

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 4878



Introduced by Representative Ron P. Salo

EXPLANATORY NOTE

Currently, there are two (2) regulatory agencies in the Philippines responsible for the regulation of ionizing radiation: the Philippine Nuclear Research Institute (PNRI), by virtue of Republic Act Nos. 2067 (the Science Act of 1958), 3589, and 5207 (the Atomic Energy Regulatory and Liability Act of 1968); and the Center for Device Regulation, Radiation Health and Research of the Food and Drug Administration (FDA-CDRRHR), by virtue of Republic Act No. 9711. This set-up creates an undue burden wherein many facilities, most notably in healthcare, have to obtain two licenses for the use of ionizing radiation.

According to its mandate, the PNRI performs both regulatory and promotion functions. Formerly the Philippine Atomic Energy Commission (PAEC) – which was mandated to promote scientific and technological research and development, foster invention, and utilize scientific knowledge as effective instrument for the promotion of national progress, as well as to perform regulatory functions including issuing licenses for the use of radioactive material - the PNRI was reorganized and placed under the Department of Science and Technology (DOST) by virtue of Executive Order No. 128 in 1987. The dual role of promotion and control of the peaceful use of atomic energy was maintained in its functions. This is not in conformity with current internationally recognized safety principles which require that the regulatory body be effectively independent of the body charged with the promotion and utilization of nuclear energy. The PNRI is currently the only research and development institute under the DOST with quasi-judicial functions.

On the other hand, the FDA-CDRRHR was formerly the Bureau of Health Devices and Technology, or BHDT, which was created under the Department of Health by virtue of Presidential Decree No. 480, as amended by Presidential Decree No. 1372. Among the primary functions of the BHDT was to control and regulate x-rays and other electrically generated radiation devices. In 2004, two Radiation Safety Infrastructure (RaSIA) audits of both PNRI and the BHDT were carried out by the International Atomic Energy Agency (IAEA), to which the Philippines is a member. Recommendations from this audit led to the re-structuring of the BHDT into the FDA as the CDRRHR, effectively independent from their licensees, and with no promotion function in their mandate under Republic Act No. 9711.

This proposed measure seeks to unify the nuclear regulatory body in the Philippines, to include the relocation of all regulatory activities being undertaken in the PNRI under the DOST and those in the FDA-CDRRHR under the DOH, which are specific to ionizing radiation regulation, into a single unified governmental organizational structure.

The IAEA 2010 Safety Standards, General Safety Requirements states: "Where several authorities are involved, the government shall specify clearly the responsibilities and functions of each authority within the governmental, legal, and regulatory framework for safety." (Part 1: Governmental, Legal, and Regulatory Framework for Safety, par. 2.6, page 6). Further, Part 2, Requirement 4, page 6 states: "The government shall ensure that the regulatory body is effectively independent in its safety related decision-making and that it has functional separation from entities having responsibilities or interests that could unduly influence its decision making.

It is imperative that we subscribe to international safety standards to which we are a signatory, primarily to ensure the protection of the citizens and the environment. This bill aims to provide the legal basis for an independent, unified nuclear regulatory body in the Philippines and to specify and clarify the functions of this body.

In view of the forgoing, the immediate passage of this bill is earnestly sought.


RON P. SALO
Kabayan Party-List

HOUSE OF REPRESENTATIVES
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INTRODUCED BY REPRESENTATIVE RON P. SALO

AN ACT
CREATING THE PHILIPPINE RADIATION AND NUCLEAR REGULATORY
COMMISSION, PROVIDING FOR THE REGULATION AND CONTROL OF
NUCLEAR AND OTHER RADIOACTIVE MATERIALS, FACILITIES, AND
RADIATION GENERATING EQUIPMENT, APPROPRIATING FUNDS
THEREFORE, AND FOR OTHER PURPOSES.

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

ARTICLE I
GENERAL PROVISIONS

SECTION 1. Short Title. – This Act shall be known as the "Comprehensive
Radiation and Nuclear Regulation Act of 2016".

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

- a) harness science and technology, including utilization of nuclear energy and
ionizing radiation to improve the health and prosperity of the inhabitants of the
Philippines, contribute to the general welfare, and accelerate scientific,
technological, agricultural, commercial and industrial progress;
- b) use nuclear and other radioactive materials, facilities and radiation generating
equipment, hereinafter referred to as ionizing radiation sources for peaceful
purposes as embodied in the Constitution;
- c) assure the safety and security of ionizing radiation sources; and
- d) fulfill obligations in bilateral, regional or international agreements and treaties
and any protocols thereto on safety, security and safeguards of ionizing
radiation sources.

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

- a) to provide a legal framework that adequately protects the public and the
environment from the harmful effects of ionizing radiation; and for the safety
and security of ionizing radiation sources;

- b) to establish the Philippine Radiation and Nuclear Regulatory Commission, hereinafter referred to as the Commission, for the purpose of exercising regulatory control over the peaceful uses of ionizing radiation sources, which are conducted in the territory or under the jurisdiction or control of the Republic of the Philippines;
- 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 such as: Vienna Convention on Civil Liability for Nuclear Damage; the Treaty on the Non-Proliferation of Nuclear Weapons (NPT); the Treaty on Southeast Asia Nuclear Weapon-Free Zone; Comprehensive Test Ban Treaty; 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); Additional Protocol to Safeguards Agreement; Agreement on the Privileges and Immunities of the IAEA; Convention on the Physical Protection of Nuclear Material, UN Resolutions on Nuclear Security, and other instruments.

SEC. 4. Scope. – This Act shall apply to all activities and practices 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 involving ionizing radiation sources and such other sources and activities and practices as may be determined by the Commission.

This Act shall not apply to sources and activities or practices excluded from regulatory control through regulations established by the Commission. Neither shall it apply to non-ionizing radiation sources and related facilities which are retained within the responsibilities of the Department of Health.

