not
14 renewed, and pursuant to Commission order, the Commission shall take, or shall require the licensee to
15 take, such measures as may be necessary to protect the health and safety of the public and the
16 environment from the harmful effects of radiation, and ensure security of the ionizing radiation sources.
17 The Commission may, if necessary to protect the health and safety of the public and the environment,
18 and ensure security of sources, take temporary custody of any nuclear and other radioactive material or
19 facilities held by the licensee pending their appropriate and lawful disposition by or for the licensee.

20
21 **Section 33. Combining Applications: Oath or Affirmation.** – The Commission may consider
22 in a single application one or more of the activities for which an authorization is required by this Act and
23 may combine in a single license authorization for one or more of such activities. The Commission may
24 require that any application or statement be made under oath or affirmation.

25 26 27 **ARTICLE VI - RADIATION PROTECTION**

28
29 **Section 34. Radiation Protection.** – The Commission shall:

- 30 (a) take the appropriate steps to ensure that:
- 31 (1) no activity or practice shall be authorized unless it produces sufficient benefit to the
32 exposed persons or to society in a manner that offsets the radiation harm that it may
33 cause, taking into account social, economic and other relevant factors;
- 34 (2) in relation to ionizing radiation exposure to workers and the public caused by a nuclear
35 installation or radiation facility, the magnitude of individual doses, the number of
36 persons exposed and the likelihood of incurring exposures shall all be kept as low as
37 reasonably achievable, economic and social factors being taken into account; and

(3) no individual shall be exposed to ionizing radiation doses which exceed prescribed national dose limits;

(b) maintain a national system for registration of licensees, registrants, imported and exported selected items, and ionizing radiation sources; and

(c) maintain a record of exposure of the public, patients, and of workers occupationally exposed to ionizing radiation at their work.

Section 35. Regulatory Control of Ionizing Radiation Sources.

(a) The Commission shall adopt requirements for the protection of persons from injury due to exposure to ionizing radiation.

(b) The Commission shall establish dose limits to persons that may not be exceeded, in conducting activities under regulatory control, taking into account the IAEA recommendations.

(c) The Commission shall identify sources or practices to be exempted from regulatory control based on established criteria.

(d) The Commission shall establish clearance levels below which radioactive SOURCES within authorized activities and practices can be released from regulatory control.

Section 36. Responsibilities for Radiation Protection.

(a) The primary responsibility for ensuring the protection and safety of workers and the public from radiological accident rests with the person(s) authorized to engage in activities utilizing ionizing radiation.

(b) Authorized persons shall ensure compliance with requirements and dose limits established by the Commission and shall ensure that radiation doses to workers and the public, including doses from releases to the environment, are as low as reasonably achievable, taking into account social and economic factors.

Section 37. Protection of Patients. — The person licensed to conduct medical practices shall ensure that no patient will be administered a diagnostic or therapeutic exposure unless the exposure is prescribed by a medical practitioner who is assigned the primary task and obligations for ensuring overall patient protection and safety in the prescription of, and during the delivery of, medical exposures.

Section 38. Exposure to Natural Sources — The Commission shall promulgate appropriate regulations and related guidelines to address all issues and concerns related to exposure to ionizing radiation from natural sources. Mining, milling of radioactive minerals, and management of radioactive wastes from these mining and milling industries as well as those generated from similar industries shall be subject to regulatory control of the Commission.

Section 39. Emergency Preparedness and Response – The Commission shall:

- a) coordinate the activity of the radiological emergency response organization of the Commission within the framework of the National Disaster Coordinating Council of the Department of National Defense in case of a nuclear and radiological accident; and
- b) provide for the activities of an emergency response center and for an international exchange of information on the radiation situation, consistent with the Philippines' obligations under the Convention on Early Notification of a Radiation Accident and the Convention on Mutual Assistance in Case of a Radiation Accident.

ARTICLE VII – TRANSPORT OF NUCLEAR AND OTHER RADIOACTIVE MATERIAL

Section 40. Regulation for Transport of Nuclear and Other Radioactive Material – The Commission shall establish and implement safety and security requirements for the transport of nuclear and radioactive material to, from and within the jurisdiction of the Philippines in coordination with relevant national government agencies and consistent with the IAEA transport regulations.

Section 41. Requirements for Authorization to Transport Nuclear and Other Radioactive Material.

- (a) No person shall engage in the transport of nuclear and other radioactive material without complying with the requirements set forth by the Commission in the transport regulations.
- (b) The person authorized to engage in the transport of nuclear and other radioactive material shall have the primary responsibility for ensuring its safety and security during transport.

ARTICLE VIII – MANAGEMENT OF SPENT NUCLEAR FUEL AND OTHER RADIOACTIVE WASTE

Section 42. General Policy

- a) Under the terms of this Act, the State guarantees safe MANAGEMENT of spent nuclear fuel and all radioactive waste IN A MANNER THAT PROTECTS HUMAN HEALTH AND THE ENVIRONMENT, BOTH NOW AND IN THE FUTURE;
- b) THE STATE WILL IDENTIFY OR ESTABLISH AS NECESSARY THE ORGANIZATIONS WHICH WILL HAVE RESPONSIBILITY FOR THE MANAGEMENT AND DISPOSAL OF RADIOACTIVE WASTE AND SPENT FUEL;
- c) The generators of spent nuclear fuel and other radioactive waste AS WELL AS THE operators of spent nuclear fuel management and radioactive waste facilities shall have the primary

responsibility for the safe management of the spent nuclear fuel and radioactive waste and related facilities. The generation of radioactive waste shall be kept to the minimum practicable.

d) Any person who manages spent nuclear fuel and radioactive waste shall take into consideration all its physical, chemical and biological properties that might have a bearing on its safe management and ensure the security of the facility;

e) Any person owning and/or generating nuclear and other radioactive waste shall bear all costs associated with its management, from its time of origin to its disposal, including monitoring of the radioactive waste disposal facilities after their closure, and including the necessary research and development activities. A contractual transfer of rights to manage radioactive waste or of its ownership must be stipulated in writing;

f) Unless a generator or the Commission declares spent or irradiated fuel to be radioactive waste, its management, apart from the requirements arising out of other provisions of this Act, is subject to the same requirements as applicable to radioactive waste. An owner of spent or irradiated fuel and other radioactive waste shall manage it in such a way as not to encumber the potential for subsequent processing or disposal and impose undue burdens on future generations;

g) The Commission shall establish regulations on the management of nuclear and other radioactive waste in accordance with national regulations and international safety standards;

h) The Commission shall establish regulations for ensuring that operators of nuclear facilities make adequate financial arrangements for waste management; and

i) The Commission shall take decisions ensuring management of nuclear or radioactive waste if their owner or generator proceeds in contravention to this Act and fails to remedy conditions that have arisen. Decisions shall take into account the interests and concerns of all interested and affected people.

ARTICLE IX – IMPORT AND EXPORT

Section 43. Export/Import Control - The Commission shall:

(a) establish regulatory requirements and relevant guidelines for the exportation and importation of nuclear and radioactive materials and ionizing radiation devices which require licensees, inter alia:

1) to secure an authorization from the Commission prior to export or import with the assurance of applying safeguards and physical protection measures to protect public health, safety and security;

2) to ensure before import that the exporter has an authorization from the Competent Authority of the exporting country to export such sources to the Philippines in accordance with laws and regulations of that country; and

- 3) to ensure before export that the importing country has the appropriate technical and administrative capability, resources and regulatory infrastructure needed for the safe and secure management of the requested sources, particularly disused or spent sources;
- (b) coordinate with relevant agencies of government and establish appropriate formal mechanisms for coordination to effectively implement these import/export control measures for nuclear and radioactive materials including devices that produce ionizing radiation; and
- (c) transport radioactive sources through the territory of a transit or transshipment State in a manner consistent with existing relevant international standards relating to the transport of radioactive materials.