SEC. 5. Definitions. – For purposes of this Act:

- a) **Activities** means the production, manufacture, distribution, sale, acquisition, possession, import, export, handling, use, transport, and transfer of ionizing radiation sources; construction, operation, and decommissioning of facilities; management of radioactive waste; mining and processing of radioactive ores; and such other activities as the Commission shall from time to time determine;
- b) **Decommissioning** means activities aimed at releasing from regulatory control of nuclear installations 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;
- c) **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;

- d) **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;
- e) **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 activities;
- f) **Facilities** mean nuclear installations or radiation facilities in which people may be exposed to ionizing radiation. These include:
 - i. uranium mining and raw material processing facilities such as uranium mines;
 - ii. enrichment and fuel manufacturing plants;
 - iii. nuclear power plants;
 - iv. other reactors such as research reactors and critical assemblies;
 - v. spent fuel reprocessing plants;
 - vi. radioactive waste management facilities;
 - vii. radiation generator installations;
 - viii. irradiation installations;
 - ix. nuclear and radiation facilities for medical, industrial, research and education purposes; and
 - x. such other facilities as the Commission shall determine from time to time;
- g) **Individual operator** means any individual who manipulates the controls of a nuclear installation, radiation facility and radiation generating equipment;
- h) **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;
- i) **Ionizing radiation** means electromagnetic or particulate radiation capable of producing ion pairs directly or indirectly;
- j) **Ionizing radiation sources** means nuclear and other radioactive materials, facilities and radiation generating equipment;
- k) **License** means a legal document issued by the regulatory body granting authorization to perform specified activities related to facilities or activities; 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;
- l) **Licensee** means the authorized person who is a holder of a valid 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 facilities or activities;
- m) **Natural sources** means naturally occurring sources of radiation, such as the sun and stars (sources of cosmic radiation) and rocks and soil (terrestrial sources of radiation);
- n) **Non-ionizing radiation** is radiation in the part of the electromagnetic spectrum where there is insufficient energy to cause ionization. It includes electric and magnetic fields, radio waves, microwaves, infrared, ultraviolet, and visible radiation
- o) **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;
- p) **Nuclear damage** means loss of life, any personal injury or any loss, or damage 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;
- q) **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;
- r) **Nuclear installation** means any of the following:
- i. a nuclear reactor for research or production of nuclear materials for industrial or medical use (including critical and sub-critical assemblies);
 - ii. a plant for preparing or storing fuel for use in a nuclear reactor as described in paragraph (1);
 - iii. 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;
 - iv. 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; and
 - v. any other facility that is prescribed for the development, production or use of nuclear energy or the production, possession or use of a nuclear substance, prescribed equipment or prescribed information;
- s) **Nuclear material** means:
- i. nuclear fuel, other than natural uranium and depleted uranium, capable of producing energy by a self-sustaining chain process of nuclear fission outside a nuclear reactor, either alone or in combination with some other materials; and
 - ii. Plutonium except that with isotopic concentration exceeding 80% in plutonium-238; uranium-233; *uranium enriched in the isotope 235 or 233*; uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore residue; any material containing one or more of the foregoing;
- t) **Nuclear or radiological emergency** is a non-routine situation that necessitates prompt action primarily to mitigate a hazard due to (a) The energy resulting from a nuclear chain reaction or from the decay of the products of a chain reaction; or (b) *Radiation exposure* or adverse consequences for human health and safety, quality of life, property or the environment;
- u) **Nuclear safety** means the achievement of proper operating conditions, , prevention of accidents or mitigation of accident consequences resulting in protection of workers, the public, and the environment from undue radiation hazards;

- v) **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;
- w) **Practices** means activities that introduce 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;
- x) **Radiation facility** means a facility that utilizes radioactive materials; x-ray facility; particle accelerator facility; and other such facility that the Commission shall determine from time to time;
- y) **Radiation generating equipment or radiation generator** means an equipment or device that generates ionizing radiation when energized (e.g., x-ray generating equipment) or that would, if assembled or repaired, be capable of producing ionizing radiation when energized or an equipment as the Commission shall from time to time determine;
- z) **Radiation protection** means the protection of people and the environment from the harmful effects of ionizing radiation;
- aa) **Radiation safety** means measures intended to minimize the likelihood of accidents involving radioactive sources and, should such an accident occur, to mitigate its consequences;
- bb) **Radioactive material** means any material designated in national law or by a regulatory body as being subject to regulatory control because of its radioactivity which includes sealed and unsealed sources and radioactive waste;
- cc) **Radioactive source** means a radioactive material permanently sealed in a capsule or closely bonded and in a solid form and which is not exempt from regulatory control. This also includes any radioactive material released if the radioactive source is leaking or broken, but does not include material encapsulated for disposal, or nuclear material within the nuclear fuel cycles of research and power reactors;
- dd) **Radioactive waste** means waste substances, objects or equipment for which no further use is foreseen by their owner, with a radionuclide content or surface radionuclide contamination exceeding values permitting their discharge into the environment, these values shall be set out in an implementing regulation;
- ee) **Radioactive waste disposal** means a permanent emplacement of radioactive waste into areas, facilities or installation without the intention of its retrieval;
- ff) **Radioactive waste and spent fuel storage** means the holding of radioactive sources, spent fuel or of radioactive waste in a facility that provides for their/its containment, with the intention of retrieval;
- gg) **Radiological accident** means an event resulting in an inadmissible release of radioactive substances or ionizing radiation, or an inadmissible exposure of people;
- hh) **Registration** means a form of authorization for practices of low or moderate risks whereby the legal person responsible [i.e. responsible legal person] for the practice has, as appropriate, prepared and submitted a safety assessment of the facilities and equipment to the regulatory body. The practice or use is

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authorized with conditions or limitations as appropriate. The requirements for safety assessment and the conditions or limitations applied to the practice should be less severe than those for licensing. Typical practices that are amenable to registration are those for which:

- i. safety can largely be ensured by the design of the facilities and equipment;
 - ii. the operating procedures are simple to follow;
 - iii. the safety training requirements are minimal; and
 - iv. there is a history of few problems with safety in operations;
- ii) **Safeguards** means measures undertaken to ensure that the nuclear material, non-nuclear material, services, equipment, facilities, information and certain items are not used for the manufacture of nuclear weapons or any other nuclear explosive devices or to further any military purpose;
- jj) **Security** means the prevention and detection of and response to, theft, sabotage, unauthorized access, illegal transfer or other malicious acts involving nuclear material, other radioactive substances or their associated facilities;
- kk) **Special fissionable materials** mean Plutonium-239, Uranium-233, Uranium enriched in the isotopes 235 or 233 and materials containing one or more of the foregoing in concentration or amount exceeding values established by the Commission;
- ll) **Spent Nuclear Fuel** means nuclear fuel that has been irradiated in and permanently removed from a reactor core; and
- mm) **Technical services** are services which may be availed of by licensees and must be provided by a Technical Service Organization duly accredited by the Philippine Accreditation Bureau for such scope of services. These services include, but are not limited to, quality assurance and quality control, commissioning and decommissioning, laboratory testing of any kind, etc.
- nn) **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. This also includes testing laboratories or inspection bodies duly accredited by the Philippine Accreditation Bureau which the Commission may call on for technical services.

ARTICLE II THE PHILIPPINE NUCLEAR AND RADIATION REGULATORY COMMISSION

SEC. 6. Creation of the Philippine Nuclear and Radiation Regulatory Commission. – The Philippine Nuclear and Radiation Regulatory Commission (PNRRC), hereinafter referred to as the Commission, is hereby created with the authority over all aspects of safety, security, and safeguards involving civilian uses of nuclear energy and ionizing radiation. The Commission shall be attached to the Department of Health.

SEC. 7. Organizational Structure of the Commission, and Qualifications of the Commissioner and Associate Commissioners. –The Commission shall be under a Commissioner who shall be appointed by the President for a fixed term of five (5)

years with a rank equivalent to an Undersecretary, and two (2) Associate Commissioners who shall be appointed by the President with a fixed term of four (4) years and three (3) years, respectively. Thereafter, the successors shall be appointed for five (5) years. No person shall be allowed to serve as Commissioner or Associate Commissioner for more than two (2) terms.

The Commissioner shall have a university degree in the natural or applied sciences or engineering with specialization in nuclear, ionizing or non-ionizing radiation. One of the Associate Commissioners shall have qualifications similar to the Commissioner, while the other Associate Commissioner shall be a member of the Integrated Bar of the Philippines. The Commissioner and Associate Commissioners may only be removed from service for just cause which includes misconduct, demonstrated lack of competence, unlawful behavior, inability to perform assigned duties, and the like but not for political considerations.

The Commission shall act as a collegial body for all regulatory matters. It shall draw up its organizational structure to be submitted to the Secretary of Health for approval.

SEC. 8. Functions of the Commission. – In the performance of its functions under this Act, the Commission is authorized to:

- a) define and formulate policies, regulations, standards, associated criteria and other issuances as a basis for its regulatory actions on nuclear and radiation safety, security and safeguards;
- b) establish system of authorization in the form of notification, registration, and licensing, including review and assessment of submissions on safety and security from the operators both prior to authorization and periodically during and after operation as required;
- c) carry out regulatory inspections to ensure compliance with regulations and undertake the necessary enforcement action in the event of non-compliances;
- d) ensure the applications of safety, security, and safeguards requirements consistent with international and national obligations;
- e) exercise quasi-judicial powers relative to its regulatory function;
- f) issue licenses to qualified persons authorizing the conduct of activities for which a license is required under this Act;
- g) modify, amend, suspend, or revoke any license in accordance with the provisions of this Act;
- h) hold hearings and conduct investigations and for these purposes to administer oaths and affirmations, and by *subpoena* to require any person to appear and testify, or to appear and produce documents at any designated place;
- i) establish advisory boards to advise with and make recommendations to the Commission; and to fix and pay the amount of *per diem* of members of such advisory boards;
- j) establish and issue regulations and orders for the safe and secure transport of nuclear and other radioactive materials and radiation generating equipment;
- k) establish and implement, in cooperation with other relevant authorities, a system of control over the export and import of nuclear and other radioactive materials, sources, equipment, information and technology, including dual use items as determined to be necessary to protect the safety and security of the

Philippines and to implement relevant international commitments of the Philippines;

- l) call upon other government agencies and instrumentalities for assistance and cooperation in carrying out the provisions of this Act;
- m) charge and collect reasonable fees in connection with its licensing and regulatory functions, provided that such fees shall be imposed by regulation on the basis of such published criteria as the Commission deems appropriate;
- n) issue, amend and revoke such regulations and orders as may be necessary or proper with respect to the furnishing of financial security to cover liability for nuclear damage, the furnishing of certificates to carrier, and such other regulations and orders as the Commission finds necessary or proper in carrying out the purposes and provisions of this Act;
- o) issue, amend and revoke such regulations and orders as may be necessary or proper to carry out the purposes and provisions of this Act
- p) ensure the establishment, implementation, and maintenance of a national plan for preparedness and response to emergencies involving nuclear or other radioactive materials;
- q) establish appropriate mechanisms and procedures for informing the public, press, media and other stake-holders about the regulatory process and the safety and security aspects of regulated activities, including incidents, accidents and abnormal occurrences;
- r) conduct such other relevant functions as may be necessary to attain the objectives of this Act; and
- s) Nothing in this Act shall preclude the authorized agents of the Department of National Defense to make inspections of ionizing radiation sources or activities jointly with the authorized representatives of the Commission after prior consultation with the latter when the security of the state is involved.

SEC. 9. Regulatory Policy. –

- a) The primary responsibility for the safety of the use and security of ionizing radiation sources lies with the operator.
- b) In issuing authorizations and regulations under this Act, the Commission shall:
 - i. impose requirements consistent with the Commission's obligations under this Act to protect the health and safety of the public and the environment, and ensure the security of ionizing radiation sources;
 - ii. prevent the spread of nuclear weapons and prevent nuclear or radiological terrorism consistent with the obligations of the Philippines under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and relevant international instruments;
 - iii. establish and implement regulations consistent with international standards and best practices; and
 - iv. ensure that operators are technically and financially qualified to engage in the proposed activities in accordance with the requirements of this Act and the Commission's regulations, and has financial protection to fulfill obligations on liability for nuclear and radiation damage.