ARTICLE X – SAFEGUARDS, PHYSICAL PROTECTION AND SECURITY

Section 44. Safeguards – The Commission shall:

- a) maintain a State system of accounting for and control of nuclear materials and establish requirements for accounting for and methods for control of nuclear material;
- b) fulfill the State's obligation to the Non-Proliferation Treaty and related international treaties, conventions and agreements; and
- c) ensure unimpeded access to locations and facilities by IAEA inspectors and full cooperation by authorized persons and licensees.

Section 45. **Physical Protection** – The Commission shall establish requirements for the physical protection of ionizing radiation sources and shall fulfill the State's obligation as a party to the Convention on Physical Protection of Nuclear Material.

Section 46. Security – The Commission shall:

- (a) establish and maintain appropriate regulations and regulatory guides for the security of ionizing radiation sources including during transport of nuclear and radioactive materials;
- (b) implement effective measures to prevent, detect and respond to unauthorized acts involving ionizing radiation sources that may cause injury to persons, property or the environment in the Philippines or otherwise jeopardize national security; and
- (c) coordinate with the relevant agencies of government and seek international cooperation to effectively implement these security measures for ionizing radiation sources.

ARTICLE XI – ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

1 **Section 47. Notice and Conduct of Hearing**

- 2 a) In any proceeding under this Act for the granting, suspending, revoking or amending of any
3 authorization, including an application to transfer control of an authorization , or upon the
4 issuance of an order under Sections eighteen (18), twenty four (24), thirty (30), or thirty two (32),
5 the Commission shall hold a hearing upon the request of any person whose interest may be
6 affected and shall admit such person as a party to the proceeding.
- 7 b) Commission hearings may be open to the public and relevant stakeholders, except where
8 warranted by considerations of security, national defense or proprietary matters.
- 9 c) Except in cases where immediate action is required in order to protect the health and safety of the
10 public or the national interest, no order issued under Sections eighteen (18), twenty four (24),
11 thirty (30), or thirty two (32) shall become effective until after the licensee has had notice for a
12 hearing and opportunity to be heard.
- 13 d) Where an order suspending, revoking or modifying an authorization, or an order issued under
14 Sections eighteen (18), twenty four (24), thirty (30), or thirty two (32) is made effective without
15 prior notice for a hearing and opportunity to be heard , the order shall only be temporary pending
16 the hearing and issuance of the Commission's final decision in the proceeding.

17
18 **Section 48. Notice of Regulation** - No regulation adopted by the Commission shall be
19 effective less than fifteen days after publication of the regulation in the Official Gazette, except, that if
20 the Commission finds that the health, safety, and security or the national interest requires, the regulation
21 may be made effective immediately upon publication in the Official Gazette or upon furnishing copies of
22 the regulation to the persons affected.

23
24 **Section 49. Incident Reports** - No report by any licensee of any incident arising out of or in
25 connection with an authorized activity made pursuant to any requirement of the Commission shall be
26 admitted as evidence in any suit or action for damages growing out of any matter mentioned in such
27 report.

28
29 **Section 50. Hearing Procedure** - All hearings and investigations before the Commission shall
30 be governed by rules adopted by the Commission: Provided, that in the conduct thereof, the Commission
31 shall not be bound by the technical rules of evidence, except that the Commission shall as a matter of
32 policy provide for the exclusion of irrelevant, immaterial or duly repetitious evidence.

33
34 **Section 51. Orders and Decisions** - All orders and decisions of the Commission taken in any
35 proceeding after hearing shall be in writing, stating clearly and distinctly the facts and issues involved
36 and the reasons on which the Commission's order or decision is based, and shall be made available to the
37 public.