SEC. 10. Financing and Resource Authority of the Commission. – The Commission shall be authorized to:

- (1) charge and collect reasonable fees in the performance of its regulatory functions, provided that such fees shall be imposed by regulation on the basis of such published criteria as the Commission deems appropriate; and
- (2) use 100% of its income, donations, bequests, grants, and all sums which may be appropriated for upgrading its physical and human resources, for the conduct of its activities, and for augmentation of its budget in case of shortfalls.

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

SEC. 12. Advisory Board on Safety and Security of Nuclear Installations and Radiation Facilities and Materials. – The Commission shall establish an Advisory Board on safety of facilities and materials not exceeding eleven in number and appoint the members, to assist and advise the Commission on the safety and security matters arising in connection with nuclear materials and installations and radiation facilities and material licenses, and regulations applicable to such authorizations, composed of experts outside the Commission from other government agencies or the private sector or both: Provided, however, that the Commission shall have the final decision and responsibility with respect to such matters. The opinions and reports of the Board on authorization applications shall be made in writing and shall be made available to the public. The composition and qualifications of the Advisory Board shall be specified in the Implementing Rules and Regulations of this Act.

ARTICLE III REGULATION AND AUTHORIZATION OF NUCLEAR MATERIAL AND INSTALLATION

SEC. 13. Activities Subject to Authorization. – It shall be unlawful for any person to transfer, construct, receive, own, possess, operate, import or export any nuclear material and installation except under an authorization issued by the Commission under this Act.

SEC. 14. Form and Content of Application. – Each application for authorization for any nuclear material and installation shall be in writing and shall contain such information as the Commission may by regulations or order deem to be necessary to carry out its responsibilities under this Act. Such information shall include, but shall not be limited to, information bearing on the technical and financial qualifications of the applicant, the character of the applicant, and the citizenship of the applicant. In addition, the applicant shall state such technical information as to the proposed nuclear installation the amount, kind, and origin of nuclear fuel, the proposed location and site of the installation, the operational procedure and such other information as the Commission may, by regulation, deem necessary in order to enable it to decide

whether the operation of such installation will not pose undue risk to the health and safety of the public and the environment.

SEC. 15. Citizenship Requirement. – No authorization to acquire, own, or operate any nuclear installation shall be issued to an alien, or any corporation or other entity which is owned or controlled by an alien, a foreign corporation, or a foreign government.

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

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

SEC. 17. 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 installation 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.

SEC. 18. Individual Operators. – The Commission shall:

- a) Prescribe the classes of nuclear installations for which it determines that individual operators' authorization shall be required;
- b) Determine the qualifications, reliability, and trustworthiness of such individual operators;
- c) Issue authorization to such individual operators 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.

SEC. 19. Prior and Preferential Rights of the Government over Special Fissionable Material. – The Government of the Philippines, acting through the Commission, shall have the right to acquire any special fissionable material owned by a person in the Philippines. Such right may be exercised only when, in the view of

the Commission, the development of nuclear energy in the Philippines or the national interest so requires. The acquisition of special fissionable material pursuant to this section shall be made for a fair and reasonable price.

ARTICLE IV REGULATION AND AUTHORIZATION OF RADIOACTIVE MATERIAL, RADIATION FACILITY AND RADIATION GENERATING EQUIPMENT

SEC. 20. Activities Subject to Authorization. – It shall be unlawful for any person to manufacture, produce, receive, possess, own, use, transfer, transport, sell, import or export any radioactive material, radiation facility, and radiation generating equipment except under an authorization issued by the Commission or except as otherwise authorized by the Commission under this Act.

SEC. 21. Exemption from the Authorization Requirements. – The Commission may, by regulation, exempt a radioactive material, radiation facility and radiation generating equipment from the authorization requirements of this Act if the Commission finds that the exemption will not constitute an undue risk to the health and safety of the public and the environment and to the security of the ionizing radiation sources.

SEC. 22. Form and Content of Application. – Each application for an authorization for radioactive material, radiation facility and radiation generating equipment shall be in writing and shall contain such information as the Commission may, by regulation or order, deem to be necessary to carry its responsibilities under this Act. All applications and statements shall be signed by the applicant or licensee.

ARTICLE V COMMON PROVISIONS FOR REGULATION OF NUCLEAR MATERIAL AND OTHER RADIOACTIVE MATERIAL, FACILITIES AND RADIATION GENERATING EQUIPMENT

SEC. 23. Form and Content of Authorization. –

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

SEC. 24. To Whom Authorization Issued. – The Commission shall issue an authorization to any person upon finding that:

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

- b) the proposed activities will not pose undue risk to the health and safety of the public and the environment, and security of nuclear material, radiation source, and facilities;
- c) the applicant is technically and financially qualified to engage in the proposed activities in accordance with the requirements of this Act and the Commission's regulations, and has met all relevant requirements; and
- d) the applicant, if required by this Act or the Commission's regulations, has financial security to fulfill the obligations for liability for nuclear damage.

SEC. 25. Authorization to Operate. – Upon the filing of any additional information and data needed to enable the Commission to make a determination of the safety aspects of the complete nuclear installations and facilities, and upon finding that the installation authorized has been constructed and will operate in conformity with the application as amended and in conformity with the provisions of this Act and of the regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of an authorization would not be in accordance with the provisions of this Act, the Commission shall thereupon issue an authorization to the applicant to operate the facility.

SEC. 26. Period of Authorization. – Each authorization shall be issued for a specified validity period, as determined by the Commission, depending on the type of activities to be authorized and may be renewed upon the expiration of such period.