Section 52. **Judicial Review** – The Court of Appeals is hereby given the power of judicial review over any final order or decision of the Commission rendered under Section fifty one (51) and shall modify or set aside such order or decision when it clearly appears that there was no evidence before the Commission to support reasonably such order or decision, or that the same is contrary to law. Any such final decision or order may be reviewed by the Court of Appeals on the application of any party or other person affected thereby, by certiorari in appropriate cases, or by petition for review, in accordance with the Rules of Court, within such period as the Commission may rule or prescribe but not exceeding thirty days from notice of such order or decision. An appeal shall not suspend the grant of authorization, but shall maintain the suspension or revocation of authorization until after the final disposition of the appeal by the Court of Appeals, unless said Court determines otherwise. On questions of law only such order or decision may be reviewed by the Supreme Court.

ARTICLE XII – CIVIL LIABILITY FOR NUCLEAR DAMAGE

Section 53. **The Operator Liability** – The installation operator shall be liable for nuclear damage upon proof that such damage has been caused by a nuclear accident:

- (a) in his nuclear installation; or
- (b) involving nuclear material coming from or originating in his nuclear installation, and occurring:
 - 1) before liability with regard to nuclear incidents involving the nuclear material has been assumed, pursuant to the express terms of a contract in writing, by another installation operator; or
 - 2) in the absence of such express terms, before another installation operator has taken charge of the nuclear material;
- (c) involving nuclear material sent to his nuclear installation, and occurring:
 - 1) after liability with regard to nuclear incidents involving the nuclear material has been assumed by him, pursuant to the express terms of a contract in writing, from another installation operator; or
 - 2) in the absence of such express terms, after he has taken charge of the nuclear material:
Provided, That if nuclear damage is caused by a nuclear incident occurring in a nuclear installation and involving nuclear material stored therein incidentally to the carriage of such material, the provisions of par (a) of this Section shall not apply where another installation operator or person is solely liable pursuant to the provisions of par. (b) or (c) of this Section.
- (d) Any provision in this Section to the contrary notwithstanding, the installation operator shall be liable for nuclear damage upon proof that such damage has been caused by a nuclear accident involving nuclear material in the course of carriage:

- 1) to his nuclear installation from a nuclear installation located outside the Republic of the Philippines; or
- 2) from his nuclear installation to a nuclear installation located outside the Republic of the Philippines.

Section 54. Absolute and Exclusive Liability

- (a) The liability of the installation operator for nuclear damage shall be absolute.
- (b) The installation operator shall not be liable for nuclear damage caused directly or indirectly by a grave natural disaster of an exceptional character.
- (c) Except as otherwise provided in Article twelve of this Act, no person other than the installation operator shall be liable for nuclear damage.

Section 55. Recourse Actions – The installation operator shall have a right of recourse only:

- (a) if there is such a right pursuant to the express provision of a written contract with the other installation operator; or
- (b) If the nuclear incident results from an act or omission done with intent to cause damage, against the individual who has acted or omitted to act with such intent.

Section 56. Gross Negligence or Intentional Act of Claimant. – If the nuclear damage resulted wholly or partly either from the gross negligence of the person suffering the damage or from an act or omission of such person done with intent to cause damage, the Court may relieve the installation operator from his obligation to pay compensation in respect of the damage suffered by such person.

Section 57. Exceptions to Liability. – No installation operator shall be liable for any nuclear damage caused by a nuclear accident directly due to an act of armed conflict, hostilities, civil war or insurrection.

Section 58. Limit of Liability - The liability of the installation operator for nuclear damage under this Act shall be limited to an amount in Philippine pesos which is equivalent to three hundred million dollars (\$300,000,000.00), United States currency, for any one nuclear incident, exclusive of an interest or costs which may be awarded by the Court in actions for compensation of such nuclear damage. The amount may be subject to change, as determined by the Commission, in accordance with international conventions ratified by the Philippines.

Section 59. Property for Which Installation Operator Not Liable - The installation operator shall not be liable under this Act for nuclear damage:

- 1 a) to the nuclear installation used or to any property on the site of that installation which is used or
2 to be used in connection with that installation; or
3 b) to the means of transport upon which the nuclear material involved was located at the time of
4 the nuclear incident.