SEC. 27. Transfer of Authorization. – No authorization issued by the Commission, and no right granted by any such authorization, shall be transferred, assigned, encumbered, or in any manner disposed of, either voluntarily, or involuntarily, directly or indirectly, unless the Commission shall, after securing full information, find that such transfer, assignment, encumbrance, or other disposition is in accordance with the purposes and provisions of this Act and shall give its consent in writing.

SEC. 28. Authorization Subject to Amendment. – The terms and conditions of all authorization shall be subject to amendment or modification, by reason of amendments of this Act or by reason of amendments of regulations or orders issued by the Commission in accordance with this Act.

SEC. 29. Regulatory Enforcement Powers. – For the purpose of determining whether the application may be granted or denied, or whether an authorization may be modified, suspended, or revoked, and of otherwise implementing its licensing and regulatory responsibilities under this Act, the Commission may at any time after the filing of the original application and before the expiration of the authorization:

- a) require additional written statements which shall, if the Commission so decides, be made under oath or affirmation, and additional technical information and data concerning activities under the application;
- b) enter, through authorized representatives, at all reasonable times, the premises where the nuclear and other radioactive material, facilities, and radiation generating equipment are located or stored, and perform such inspection as may be necessary; and
- c) order the applicant or licensee, where situations or conditions endangering life, health, property or environment are found to exist, to adopt such measures as would eliminate or protect against such situations or conditions.

SEC. 30. Modification, Suspension or Revocation of Authorization. – Any authorization may be modified, suspended or revoked, in whole or in part, for any material false statement contained in the application, or contained in any statement, record or report required under this Act or for reasons or conditions revealed by such application or statement of fact or any report, record, or inspection or other means which would warrant the Commission to refuse to grant an authorization on an original application, or for failure to construct or operate facilities in accordance with the terms of the authorization, or for violation of, or failure to observe, any of the terms and provisions of the Act or any rule, regulation or order of the Commission.

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

SEC. 31. Protective Measures in Cases of Suspension, Revocation or Expiration of Authorization. – Upon the suspension, revocation, or expiration of an authorization which is not renewed, and pursuant to Commission order, the Commission shall take, or shall require the licensee to take, such measures as may be necessary to protect the health and safety of the public, and the environment from the harmful effects of radiation, and ensure security of the ionizing radiation sources. The Commission may, if necessary to protect the health and safety of the public and the environment, and ensure security of ionizing radiation sources, take temporary custody of any nuclear and other radioactive material, facilities, and radiation generating equipment held by the licensee pending their appropriate and lawful disposition by or for the licensee.

SEC. 32. Continued Operation of Nuclear Installations and Radiation Facilities in Case of Revoked Authorization. – Whenever the authorized government agency 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.

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

ARTICLE VI RADIATION PROTECTION

SEC. 34. *Fundamental Principles of Radiation Protection.* – The Commission shall adhere to the following fundamental principles of radiation protection:

- a) **Justification:** Activities or practices shall not be authorized unless it produces sufficient benefit to the exposed persons or to society in a manner that offsets the radiation harm that it may cause, taking into account social, economic and other relevant factors;
- b) **Optimization:** In relation to ionizing radiation exposure to workers and the public caused by a nuclear installation or radiation facility, the magnitude of individual doses, the number of persons exposed and the likelihood of incurring exposures shall all be kept as low as reasonably achievable, economic and social factors being taken into account; and
- c) **Dose Limitation:** Activities and practices shall be conducted in a manner that ensures that the total dose that an individual may experience does not exceed the dose limit established by the Commission, so that no individual is subject to an unacceptable risk attributable to radiation exposure.

SEC. 35. *Responsibilities for Radiation Protection.* –

- a) The primary responsibility for the safety and security of nuclear material, radiation source, and facilities to ensure protection of workers, the public, and environment rests with the person(s) authorized to engage in activities utilizing ionizing radiation.
- b) Authorized persons shall ensure compliance with the 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.

SEC. 36. *Protection of Patients.* – The person authorized to conduct activities utilizing ionizing radiation for medical purposes shall ensure that no patient is administered a diagnostic or therapeutic dose unless the dose 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 medical exposures.

SEC. 37. *Exposure to Natural Sources.* – The Commission shall promulgate appropriate regulations and related guides to address exposure to ionizing radiation from natural sources.

ARTICLE VII EMERGENCY PREPAREDNESS AND RESPONSE

SEC. 38. *Emergency Plan.* –

- a) No authorization or license to conduct an activity or practice, operate a facility or possess or use a source may be granted unless and until an appropriate

emergency preparedness and response plan has been developed by the applicant and approved by the Commission.

- b) The Commission shall establish, by regulation or conditions in an authorization, a requirement that on-site and off-site emergency plans be prepared and approved for any facility, activity, practice or source that could give rise to a need for emergency intervention.
- c) In the preparation of emergency plans the following shall be taken into account, *inter alia*:
 - i. an assessment of the nature, likelihood and potential magnitude of resulting damage, including the population and territory at risk from an accident or incident; and
 - ii. the results of any accident analyses and any lessons learned from experience and/or incidents and accidents that have occurred in connection with similar activities or practices.

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

- a) coordinate the task of the radiological emergency response organization of the Commission within the framework of the government agency responsible in responding 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 Nuclear Accident and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency.

ARTICLE VIII

TRANSPORT OF NUCLEAR AND OTHER RADIOACTIVE MATERIAL

SEC. 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 other radioactive material to, from and within the jurisdiction of the Philippines in coordination with relevant national government agencies and consistent with the IAEA regulations for the safe and secure transport of radioactive material.

SEC. 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 an authorization issued by the Commission;
- b) Transport of nuclear and other radioactive material shall be in accordance with the transport regulations established by the Commission; and
- c) 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.

SEC. 42. Export/Import Control. – The Commission shall:

- a) nestablish regulatory requirements and relevant guide for the exportation and importation of nuclear and other radioactive material and devices that produce ionizing radiation which require licensees, inter alia:
- i. 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;
 - ii. to ensure before import that the exporter has an authorization from the Competent Authority of the exporting country to export such materials to the Philippines in accordance with laws and regulations of that country; and
 - iii. 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 radioactive material, particularly disused 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 other radioactive material 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 IX

RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

SEC. 43. 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 nuclear fuel;
- c) No person shall operate a spent nuclear fuel or radioactive waste management facility without an authorization issued by the Commission;
- d) The generators of spent nuclear fuel and other radioactive waste, as well as the operators of spent nuclear fuel and radioactive waste management 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;
- e) 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;
- f) 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;

- g) 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; and
- h) 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.

SEC. 44. Regulation of Spent Nuclear Fuel and Radioactive Waste. – The Commission shall establish:

- a) applicable safety and security requirements and regulations for the protection of people and the environment from adverse impacts of spent nuclear fuel and radioactive waste management activities in accordance with national regulations and international safety standards and consistent with the provisions in the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management; and
- b) regulations for ensuring that operators of nuclear facilities make adequate financial arrangements for management of spent nuclear fuel and radioactive waste.

ARTICLE X SAFEGUARDS, PHYSICAL PROTECTION AND SECURITY

SEC. 45. 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, the Safeguards Agreement, and related international treaties, conventions, agreements and protocols thereto;
- c) ensure unimpeded access by designated IAEA inspectors and duly authorized representatives of the State's government agencies to any location or facility provided for under the Safeguards Agreement and any protocols thereto, with a view to conducting the verification activities authorized by these instruments; and
- d) ensure full cooperation and support to the IAEA by all national government agencies and authorized persons (licensees) in the application of safeguards measures.

SEC. 46. Physical Protection. – The Commission shall:

- a) establish, implement and maintain a physical protection regime within the State to ensure the protection of nuclear material in use and storage and during transport and nuclear facilities against unauthorized removal of nuclear material and against sabotage;
- b) fulfill the State's obligation as a party to the Convention on Physical Protection of Nuclear Material; and
- c) ensure that the prime responsibility for the implementation of physical protection of nuclear material or of nuclear facilities rests with the license holders (e.g. operators or shippers).

SEC. 47. Security of Certain Categories of Ionizing Radiation Sources – The Commission shall establish and maintain appropriate regulations and regulatory guides for the security of certain categories of ionizing radiation sources including during transport of nuclear and radioactive materials in coordination with the relevant intelligence and security governmental agencies.

ARTICLE XI CIVIL LIABILITY FOR NUCLEAR AND RADIATION DAMAGE

SEC. 48. *The Operator Liability.* –

- a) The installation operator shall be liable for nuclear damage upon proof that such damage has been caused by a nuclear accident:
 - i. in his nuclear installation; or
 - ii. involving nuclear material coming from or originating in his nuclear installation, and occurring: 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 in the absence of such express terms, before another installation operator has taken charge of the nuclear material; or
 - iii. involving nuclear material sent to his nuclear installation, and occurring: 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 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 paragraph (a) of this Section shall not apply where another installation operator or person is solely liable pursuant to the provisions of paragraph (b) or (c) of this Section.
- b) 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:
 - i. to his nuclear installation from a nuclear installation located outside the Republic of the Philippines; or
 - ii. from his nuclear installation to a nuclear installation located outside the Republic of the Philippines.

SEC. 49. 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 by a nuclear incident directly due to a grave natural disaster of an exceptional character.
- c) Except as otherwise provided in Article Eleven of this Act, no person other than the installation operator shall be liable for nuclear damage.

SEC. 50. 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.

SEC. 51. 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.

SEC. 52. 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

SEC. 53. 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.

SEC. 54. Property for Which Installation Operator Not Liable. – The installation operator shall not be liable under this Act for nuclear damage:

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

SEC. 55. Liabilities not Affected by this Act. – Nothing in this Act shall affect:

- a) the liability of any individual for nuclear damage for which the installation operator, by virtue of Sections fifty two (52) or fifty four (54) of this Act, is not liable under this Act and which that individual caused by an act or omission done with intent to cause damage; or

- b) the liability outside this Act of the installation operator for nuclear damage for which, by virtue of sub-paragraph (b) of Section fifty four of this Act, he is not liable under the provisions of this Act.

SEC. 56. Exclusions. – The Commission may, if it determines that the small extent of the risk involved so warrants, exclude by regulation any small quantities of nuclear material from the application of the provisions in this Article XI. Provided, that (a) maximum limits for the exclusion of such quantities have been established by the Board of Governors of the International Atomic Energy Agency; and (b) any exclusion must be within the limits so established.

SEC. 57. Requirement of Financial Security. – No authorization to operate a nuclear installation shall be issued unless the installation operator secures and maintains insurance or other financial security covering his liability for nuclear damage under this Act. The Commission shall by regulation, prescribe, the type and terms of financial security herein required, which may include private insurance, private contractual indemnity, self-insurance or other proof of financial ability to pay damages under this Act or a combination of any thereof: Provided, that, in fixing the type and terms of such financial protection, the Commission shall be guided by the objectives of assuring to potential victims of a nuclear incident adequate and effective compensation without imposing unreasonable burden on the installation operator.

SEC. 58. Certificate to Carrier. – In accordance with such regulations as the Commission may issue, the appropriate installation operator shall provide the carrier, which furnishes carriage of nuclear material, with a certificate issued by or on behalf of the insurer or other financial guarantor furnishing the financial security under Section 57. The certificate shall be in such form and contain such information as may be prescribed by the Commission's regulations, including the name and address of the appropriate installation operator, the amount, type and duration of the security and a statement that such information may not be disputed by the person for whom or on whose behalf the certificate was issued. The certificate shall indicate the nuclear material in respect to which the security applies and shall include also a verification by the Commission that the person designated is an appropriate installation operator within the meaning of the provisions of this Article.

SEC. 59. When Non-nuclear Damage Deemed Nuclear Damage. – Whenever both nuclear damage and damage other than nuclear damage have been caused by a nuclear incident or jointly by a nuclear incident and one or more other occurrences, such other damage shall, to the extent that it is not reasonably separable from the nuclear damage be deemed, for purposes of this Part, to be nuclear damage caused by that nuclear incident. Where, however, damage is caused jointly by nuclear incident covered by this Article and by an emission of ionizing radiation not covered by it, nothing in this Article shall limit or otherwise affect the liability, either as regards any persons suffering nuclear damage or by way of recourse or contribution, of any person who may be held liable in connection with that emission of ionizing radiation.