5
6
7 **Section 60. Liabilities not Affected by this Act** Nothing in this Act shall affect:

- 8 a) the liability of any individual for nuclear damage for which the installation operator, by virtue of
9 Sections fifty seven (57) and fifty nine (59) of this Act is not liable under this Act and which that
10 individual caused by an act or omission done with intent to cause damage; or
11 b) the liability outside this Act of the installation operator for nuclear damage for which, by virtue
12 of sub-paragraph (b) of Section fifty nine (59) of this Act, he is not liable under the provisions of
13 this Act.
14

15 **Section 61. Exclusions** – The Commission may, if it determines that the small extent of the risk
16 involved so warrants, exclude by regulation any small quantities of nuclear material from the application
17 of the provisions in this Article XII. Provided, That (a) maximum limits for the exclusion of such
18 quantities have been established by the Board of Governors of the International Atomic Energy Agency;
19 and (b) any exclusion must be within the limits so established.
20

21 **Section 62. Requirement of Financial Security** – No authorization to operate a nuclear
22 installation shall be issued unless the installation operator secures and maintains insurance or other
23 financial security covering his liability for nuclear damage under this Act. The Commission shall by
24 regulation, prescribe, the type and terms of financial security herein required, which may include private
25 insurance, private contractual indemnity, self-insurance or other proof of financial ability to pay damages
26 under this Act or a combination of any thereof: Provided, that, in fixing the type and terms of such
27 financial protection, the Commission shall be guided by the objectives of assuring to potential victims of
28 a nuclear incident adequate and effective compensation without imposing unreasonable burden on the
29 installation operator.
30

31 **Section 63. Certificate to Carrier** – In accordance with such regulations as the Commission
32 may issue, the appropriate installation operator shall provide the carrier, which furnishes carriage of
33 nuclear material, with a certificate issued by or on behalf of the insurer or other financial guarantor
34 furnishing the financial security under Section sixty two (62). The certificate shall be in such form and
35 contain such information as may be prescribed by the Commission's regulations, including the name and
36 address of the appropriate installation operator, the amount, type and duration of the security and a
37 statement that such information may not be disputed by the person for whom or on whose behalf the

1 certificate was issued. The certificate shall indicate the nuclear material in respect to which the security
2 applies and shall include also a verification by the Commission that the person designated is an
3 appropriate installation operator within the meaning of the provisions of this Article.

4
5 **Section 64. When Non-nuclear Damage Deemed Nuclear Damage** – Whenever both nuclear
6 damage and damage other than nuclear damage have been caused by a nuclear incident or jointly by a
7 nuclear incident and one or more other occurrences, such other damage shall, to the extent that it is not
8 reasonably separable from the nuclear damage be deemed, for purposes of this Part, to be nuclear damage
9 caused by that nuclear incident. Where, however, damage is caused jointly by nuclear incident covered
10 by this Article and by an emission of ionizing radiation not covered by it, nothing in this Article shall
11 limit or otherwise affect the liability, either as regards any persons suffering nuclear damage or by way of
12 recourse or contribution, of any person who may be held liable in connection with that emission of
13 ionizing radiation.

14
15 **Section 65. Several Installation Operators Liable** – Where nuclear damage engages the
16 liability of more than one installation operator, the following rules shall apply:

- 17 a) In so far as damages attributable to each installation operator are not reasonably separable, the
18 installation operators involved shall be jointly and severally liable;
19 b) In case the nuclear incident occurs in the course of carriage of nuclear material, either in one and
20 the same means of transport, or in the case of storage incidental to the carriage, in one and the
21 same nuclear installation and causes nuclear damage which engages the liability of more than
22 one installation operator, the total liability shall not exceed the highest amount applicable with
23 respect to any one of them pursuant to Section fifty eight (58) of this Act; and
24 c) In neither of the cases referred to in subparagraphs (a) and (b) of this Section shall the liability of
25 any one installation operator exceed the amount established in Section fifty eight (58) hereof.