SEC. 60. Liability of Installation Operators. –

a) **Several Installation Operators Liable.** – Where nuclear damage engages the liability of more than one installation operator, the following rules shall apply:

- i. In so far as damages attributable to each installation operator are not reasonably separable, the installation operators involved shall be jointly and severally liable;
- ii. In case the nuclear incident occurs in the course of carriage of nuclear material, either in one and the same means of transport, or, in the case of storage incidental to the carriage, in one and the same nuclear installation and causes nuclear damage which engages the liability of more than one installation operator, the total liability shall not exceed the highest amount applicable with respect to any one of them pursuant to Section fifty three (53) of this Act; and
- iii. In neither of the cases referred to in subparagraphs (a) and (b) of this Section shall the liability of any one installation operator exceed the amount established in Section fifty three (53) hereof.

b) **Operator of Several Installations.** – Subject to the provisions of Section sixty (60)(a), where several nuclear installations of one and the same installation operator are involved in one nuclear incident, such installation operator shall be liable in respect of each nuclear installation involved up to the amount applicable with respect to him pursuant to Section fifty three (53).

c) **Several Installations on Same Site.** – The Commission may determine that several nuclear installations of one installation operator which are located at the same site shall be considered as a single nuclear installation.

SEC. 61. Carrier or Handler of Nuclear Material as Installation Operator. – The Commission, subject to such terms and conditions as it may by regulation or order prescribe, designate a carrier of nuclear material or a person handling radioactive waste, at his request and with the consent of the installation operator concerned, as installation operator in the place of that installation operator in respect of such nuclear material or radioactive waste respectively. Upon such designation, such carrier or such person shall be considered as an installation operator for the purpose of this Article.

SEC. 62. Government Indemnity. – The Government, through the Commission, shall indemnify the installation operator liable and shall provide the necessary funds for the payment of claims for compensation for nuclear damages which have been established against the operator to the extent that the yield of insurance or other financial security is inadequate to satisfy such claims: Provided, That the obligation of the Government under this Section, together with the yield of insurance or other financial security, shall not in the aggregate exceed the maximum amount established in Section fifty three (53) for any nuclear incident.

The Republic of the Philippines acting through such officer as may be designated by the President shall enter into agreements of indemnification with contractors or suppliers of goods or services for an nuclear installations and radiation facilities owned or operated by the Government, its agencies, instrumentalities or

corporations owned or controlled by the government pursuant to which the government agrees to indemnify and hold such contractors or suppliers harmless from any loss or liability arising out of or in relation to a nuclear incident occurring in the Philippines in excess of the yield of the insurance or other security herein set forth, Provided, however, that such indemnity shall in no case exceed the amount of Philippine pesos which is equivalent to three hundred million (\$300,000,000.00) U.S. dollars.

SEC. 63. When Claims Exceed Maximum Limit. –

- a) Upon petition of the installation operator liable or of the Commission, and upon a showing that the nuclear damages from a nuclear incident will probably exceed the limit of liability established in Section fifty three (53) hereof, the Court having jurisdiction shall issue such orders as may be necessary to assure the equitable distribution of compensation, including orders apportioning the payments to be made to claimants, orders permitting partial payments to be made before final determination of the total claims, and orders setting aside part of the funds available for possible latent injuries not discovered until a later time; and
- b) In any case where it appears that the nuclear damage caused by a nuclear incident exceeds or will probably exceed the limit of liability established in Section fifty three (53) hereof, the Commission shall furnish a report thereon to the Congress with its recommendations, including what damages cannot be adequately compensated under existing arrangements.

SEC. 64. Court Having Jurisdiction. – The Regional Trial Court having jurisdiction over the place where the nuclear incident occurs shall determine claims for compensation for such nuclear damage under this Act.

SEC. 65. Intervention of Commission in Court Proceedings. – When, after the occurrence of a nuclear incident, it appears that the Government will have to pay indemnity pursuant to the provisions of **Section sixty two (62)** hereof, the Court having jurisdiction over the claims for compensation arising from the nuclear incident shall allow the Commission, upon its petition, to intervene in the proceedings with respect to technical issues, at any time before final judgment.

SEC. 66. Compulsory Examination. – After the occurrence of a nuclear incident for which it appears compensation may be payable under this Act, the Commission may adopt such measures as may be appropriate to determine the persons who were or might have been exposed to ionizing radiation resulting from such nuclear incident, which measures may include a summons to such persons to submit themselves to examination before such authority or body as shall be designated by the Commission within three months from the date of summons. In determining the amount of damages or the right to recover damages, the Court may, in its discretion, take into account the inexcusable failure of the claimant to fulfill or comply with the foregoing obligation.

SEC. 67. Investigation of Nuclear Incidents. – The Commission shall make an investigation of the cause and extent of any nuclear incident for which it appears

compensation may be payable under this Act and its finding shall be made available to the public, to the parties involved and to the Courts.

SEC. 68. Cancellation or Suspension of Financial Protection. – It shall be unlawful for any insurer or other financial guarantor to suspend or cancel the insurance or other financial security provided pursuant to the provisions of this Act without giving such prior notice in writing as may be required by the Commission's regulations.

SEC. 69. Against Whom Action for Compensation Brought. – Persons entitled to compensation for nuclear damage under this Act may, at their option, bring the action for recovery of such compensation against the installation operator liable or against the insurer or other persons furnishing financial security as required by this Act.

SEC. 70. Prescription of Rights and Actions. – Rights of compensation under this Act shall prescribe after **ten years** from the date of the nuclear incident. Furthermore, actions for compensation under this Act shall be barred unless brought within three years from the date on which the person suffering nuclear damage had knowledge or should have had knowledge of the damage and of the installation operator liable for the damage: Provided, however, that any person who claims to have suffered nuclear damage and who has brought an action for compensation within the period applicable pursuant to this Section may amend his claim to take into account any aggravation of the damage, even after the expiry of that period: Provided, further, that final judgment has not been entered in the case.