26
27 **Section 66. Operator of Several Installations** – Subject to the provisions of Section sixty five
28 (65), where several nuclear installations of one and the same installation operator are involved in one
29 nuclear incident, such installation operator shall be liable in respect of each nuclear installation involved
30 up to the amount applicable with respect to him pursuant to Section fifty eight (58).

31
32 **Section 67. Carrier or Handler of Nuclear Material as Installation Operator** – the
33 Commission, subject to such terms and conditions as it may by regulation or order prescribe, designate a
34 carrier of nuclear material or a person handling radioactive waste, at his request and with the consent of
35 the installation operator concerned, as installation operator in the place of that installation operator in
36 respect of such nuclear material or radioactive waste respectively. Upon such designation, such carrier or
37 such person shall be considered as an installation operator for the purpose of this Article.

1
2 **Section 68. Government indemnity** – The Government, through the Commission, shall
3 indemnify the installation operator liable and shall provide the necessary funds for the payment of claims
4 for compensation for nuclear damages which have been established against the operator to the extent that
5 the yield of insurance or other financial security is inadequate to satisfy such claims: Provided, That the
6 obligation of the Government under this Section, together with the yield of insurance or other financial
7 security, shall not in the aggregate exceed the maximum amount established in Section fifty eight (58) for
8 any nuclear incident.
9

10 The Republic of the Philippines acting through such officer as may be designated by the President
11 shall enter into agreements of indemnification with contractors or suppliers of goods or services for an
12 nuclear installations and radiation facilities owned or operated by the Government, its agencies,
13 instrumentalities or corporations owned or controlled by the government pursuant to which the
14 government agrees to indemnify and hold such contractors or suppliers harmless from any loss or
15 liability arising out of or in relation to a nuclear incident occurring in the Philippines in excess of the
16 yield of the insurance or other security herein set forth, Provided, however, That such indemnity shall in
17 no case exceed the amount of Philippine pesos which is equivalent to three hundred twenty million
18 (\$300,000,000.00) U.S. dollars.
19

20 **Section 69. When Claims Exceed Maximum Limit**

- 21 a) Upon petition of the installation operator liable or of the Commission, and upon a showing that
22 the nuclear damages from a nuclear incident will probably exceed the limit of liability
23 established in Section fifty eight (58) hereof, the Court having jurisdiction shall issue such orders
24 as may be necessary to assure the equitable distribution of compensation, including orders
25 apportioning the payments to be made to claimants, orders permitting partial payments to be
26 made before final determination of the total claims, and orders setting aside part of the funds
27 available for possible latent injuries not discovered until a later time; and
28 b) In any case where it appears that the nuclear damage caused by a nuclear incident exceeds or will
29 probably exceed the limit of liability established in Section fifty eight (58) hereof, the
30 Commission shall furnish a report thereon to the Congress with its recommendations, including
31 any recommendations for the appropriation of additional funds to provide compensation to those
32 suffering nuclear damage.
33

34 **Section 70. Court Having Jurisdiction** – The Regional Trial Court having jurisdiction over the
35 place where the nuclear incident occurs shall determine claims for compensation for such nuclear damage
36 under this Act.
37

1 **Section 71. Intervention of Commission in Court Proceedings** – When, after the occurrence
2 of a nuclear incident, it appears that the Government will have to pay indemnity pursuant to the
3 provisions of Section sixty eight (68) hereof, the Court having jurisdiction over the claims for
4 compensation arising from the nuclear incident shall allow the Commission, upon its petition, to
5 intervene in the proceedings, at any time before final judgment.
6

7 **Section 72. Compulsory Examination** – After the occurrence of a nuclear incident for which it
8 appears compensation may be payable under this Act, the Commission may adopt such measures as may
9 be appropriate to determine the persons who were or might have been exposed to ionizing radiation
10 resulting from such nuclear incident, which measures may include a summons to such persons to submit
11 themselves to examination before such authority or body as shall be designated by the Authority within
12 three months from the date of summons. In determining the amount of damages or the right to recover
13 damages, the Court may, in its discretion, take into account the inexcusable failure of the claimant to
14 fulfill or comply with the foregoing obligation.
15