SEC. 71. Prescription with Respect to Nuclear Materials Lost, Stolen, etc. – Where nuclear damage is caused by a nuclear incident involving nuclear material which at the time of the nuclear incident was stolen, lost, jettisoned or abandoned, the period established pursuant to Section **seventy (70)** of this Act shall be computed from the date of that nuclear incident, but the period shall in no case exceed a period of twenty years from the date of the theft, loss, jettison or abandonment.

ARTICLE XII ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 72. Notice and Hearing. –

- a) In any proceeding under this Act for the granting, suspending, revoking or amending of any authorization, including an application to transfer control of an authorization, or upon the issuance of an order under Sections nineteen (19), twenty nine (29), thirty one (31), or thirty two (32), the Commission shall hold a hearing upon the request of any person whose interest may be affected and shall admit such person as a party to the proceeding.
- b) Commission hearings may be open to the public and relevant stakeholders, except where warranted by considerations of security, national defense or proprietary matters.
- c) Except in cases where immediate action is required in order to protect the health and safety of the public or the national interest, no order issued under

- c) Except in cases where immediate action is required in order to protect the health and safety of the public or the national interest, no order issued under Sections nineteen (19), twenty nine (29), thirty one (31), or thirty two (32) shall become effective until after the licensee has had notice for a hearing and opportunity to be heard.
- d) Where an order suspending, revoking or modifying an authorization, or an order issued under Sections nineteen (19), twenty nine (29), thirty one (31), or thirty two (32) is made effective without prior notice for a hearing and opportunity to be heard, the order shall only be temporary pending the hearing and issuance of the Commission's final decision in the proceeding.

SEC. 73. Notice of Regulation. – No regulation adopted by the Commission shall be effective less than fifteen days after publication of the regulation in the Official Gazette, except, that if the Commission finds that the health, safety, and security or the national interest requires, the regulation may be made effective immediately upon publication in the Official Gazette or upon furnishing copies of the regulation to the persons affected.

SEC. 74. Incident Reports. – No report by any licensee of any incident arising out of or in connection with authorized activities made pursuant to any requirement of the Commission shall be admitted as evidence in any suit or action for damages growing out of any matter mentioned in such report.

SEC. 75. Hearing Procedure. – All hearings and investigations before the Commission shall be governed by rules adopted by the Commission: Provided, that in the conduct thereof, the Commission shall not be bound by the technical rules of evidence, except that the Commission shall as a matter of policy provide for the exclusion of irrelevant, immaterial or duly repetitious evidence.

SEC. 76. Orders and Decisions. – All orders and decisions of the Commission taken in any proceeding after hearing shall be in writing, stating clearly and distinctly the facts and issues involved and the reasons on which the Commission's order or decision is based, and shall be made available to the public.

SEC. 77. 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 two (52) 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 XIII TRANSITIONAL PROVISIONS

SEC. 78. The Philippine Nuclear Research Institute. –

- a) The regulatory functions of the of the PNRI are hereby transferred to the Commission.
- b) The development, promotion and use of nuclear energy and ionizing radiation for peaceful applications shall remain the responsibility of the PNRI, whereupon the Director of the PNRI shall draw up its new organizational structure to be submitted to the President through the DOST Secretary for approval.
- c) Previous regulatory issuances – all regulations, rules, orders previously established by the PNRI shall remain in force until superseded by regulatory issuances of the Commission.

SEC. 79. The Center for Device Regulation, Radiation Health and Research. –

- a) The regulatory functions of the CDRRHR of the Department of Health, over devices generating ionizing radiation by virtue of R. A. 9711 are deemed transferred to the Commission.
- b) The CDRRHR shall remain with the Food and Drug Administration.
- c) Previous regulatory issuances – all regulations, rules, orders pertaining to ionizing and non-ionizing radiation previously established by the CDRRHR shall remain in force until superseded by regulations issued by the Commission.

SEC. 80. Human Resources. – All plantilla positions of the Nuclear Regulatory Division of the PNRI, DOST are hereby transferred to the Commission. All plantilla positions of the Radiation Regulation Division of the CDRRHR of the DOH which have responsibilities solely in ionizing and non-ionizing radiation regulation and laboratory are also hereby transferred to the Commission. Thereafter, all powers, functions and duties, records, files, and assets pertaining to regulation of ionizing radiation, of these organizational units shall be transferred to the Commission.

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

ARTICLE XIV FINAL PROVISIONS

SEC. 81. Penal Provisions. – Any person who willfully violates, attempts to violate, or conspires to violate, any provision of Sections thirteen (13) or twenty (20) of this Act shall upon conviction thereof, suffer the penalty of imprisonment of not more than five years or a fine of not more than one million pesos (PHP 1,000,000.00) or both.

Any person who shall willfully 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 authorization issued under 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.

SEC. 82. Appropriations. – The amount necessary to support the initial operation of the Commission shall be sourced from the existing budgetary appropriations of the Nuclear Regulatory Division (NRD) of the PNRI and the licensing and regulatory group of the CDRRHR. Thereafter, the funds shall be provided for in the General Appropriations Act.

SEC. 83. Implementing Rules & Regulations. – The DOH and DOST, in consultation and coordination with appropriate government agencies shall promulgate the implementing rules and regulations within sixty (60) days from the effectivity of this Act.

SEC. 84. 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.

SEC. 85. Repealing Clause. – Relevant provisions of R.A. No. 2067 as amended, R. A. No. 5207 as amended, E. O. No. 128, R. A. No. 9711 and administrative rules or regulations contrary to, or inconsistent with the provisions of this Act are hereby repealed, modified or amended accordingly.

SEC. 86. Effectivity Clause. - This Act shall take effect within fifteen (15) days following its publication in two (2) newspapers of national circulation.