16 **Section 73. Investigation of Nuclear Incidents** – The Commission shall make an investigation
17 of the cause and extent of any nuclear incident for which it appears compensation may be payable under
18 this Act and its finding shall be made available to the public, to the parties involved and to the Courts.
19

20 **Section 74. Several Installations on Same Site** – The Commission may determine that several
21 nuclear installations of one installation operator which are located at the same site shall be considered as
22 a single nuclear installation for purposes of this Article twelve (XII).
23

24 **Section 75. Cancellation or Suspension of Financial Protection** – It shall be unlawful for any
25 insurer or other financial guarantor to suspend or cancel the insurance or other financial security provided
26 pursuant to the provisions of this Act without giving such prior notice in writing as may be required by
27 the Commission's regulations.
28

29 **Section 76. Against Whom Action for Compensation Brought** – Persons entitled to
30 compensation for nuclear damage under this Act may, at their option, bring the action for recovery of
31 such compensation against the installation operator liable or against the insurer or other persons
32 furnishing financial security as required by this Act.
33

34 **Section 77. Prescription of Rights and Actions** – Rights of compensation under this Act shall
35 prescribe after ten years from the date of the nuclear incident. Furthermore, actions for compensation
36 under this Act shall be barred unless brought within three years from the date on which the person
37 suffering nuclear damage had knowledge or should have had knowledge of the damage and of the

1 installation operator liable for the damage: Provided, however, That any person who claims to have
2 suffered nuclear damage and who has brought an action for compensation within the period applicable
3 pursuant to this Section may amend his claim to take into account any aggravation of the damage, even
4 after the expiry of that period: Provided, further, that final judgment has not been entered in the case.

5
6 **Section 78. Prescription with Respect to Nuclear Materials Lost, Stolen, etc.** – Where
7 nuclear damage is caused by a nuclear incident involving nuclear material which at the time of the
8 nuclear incident was stolen, lost, jettisoned or abandoned, the period established pursuant to Section
9 seventy seven (77) of this Act shall be computed from the date of that nuclear incident, but the period
10 shall in no case exceed a period of twenty years from the date of the theft, loss, jettison or abandonment.

11 12 13 **ARTICLE XIV – TRANSITORY PROVISIONS** 14

15 **Section 79. The Philippine Nuclear Research Institute**

- 16 a) The regulatory function of the of the Philippine Nuclear Research Institute hereinafter referred to
17 as the Institute, is hereby transferred to the Commission.
- 18 b) The development, promotion and use of nuclear energy for peaceful applications shall remain
19 the responsibility of the Institute, whereupon the Director of the Institute shall draw up its new
20 organizational structure to be submitted to the President through the Department of Science &
21 Technology Secretary for approval.
- 22 c) The Institute shall be the scientific nuclear organization in the country and continue to function
23 as one of the Research and Development Institutes of the Department of Science and
24 Technology, and continue its mandate to foster nuclear research and development including
25 nuclear safety research pursuant to the objectives of Executive Order No. 128, series of 1987.
- 26 d) Under this Act, the Institute shall be allowed to use 100% of its income to augment and hire
27 additional human resources and upgrade its facilities.
- 28 e) The regulatory functions of the Institute which were inherited from the former Philippine Atomic
29 Energy Commission by virtue of R.A. No. 2067, as amended and R.A. No. 5207, as amended,
30 and E. O. 128 are deemed transferred to the Commission.
- 31 f) Previous regulatory issuances – all regulations, rules, orders previously established by the
32 Philippine Nuclear Research Institute shall remain in force until superseded by the Commission.

33 34 **Section 80. The Center for Device Regulation, Radiation Health and Research**

- 35 a) The regulatory functions of the Center for Device Regulation, Radiation Health and Research
36 hereinafter referred to as the CDRRHR of the Department of Health over devices generating
37 ionizing radiation by virtue of R. A. 9711 are deemed transferred to the Commission.

- 1 b) This Act shall in no way prevent the Department of Health or its line agencies from imposing
2 additional requirements for the regulation of medical and health-related devices in the interest of
3 public health and safety as provided for by law.
- 4 c) The Center for Device Regulation, Radiation Health and Research shall remain with the
5 Department of Health.
- 6 d) Previous regulatory issuances – all regulations, rules, orders pertaining to ionizing radiation
7 previously established by the Center for Device Regulation, Radiation Health and Research shall
8 remain in force until superseded by the Commission.

9

10 **Section 81. Manpower** – All plantilla positions of the Nuclear Regulations, Licensing and
11 Safeguards Division of the Philippine Nuclear Research Institute (PNRI), Department of Science and
12 Technology (DOST) are hereby transferred to the Commission. All plantilla positions of the Radiation
13 Regulation Division of the Center for Device Regulation, Radiation Health and Research (CDRRHR) of
14 the Department of Health (DOH) which have responsibilities solely in ionizing radiation regulation are
15 also hereby transferred to the Commission. Thereafter, all powers, functions and duties, records, files,
16 and assets pertaining to regulation of ionizing radiation, of these organizational units shall be transferred
17 to the Commission.

18

19 There shall be no diminution of rank, salaries, allowances and benefits of all personnel
20 transferred to the Commission. In case of a difference in the above benefits between the transferred
21 employees of the two agencies, the higher amount shall be adopted. New employees of the Commission
22 shall be entitled to the same allowances and benefits as the transferred employees.

23

24

25 **ARTICLE XV - PENAL PROVISIONS**

26

27 The Commission shall promulgate and implement after due notice is given, a compliance
28 monitoring and enforcement program, developed in accordance with international guidance and
29 consistent with other national laws for violations of this Act.

30

31 **Section 82. Violation of Specific Provisions of the Act** – Any person who willfully violates,
32 attempts to violate, or conspires to violate, any provision of Sections thirteen (13) or twenty one (21) of
33 this Act shall upon conviction thereof, suffer the penalty of imprisonment of not more than five years or a
34 fine of not more than one million pesos (P1P 1,000,000.00) or both.

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36 **Section 83. Violation of Other Provisions of this Act** – Any person who shall willfully
37 violate, attempt to violate, or conspire to violate any provisions of this Act for which no penalty is

specifically provided or of any regulation, order or license issued under the authority of this Act, shall, upon conviction thereof, suffer the penalty of imprisonment of not more than two years or a fine of not more than five hundred thousand pesos (PHP 500,000.00) or both.

ARTICLE XVI – FINAL PROVISIONS

Section 84. Appropriations – The amount necessary to conduct the initial year of operation of the Commission shall be sourced from the existing budgetary appropriations of the Nuclear Regulations, Licensing and Safeguards Division of the Institute and the licensing and regulatory group of the CDRRHR. This amount shall be augmented to include the budgetary requirement for the hiring of administrative support personnel, and additional physical resources. Thereafter the funds shall be provided for in the General Appropriations Act.

Section 85. Annual Report – The Commission shall be obliged to provide the public with adequate information concerning the results of its activities, unless they are subject to States, professional or commercial secrecy, and once a year to publish a report on its activities and submit it to the Government of the Republic of the Philippines and to the public.

Section 86. Separability Clause – If any provision or part of a provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of the provisions of this Act or the application of such provision to other persons or circumstances shall not be affected thereby.

Section 87. Repealing Clause. – Relevant provisions of R.A. 2067 as amended, R. A. 5207 as amended, E. O. 128, R. A. 9711 and administrative rule or regulation contrary to, or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

Section 88. Effectivity Clause - This Act shall take effect fifteen (15) days following its publication in the Official Gazette.

Approved: