

Radiological Protection Act, 1991



Number 9 of 1991

RADIOLOGICAL PROTECTION ACT, 1991

ARRANGEMENT OF SECTIONS

PART I

Preliminary and General

Section

1. Short title.
2. Interpretation.
3. Orders and regulations.
4. Expenses.

PART II

Radiological Protection Institute of Ireland

5. Establishment day.
6. Establishment of Radiological Protection Institute of Ireland.
7. General functions of Institute.
8. Particular functions of Institute.
9. Conferral of additional functions on Institute.
10. Charges for services.
11. Chief Executive Officer.
12. Staff of Institute.
13. Superannuation of staff of Institute.
14. Membership of either House of Oireachtas or of European Parliament by members or staff of Institute.
15. Advances by Minister to Institute.
16. Accounts and audits of Institute.

17. Reports and information to Minister.
18. Committees of Institute.
19. Power to accept subscriptions and donations.
20. Directions by Minister to Institute.
21. Dissolution of Board.
22. Transfer of assets and liabilities of Board to Institute.
23. Preservation of certain continuing contracts and adaptation of references to Board.
24. Saving for certain acts.
25. Pending legal proceedings.
26. Completion of certain matters commenced by Board.

PART III

Control and Protection of Radioactive Substances, etc.

27. Competent authority.
28. Appointment of inspectors.
29. Powers of inspectors.
30. Control of radioactive substances, etc.
31. Regulations concerning levels of activity.
32. Regulations and orders to be made by certain Ministers.
33. Slaughter of animals, etc., destruction of crops, etc. and disposal of eggs, fish, etc.
34. Notification of accidents, etc.

PART IV

Miscellaneous

35. Convention countries.
36. Disclosure of confidential information.
37. Certificates.
38. Offences relating to nuclear material.
39. Proceedings by virtue of *section 38* of this Act.
40. Offences and penalties.
41. Prosecutions.

42. Compensation.
43. Repeals and amendment of Safety, Health and Welfare at Work Act, 1989.
44. Saver of orders made under Nuclear Energy (An Bord Fuinnimh Núicléigh) Act, 1971.
45. Amendment of Health Act, 1953.
46. Amendment of Factories Act, 1955.
47. Exemption from stamp duty.

FIRST SCHEDULE

The Radiological Protection Institute of Ireland

SECOND SCHEDULE

Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency

THIRD SCHEDULE

Convention on Early Notification of a Nuclear Accident

FOURTH SCHEDULE

Convention on the Physical Protection of Nuclear Material

Acts Referred to

European Assembly Elections Act, 1977	1977, No. 30
European Assembly Elections Act, 1984	1984, No. 6
Extradition Acts, 1965 to 1987	
Factories Act, 1955	1955, No. 10
Finance Act, 1895	1895, c. 16
Health Act, 1947	1947, No. 28
Health Act, 1953	1953, No. 26
Holidays (Employees) Act, 1973	1973, No. 25
Larceny Act, 1916	1916, c. 50
Minimum Notice and Terms of Employment Acts, 1973 and 1984	
Nuclear Energy (An Bord Fuinnimh Núicléigh) Act, 1971	1971, No. 12
Redundancy Payments Acts, 1967 to 1984	
Sale of Food and Drugs Acts, 1875 to 1936	
Safety, Health and Welfare at Work Act, 1989	1989, No. 7
Unfair Dismissals Act, 1977	1977, No. 32



Number 9 of 1991

RADIOLOGICAL PROTECTION ACT, 1991

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF AN INSTITUTE TO BE CALLED THE RADIOLOGICAL PROTECTION INSTITUTE OF IRELAND, TO DEFINE ITS FUNCTIONS, TO PROVIDE FOR THE DISSOLUTION OF AN BORD FUINNIMH NÚICLÉIGH AND THE TRANSFER OF ITS FUNCTIONS TO THE RADIOLOGICAL PROTECTION INSTITUTE OF IRELAND, TO AUTHORISE THE MAKING OF REGULATIONS PRESCRIBING LEVELS OF ACTIVITY AND SPECIFYING MATTERS TO BE DONE IN THE EVENT OF SPECIFIED LEVELS BEING EXCEEDED AND TO GIVE EFFECT TO THE CONVENTION ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT DONE AT VIENNA ON THE 26th DAY OF SEPTEMBER, 1986, THE CONVENTION ON ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY DONE AT VIENNA ON THE 26th DAY OF SEPTEMBER, 1986, AND THE CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL DONE AT VIENNA ON THE 26th DAY OF OCTOBER, 1979, AND TO PROVIDE FOR OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID. [11th May, 1991]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

Preliminary and General

- Short title. 1.—This Act may be cited as the Radiological Protection Act, 1991.
- Interpretation. 2.—In this Act, except where the context otherwise requires—
- “*activity*” means the number of nuclear disintegrations which occur per unit of time in a radioactive substance;
- “*animals*” means all animals excluding fish, poultry and fauna;
- “*the Assistance Convention*” means the Convention on Assistance in the case of a Nuclear Accident or Radiological Emergency done at Vienna on the 26th day of September, 1986, the text whereof is set out in the *Second Schedule* to this Act;

“*the Board*” means An Bord Fuinnimh Núicléigh;

“*bottled water*” means water for human consumption packaged in containers for sale;

“*carcase*” means the carcase of an animal, poultry or fauna and includes part of a carcase and the meat, bones, hide, blood, skin, pelt, hair, fur, wool, feathers, hooves, horns, offal or any other part of an animal, poultry or fauna separately or otherwise, or any portion thereof;

“*convention country*” means a country other than the State for the time being standing designated under *section 35* of this Act;

“*crops*” includes any agricultural or horticultural crop, tree, bush, seed, plant and any part of a seed or plant;

“*the establishment day*” means the day appointed by the Minister under *section 5* of this Act;

“*fauna*” has the meaning assigned to it by the Wildlife Act, 1976 ;

“*feeding stuff*” means products which are intended only for animal nutrition;

“*fish*” includes all marine invertebrates, all crustaceans and molluscs found in the sea, and brood and spawn of fish, and references to fish shall be construed as including references to part of that fish;

“*fishery products*” includes fish which has been treated in any way for consumption by individuals or animals or for use as fish feed for poultry and fauna;

“*food*” has the meaning assigned to it by section 53 of the Health Act, 1947 ;

“*functions*” includes powers and duties;

“*an inspector*” means a person appointed under *section 28* of this Act by the Institute, or the Minister for Agriculture and Food, or the Minister for Finance, or the Minister for the Marine, or the Minister for Health, as the case may be, to be an inspector for the purposes of this Act and orders or regulations made under this Act;

“*the Institute*” has the meaning assigned to it by *section 6* of this Act;

“*ionising radiation*” means radiation consisting of photons or particles capable of producing ions, either directly or indirectly, and includes X-rays and gamma rays, alpha particles, beta particles, electrons, positrons, protons, neutrons and heavy particles;

“*irradiating apparatus*” means an apparatus capable of producing ionising radiation;

“*medical or dental application*” means the prevention, diagnosis or treatment of any human ailment, infirmity, injury or defect through the use of radioactive substances, nuclear devices or irradiating apparatus

as prophylactic, diagnostic or therapeutic agents;

“*the Minister*” means the Minister for Energy;

“*non-ionising radiation*” means radiation consisting of photons or particles which is incapable of producing ions either directly or indirectly;

“*the Notification Convention*” means the Convention on Early Notification of a Nuclear Accident done at Vienna on the 26th day of September, 1986, the text whereof is set out in the *Third Schedule* to this Act;

“*nuclear device*” includes any machine or apparatus the operation of which involves the use of a radioactive substance, an irradiating apparatus or a nuclear reactor;

“*nuclear material*” has the meaning assigned to it by Article 1 of the Protection Convention;

“*nuclear reactor*” means a structure containing radioactive substances and in which a self-sustaining and controlled process of nuclear fission or fusion can occur;

“*the 1977 Order*” means the Nuclear Energy (General Control of Fissile Fuels, Radioactive Substances and Irradiating Apparatus) Order, 1977 (No. 166 of 1977), continued in force by *section 44* of this Act;

“*patient*” means a person undergoing a medical or dental application;

“*poultry*” means all birds except fauna;

“*prescribed levels*” means levels of activity prescribed by a regulation made under *section 31* of this Act;

“*the Protection Convention*” means the Convention on the Physical Protection of Nuclear Material done at Vienna on the 26th day of October, 1979, the text whereof is set out in the *Fourth Schedule* to this Act;

“*radioactive substance*” means any substance capable of emitting ionising radiation and includes any radionuclide, whether natural or artificial;

“*radiological emergency*” means an accident, occurrence or incident or threat thereof anywhere which causes, or may cause any individual, animal, fauna, poultry, eggs, crops, fish, seaweed, soil, minerals (including rocks of all descriptions), air, water or other thing in the State to be exposed to significant levels of ionising radiation;

“*radiological hazards*” means the dangers deriving from or associated with ionising radiation, radioactive substances, nuclear devices and irradiating apparatus;

“*radiological safety*” means safety from radiological hazards;

“*requested state or organisation*” means a state or international organisation from which the State has requested assistance in accordance with the Assistance Convention;

“*requesting state*” means a state which has requested assistance from the State in accordance with the Assistance Convention;

“*sale*” includes offer or expose for sale, keep for sale and invite to buy;

“*specified levels*” means

(a) prescribed levels, or

(b) maximum permitted levels

of radioactive contamination of foodstuffs and of feeding stuffs following a nuclear accident or any other case of radiological emergency and specified in regulations made by the Council or the Commission of the European Communities;

“*substance*” means a natural or artificial substance, whether in solid or liquid form or in the form of a gas or a vapour, and includes a preparation or manufactured article and an article which has been subjected to any artificial treatment or process.

Orders and regulations. **3.**—Every order or regulation (other than an order made under *section 5* or *35* of this Act) made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made, and if a resolution annulling the order or the regulation is passed by either such House within the next twenty-one days on which that House has sat after the order or the regulation is laid before it, the order or the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Expenses. **4.**—The expenses incurred by a Minister of the Government in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

PART II

Radiological Protection Institute of Ireland

Establishment day. **5.**—The Minister shall by order appoint a day to be the establishment day for the purposes of this Act.

Establishment of Radiological Protection Institute of Ireland. **6.**—(1) On the establishment day there shall stand established a body to be known as the Radiological Protection Institute of Ireland, and in this Act referred to as “*the Institute*”, to perform the functions conferred on it by or under this Act.

(2) The provisions of the *First Schedule* to this Act shall have effect with respect to the Institute.

General functions of **7.**—(1) The Institute shall, in addition to any other functions

Institute.

assigned to it by or under this Act, have the following general functions:

- (a) to monitor activity or ionising radiation levels in any thing in the State and in any waters, including international waters, surrounding the State, and, in particular, without prejudice to the generality of the foregoing, to monitor any activity or ionising radiation levels in individuals, animals, fauna, poultry, eggs, crops, fish, seaweed, or any food, soil, minerals (including rocks of all descriptions), air or water;
- (b) to monitor the exposure of individuals to activity or ionising radiation;
- (c) to advise the Government, the Minister and other Ministers of the Government and the public, on measures for the protection of individuals in the State from radiological hazards;
- (d) to advise the Government, the Minister and other Ministers of the Government on radiological safety matters relating to the transport, use, storage, maintenance and disposal of radioactive substances, nuclear devices or irradiating apparatus wheresoever located;
- (e) to assist in the planning and implementation of measures to deal with radiological emergencies;
- (f) to advise the Government, the Minister and other Ministers in relation to international standards regarding ionising radiation, radioactive substances, nuclear devices, irradiating apparatus and radiological safety;
- (g) where appropriate, to enter into arrangements with the Government, the Minister or other Ministers of the Government and such other persons or bodies as the Minister may direct to provide monitoring, advisory or consultancy services in relation to radiological safety;
- (h) to monitor scientific, technological, economic and other developments wheresoever taking place relating to ionising radiation, radioactive substances, nuclear devices, irradiating apparatus and radiological safety in order to keep the Government and the Minister informed of such developments with particular reference to the implications for the State of such developments;
- (i) to assist the Minister for Defence in the exercise of his functions in relation to the protection of individuals whenever the Government decide that the hazard to life or health from a radiological emergency requires his intervention;
- (j) to carry out or to arrange for the carrying out of and to co-

ordinate or assist in arrangements for the carrying out of research into any matter relating to the functions or activities of the Institute; and

(k) to provide information to the public on any matters relating to radiological safety which the Institute deems fit.

(2) The functions of the Institute, in relation to the use of a radioactive substance, nuclear device or irradiating apparatus as a prophylactic, diagnostic or therapeutic agent for the purpose of the prevention, diagnosis or treatment of any human ailment, infirmity, injury or defect shall relate only to—

(a) the supervision and care of the radioactive substance, nuclear device or irradiating apparatus concerned, and

(b) ensuring that the said substance, device or apparatus is properly calibrated and maintained so as—

(i) to reduce to a minimum the effects of such substance, device or apparatus on property and persons other than a patient receiving a particular medical or dental application, or

(ii) to enable a medical or dental practitioner to achieve the maximum degree of accuracy and safety where the said substance, device or apparatus is used for the benefit of an individual patient.

(3) The Institute may, subject to compliance with such conditions as the Minister may, from time to time, direct, do all such other things as arise out of or are consequential on the functions assigned to the Institute by or under this Act.

Particular functions of Institute.

8.—The Institute shall have, without prejudice to the generality of *section 7* of this Act, the following particular functions, that is to say:

(a) to exchange information and to co-operate with the relevant authorities of other states or with international organisations concerned with the physical protection of nuclear material on protection of nuclear material and related matters, including in particular where there has been a theft of or the threat of the theft of nuclear material;

(b) to render assistance to other states in the event of a radiological emergency;

(c) to co-operate with the relevant authorities in other states in cases of nuclear accident or radiological emergency;

(d) to co-operate with the relevant authorities in other states in measures for prevention or the minimising of injury and damage which may result in the event of a nuclear accident or radiological emergency;

- (e) to exchange information on relevant matters with the relevant authorities in other states and international organisations concerned with nuclear safety and radiological protection;
- (f) to prepare and issue codes of practice dealing with radiological safety, radioactive substances, nuclear devices or irradiating apparatus, taking into account relevant standards recommended by relevant international bodies;
- (g) to prepare and issue safety guidelines and recommendations for persons dealing with radioactive substances, nuclear devices or irradiating apparatus, taking into account relevant standards recommended by relevant international bodies;
- (h) to make recommendations to the Minister or any other Minister, as appropriate, in respect of proposals for legislation on measures for protection against radiological hazards;
- (i) to issue certificates concerning levels of activity or ionising radiation in any thing;
- (j) pursuant to an order made under *section 30* of this Act, to carry out a licensing system relating to the custody, use, manufacture, importation, distribution, transportation, exportation or other disposal of radioactive substances, nuclear devices or irradiating apparatus;
- (k) to provide and, where appropriate, approve of, training in relation to activities licensed under an order under *section 30* of this Act and in relation to radiological safety;
- (l) to collect and disseminate information on ionising radiation, radioactive substances, nuclear devices, irradiating apparatus, radiological safety and matters related therewith;
- (m) to advise the Government, the Minister and other Ministers regarding representation of the State on international bodies dealing with ionising radiation, radioactive substances, nuclear devices, irradiating apparatus, radiological safety and matters connected therewith; and
- (n) to represent the State in such manner and on such international bodies as may be directed by the said Ministers.

Conferral of additional functions on Institute.

9.—(1) The Minister may, from time to time, by order—

- (a) confer on the Institute such additional functions connected with the functions for the time being of the Institute or the services or activities that the Institute is authorised for the time being to provide or carry on (including functions of the Minister in relation to any directive, regulation or other act adopted by an institution of the European Communities in relation to ionising radiation, radioactive substances, nuclear

devices, irradiating apparatus, radiological safety and matters connected therewith) as he considers appropriate;

(b) make such provision as he considers necessary or expedient in relation to matters ancillary to or arising out of the conferral on the Institute of functions under this section or the performance by the Institute of functions so conferred; and

(c) extend the powers and functions of the Institute to cover such matters pertaining to non-ionising radiation as may be specified in the order.

(2) Without prejudice to the generality of *subsection (1)* of this section, the Minister may, from time to time, by order assign to the Institute any or all of the following functions:

(a) the monitoring of compliance with any safety codes established or regulations made (whether under this Act, the Health Act, 1953 , or any of the relevant statutory provisions within the meaning of the Safety, Health and Welfare at Work Act, 1989) relating to radioactive substances, nuclear devices or irradiating apparatus or to radiological safety, and

(b) in the performance of any function mentioned in this subsection, the control of the custody, use, manufacture, importation, distribution, transportation, insurance, sale, exportation or other disposal of radioactive substances or irradiating apparatus or nuclear devices as may be specified in the order.

(3) Before making an order under this section, the Minister shall consult the Ministers for Finance, Industry and Commerce, Agriculture and Food, Labour, Foreign Affairs, Education, Health, the Environment, Tourism and Transport, the Marine, Communications and Defence.

(4) An order under this section may include such conditions, in relation to the execution of functions conferred on the Institute under this section, as the Minister, after consultation with the aforesaid Ministers, may determine.

(5) The Minister may, after consultation with the Ministers referred to in *subsection (3)* of this section by order revoke or amend an order under this section.

Charges for services.

10.—(1) Subject to the provisions of this section, the Institute may make such charges as it considers appropriate in consideration of the performance by it of its functions, the provision by it of services and the carrying on by it of activities other than those performed, provided or carried on for the Minister.

(2) The determination of the amounts of charges by the Institute shall be subject to the approval of the Minister and the Minister for Finance.

(3) Charges, prices and payments under *subsection (1)* of this section in respect of functions performed, services provided or activities carried on, shall not, save with the approval of the Minister, be less than the cost of the performance of the function, the provision of the service or the carrying on of the activity, as the case may be.

(4) The Institute may recover, as a simple contract debt in any court of competent jurisdiction, from the person by whom it is payable any amount due and owing to it under *subsection (1)* of this section.

Chief Executive Officer. **11.**—(1) There shall be a chief executive officer of the Institute who shall be known, and is in this Act referred to, as the Chief Executive Officer.

(2) The Chief Executive Officer shall carry on and manage and control generally the administration and business of the Institute and shall perform such other functions as may be determined by the Institute.

(3) The Chief Executive Officer shall hold office on and subject to such terms and conditions (including terms and conditions relating to remuneration and superannuation) as may be determined by the Minister with the consent of the Minister for Finance.

(4) The Chief Executive Officer shall be paid by the Institute out of moneys at its disposal such remuneration and such allowances for expenses incurred by him in the performance of his functions as may be determined by the Minister, with the consent of the Minister for Finance.

(5) The Chief Executive Officer shall be appointed, and may be removed from office at any time, by the Institute with the consent of the Minister.

(6) The Chief Executive Officer shall devote the whole of his time to his duties as Chief Executive Officer and shall not hold any other office or position without the consent of the Institute.

(7) The Chief Executive Officer may make proposals to the Institute on any matter relating to its activities.

Staff of Institute. **12.**—(1) The Institute shall accept into its employment on the establishment day in accordance with the terms of this Act every person who immediately before the establishment day was a member of the staff of the Board.

(2) The Institute may appoint such number of persons to be members of the staff of the Institute as it may determine with the consent of the Minister and the Minister for Finance.

(3) (a) A member of the staff of the Institute (other than the Chief Executive Officer) shall be paid, out of the moneys at the disposal of the Institute, such remuneration and allowances for expenses incurred by him as the Institute may, with the

consent of the Minister and the Minister for Finance, determine.

(b) A member of the staff of the Institute referred to in *paragraph (a)* of this subsection shall hold his office or employment on such other terms and conditions as the Institute may, with the consent of the Minister and the Minister for Finance, determine.

(4) The grades of the staff of the Institute, and the numbers of staff in each grade, shall be determined by the Institute with the consent of the Minister and the Minister for Finance.

(5) The terms and conditions relating to tenure of office which are granted by the Institute in relation to a member of the staff of the Institute who immediately before the establishment day was a member of the staff of the Board shall not, while he is in the service of the Institute, be less favourable to him than those prevailing immediately before the establishment day, save in accordance with a collective agreement negotiated with any recognised trade unions or staff associations concerned.

(6) Save in accordance with a collective agreement negotiated with any recognised trade unions or staff associations concerned, a member of the staff referred to in *subsection (5)* of this section shall not, while in the service of the Institute, receive a lesser scale of pay or be made subject to less beneficial terms and conditions of service (other than those relating to tenure of office) than the scale of pay to which he was entitled and the terms and conditions of service (other than those relating to tenure of office) to which he was subject immediately before the establishment day.

(7) Until such time as the scales of pay and the terms and conditions of service (other than those relating to tenure of office) of members of the staff referred to in *subsection (5)* of this section are varied by the Institute, following consultation with any recognised trade unions and staff associations concerned, the scales of pay to which they were entitled and the terms and conditions of service (other than those relating to tenure of office), restrictions, requirements and obligations to which they were subject immediately before their transfer shall continue to apply to them and may be applied or imposed by the Institute or the Chief Executive Officer, as the case may be, while they are in the service of the Institute. No such variation shall operate to worsen the scales of pay or the terms or conditions of service aforesaid applicable to a member of such staff immediately before the establishment day, save in accordance with a collective agreement negotiated with any recognised trade unions or staff associations concerned.

(8) In relation to staff referred to in *subsection (5)* of this section, previous service in, or service reckonable for the purposes of any superannuation benefits payable by or on behalf of, the Board shall be

reckonable for the purposes of, but subject to any other exceptions or exclusions in, the Redundancy Payments Acts, 1967 to 1984, the Holidays (Employees) Act, 1973, the Minimum Notice and Terms of Employment Acts, 1973 and 1984, and the Unfair Dismissals Act, 1977

(9) The Institute may perform any of its functions through or by the Chief Executive Officer or any other member of its staff duly authorised by the Institute in that behalf.

Superannuation of staff of Institute.

13.—(1) The Institute may, with the consent of the Minister and the Minister for Finance, make a scheme or schemes for the granting of superannuation benefits to or in respect of persons (other than the Chief Executive Officer) appointed to whole-time positions on the staff of the Institute.

(2) A scheme under *subsection (1)* of this section shall fix the time and conditions of retirement for all persons to or in respect of whom superannuation benefits are payable under the scheme or schemes and different times and conditions may be fixed in respect of different classes of persons.

(3) The Institute may, with the consent of the Minister and the Minister for Finance, make a scheme amending or revoking a scheme under this section including a scheme under this subsection.

(4) A scheme, or amending scheme, or revoking scheme submitted to the Minister under this section shall, if approved of by the Minister with the consent of the Minister for Finance, be carried out by the Institute in accordance with its terms.

(5) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit payable in pursuance of a scheme or schemes under this section, such dispute shall be submitted to the Minister who shall refer it to the Minister for Finance, whose decision shall be final.

(6) No superannuation benefit shall be granted by the Institute on the resignation, retirement or death of a member of the staff of the Institute, otherwise than in accordance with a scheme or schemes under this section.

(7) A scheme under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next twenty-one days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(8) (a) A scheme or schemes under *subsection (1)* of this section shall, as respects a member of staff referred to in *section 12 (5)* of this Act, provide for the granting to or in respect of him of superannuation benefits upon and subject to terms

and conditions that are not less favourable to him than the terms and conditions applied to him immediately before the establishment day in relation to the grant of such benefits.

(b) Where, during the period between the establishment day and the coming into operation of a scheme under this section, superannuation benefits would have been granted to or in respect of a person referred to in *section 12 (5)* of this Act in respect of his employment with the Board, the superannuation benefits shall be granted and paid to or in respect of the person by the Institute.

(9) In this section and in *sections 12 and 14* of this Act “*superannuation benefits*” means pensions, gratuities and other allowances payable on or in respect of resignation, retirement or death.

Membership of either House of Oireachtas or of European Parliament by members or staff of Institute.

14.—(1) Where a member of the Institute is—

- (a) nominated as a member of Seanad Éireann, or
- (b) elected as a member of either House of the Oireachtas or of the European Parliament, or
- (c) regarded pursuant to section 15 (inserted by the European Assembly Elections Act, 1984) of the European Assembly Elections Act, 1977 , as having been elected to such Parliament to fill a vacancy,

he shall thereupon cease to be a member of the Institute.

(2) Where a person who is a member of the staff of the Institute is—

- (a) nominated as a member of Seanad Éireann, or
- (b) elected as a member of either House of the Oireachtas or of the European Parliament, or
- (c) regarded pursuant to section 15 (inserted by the European Assembly Elections Act, 1984) of the European Assembly Elections Act, 1977 , as having been elected to such Parliament to fill a vacancy,

he shall thereupon stand seconded from employment by the Institute and shall not be paid by, or be entitled to receive from, the Institute any remuneration or allowances in respect of the period commencing on such nomination or election or when he is so regarded as having been elected, as the case may be, and ending when he ceases to be a member of either such House or such Parliament.

(3) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or is a member of the European Parliament shall, while he is so entitled or is such a

member, be disqualified from becoming a member of the Institute or the staff of the Institute.

(4) Without prejudice to the generality of *subsection (2)* of this section, that subsection shall be construed as prohibiting, *inter alia*, the reckoning of a period mentioned in that subsection as service with the Institute for the purposes of any superannuation benefits.

Advances by Minister to Institute.

15.—The Minister may from time to time, with the consent of the Minister for Finance, advance to the Institute out of moneys provided by the Oireachtas, such sums as the Minister may determine for the purposes of expenditure by the Institute in the performance of its functions.

Accounts and audits of Institute.

16.—(1) The Institute shall keep, in such form as may be approved of by the Minister with the concurrence of the Minister for Finance, all proper and usual accounts of all moneys received or expended by the Institute, including an income and expenditure account and balance sheet and, in particular, shall keep all such special accounts as the Minister, on his own motion or at the request of the Minister for Finance, may from time to time direct.

(2) Accounts kept in pursuance of this section shall be submitted to the Comptroller and Auditor General for audit and a copy of the income and expenditure account and of the balance sheet and of such other (if any) of its accounts as the Minister may direct and a copy of the Comptroller and Auditor General's report on the accounts shall be presented to the Minister as soon as may be after, but not later than 6 months after, the end of the financial year of the Institute and the Minister shall cause copies of each of the documents aforesaid to be laid before each House of the Oireachtas.

Reports and information to Minister.

17.—(1) As soon as may be after the end of each financial year of the Institute, but not later than 6 months thereafter, the Institute shall make a report to the Minister of its activities during that year and he shall cause copies of the report to be laid before each House of the Oireachtas.

(2) Each report under *subsection (1)* of this section shall include information in such form and regarding such matters as the Minister may direct.

(3) Not less than 3 months before the end of each financial year of the Institute, it shall furnish to the Minister a report in writing—

(a) outlining its proposed activities (other than day-to-day activities) in the financial year immediately following,

(b) giving estimates of its expenditure in the last mentioned year in relation to each of those activities, and

(c) giving estimates of its income in the said last mentioned year,

and the Institute shall not carry out any of those activities or incur any

such expenditure until the report has been approved of by the Minister.

(4) The Institute shall not during any financial year—

(a) carry on any activity (other than a day-to-day activity) not specified in the report under *subsection (3)* of this section in relation to that year, or

(b) incur expenditure in relation to any activity in excess of the estimate of that expenditure given in that report,

without the prior approval of the Minister.

(5) The Institute shall, whenever so requested by the Minister, furnish to him information in relation to such matters as he may specify concerning or relating to the performance of its functions, or its plans for the future performance of its functions, generally or in respect of any account prepared by the Institute or any report specified in *subsection (1)* or *(3)* of this section or *section 16 (2)* of this Act or the policy and activities, other than day-to-day activities, of the Institute.

Committees of Institute.

18.—(1) The Institute may, from time to time, establish committees to assist and to advise it in relation to the performance of its functions.

(2) The Institute may delegate to a committee appointed under this section any of its functions which, in its opinion, can be better or more conveniently performed by a committee, and may regulate the procedure of any such committee.

(3) A committee appointed under this section shall consist of such number of members as the Institute thinks proper and may, at the discretion of the Institute, consist exclusively of persons who are members of the Institute or partly of persons who are members of the Institute and partly of persons who are members of the staff of the Institute or partly of persons who are either members of the staff of the Institute or members of the Institute and partly of other persons.

(4) The acts of a committee appointed under this section shall be subject to confirmation by the Institute.

(5) *Paragraph 21* of the *First Schedule* to this Act shall apply to a meeting of a committee appointed under this section as if it were a meeting of the Institute.

Power to accept subscriptions and donations.

19.—(1) The Institute may accept subscriptions of money from any body or person in return for the use by such body or person or other bodies or persons of such services and facilities of the Institute as the Institute may determine.

(2) The Institute may, subject to the approval of the Minister and the consent of the Minister for Finance, accept a gift of money, land or other property, upon such trusts and conditions, if any, as may be specified by the person making the gift.

(3) The Institute shall not accept any gift or subscription of money if

the conditions attached by the donor to the acceptance thereof are inconsistent with the functions of the Institute.

Directions by Minister to Institute.

20.—(1) The Minister may give a directive in writing to the Institute in relation to policy generally.

(2) The Minister shall cause any directive given by him under *subsection (1)* of this section to be laid before each House of the Oireachtas within twenty-one days after it has been given.

Dissolution of Board.

21.—(1) The Board shall, on the establishment day, become and be dissolved.

(2) References in any Act of the Oireachtas passed before the establishment day or in any instrument made before the establishment day under an Act of the Oireachtas to the Board shall, on and after that day, be construed as references to the Institute.

Transfer of assets and liabilities of Board to Institute.

22.—(1) The following shall be and hereby are transferred to the Institute on the establishment day:

(a) all property and rights held or enjoyed immediately before that day by the Board, and

(b) all liabilities incurred before that day by the Board that had not been discharged before that day,

and, accordingly, without any further conveyance, transfer or assignment—

(i) the said property, real and personal, shall, on that day, vest in the Institute for all the estate, term or interest for which, immediately before that day, it was vested in the Board, but subject to all trusts and equities affecting the property and capable of being performed,

(ii) the said rights shall, as on and from that day, be enjoyed by the Institute, and

(iii) the said liabilities shall, as on and from that day, be liabilities of the Institute.

(2) All moneys, stocks, shares and securities transferred to the Institute by this section that, on the establishment day, are standing in the name of the Board shall, upon the request of the Institute, be transferred into its name.

(3) Every right and liability transferred by *subsection (1)* of this section to the Institute may, on or after the establishment day, be sued on, recovered or enforced by or against the Institute in its own name and it shall not be necessary for the Institute to give notice to the person whose right or liability is transferred by that subsection of the transfer.

Preservation of certain continuing contracts and

23.—Every bond, guarantee or other security of a continuing nature made or given by or on behalf of the Board to any person or given by

adaptation of references to Board. any person to and accepted by or on behalf of the Board and every contract or agreement made between the Board and any other person and in force but not fully executed and completed immediately before the establishment day shall continue in force on or after that day and shall be construed and have effect as if the name of the Institute was substituted therein for that of the Board.

Saving for certain acts. **24.**—Nothing in this Act shall affect the validity of any act that was done before the establishment day by or on behalf of the Board and every such act done by or on behalf of the Board shall, if and in so far as it was operative immediately before that day, have effect on and after that day as if it had been done by or on behalf of the Institute.

Pending legal proceedings. **25.**—Where, immediately before the establishment day, any legal proceedings are pending in any court or tribunal and the Board is a party to the proceedings, the name of the Institute shall be substituted therein for that of the Board, and the proceedings shall not abate by reason of such substitution.

Completion of certain matters commenced by Board. **26.**—Subject to *section 20* of this Act, anything commenced by the Board before the establishment day may be carried on and completed on and after that day by the Institute.

PART III

Control and Protection of Radioactive Substances, etc.

Competent authority. **27.**—(1) The Institute shall be—
(a) the competent authority responsible for issuing and receiving the notification and other information pursuant to the Notification Convention or other relevant international instrument;
(b) subject to *subsection (2)* of this section, the competent authority authorised to make and receive requests for and to make offers of assistance pursuant to the Assistance Convention or other relevant international instrument; and
(c) the central authority having responsibility for physical protection of nuclear material and for co-ordinating recovery and response operations in the event of any unauthorised removal, use or alteration of nuclear material.

(2) The Institute shall not make any request for or make offers of assistance pursuant to the Assistance Convention or other relevant international instrument save with the consent of the Minister.

Appointment of inspectors. **28.**—(1) The Institute may appoint inspectors for the purposes of this Act and orders or regulations made thereunder with the exception of *sections 32* and *33* of this Act and may revoke any such appointment.

(2) The Minister for Agriculture and Food, after consultation with the Institute, may appoint inspectors for the purposes of *sections 32 (1)*

(a) or (b), 32 (2) and 33 (1) or (2) of this Act and may revoke any such appointment.

(3) The Minister for the Marine, after consultation with the Institute, may appoint inspectors for the purposes of *sections 32 (1) (c) or (d), 32 (2) and 33 (3)* of this Act and may revoke any such appointment.

(4) The Minister for Finance, after consultation with the Institute, may appoint inspectors for the purposes of *sections 32 (1) (e) and 33 (4)* of this Act and may revoke any such appointment.

(5) The Minister for Health, after consultation with the Institute, may appoint inspectors for the purposes of *section 32 (1) (f)* of this Act and may revoke any such appointment.

(6) An inspector shall be furnished with a certificate of his appointment and when exercising the powers conferred on him by or under this Act shall, if so required, produce the certificate to any person concerned.

Powers of inspectors.

29.—(1) An inspector shall for the purposes of the execution of this Act and any order or regulations made thereunder have power—

(a) to inspect and examine any radioactive substances, nuclear devices, irradiating apparatus or any substances, materials or objects containing or consisting of, or suspected of containing or consisting of, radioactive substances, nuclear devices or irradiating apparatus and carry out any other such examination as may be necessary to ascertain whether the provisions of this Act and orders or regulations made thereunder are complied with,

(b) to require the person who carries on any activities relating to such substances, devices, apparatus, materials or objects and any person employed in connection therewith to produce to the inspector any books, documents or records relating to such activities which are in that person's power or control and to give to the inspector such information as he may reasonably require in regard to any entries in such books, documents and records,

(c) to inspect and copy or take extracts from any such books, documents or records,

(d) to require a person mentioned in *paragraph (b)* of this subsection to give to the inspector any information which he may reasonably require to ascertain whether the provisions of this Act or any orders or regulations thereunder have been complied with,

(e) to take samples of or from any animals, poultry, eggs, crops, carcasses, feeding stuffs, fish, seaweed, water or other food or any substance or material or object for the purposes of determining whether it contains or consists of a radioactive

substance, nuclear device or irradiating apparatus,

(f) to examine any animal, poultry, fish or seaweed and make such tests as he considers appropriate,

(g) to capture any fauna or to take and kill any fauna for the purposes of determining whether it contains a radioactive substance or whether it is affected by levels of activity which exceed the specified levels, and

(h) to examine such fauna or sample taken therefrom and make such tests as he considers appropriate.

(2) Where an inspector is of the opinion that there is or there may be a danger to any individual, land, building or other property arising from any radioactive substance, nuclear device or irradiating apparatus or arising from levels of activity or ionising radiation in excess of specified levels, in addition to the powers set out in *subsection (1)* of this section, the inspector shall have power to—

(a) take control of the custody and use of a radioactive substance, nuclear device or irradiating apparatus;

(b) seize and detain any such substance, device or apparatus;

(c) undertake or arrange the safe disposal of such substance, device or apparatus;

(d) seize and detain any animals, fauna, poultry, eggs, crops, carcasses, feeding stuffs, dung, litter, fish, seaweed, bottled water or any food; and

(e) make any place, building, material or other object free from contamination by ionising radiation or radioactive substances.

(3) In pursuance of the powers set out in *subsection (1)* or *(2)* of this section, an inspector shall have power—

(a) to enter at all times, by day and by night, and bring with him such equipment and persons as may be appropriate in the circumstances, any building, land or other place, aircraft, marine vessel, lorry or other vehicle;

(b) to take with him a member of the Garda Síochána if he has reasonable grounds to apprehend any obstruction in the execution of his duties;

(c) by direction, to order persons to evacuate any land, building or other premises; and

(d) by direction, to order persons to perform or refrain from performing any act if, in his opinion, the performance of such act (as the case may be) is necessary in order to prevent

or alleviate the escalation of the danger.

(4) No one shall be required by virtue of *paragraph (d)* of *subsection (1)* of this section to answer any question or to give any evidence tending to criminate himself.

(5) If any person wilfully delays an inspector in the exercise of any power under this section, or fails to comply with the request of an inspector in pursuance of this section or to produce any books, documents or records which he is required by or in pursuance of this Act to produce, or wilfully withholds any information which the inspector may reasonably require to ascertain whether the provisions of this Act or orders or regulations made under this Act are complied with or prevents an inspector from exercising his powers under *paragraph (e)* of *subsection (1)* of this section or *subsection (2)* of this section that person shall be deemed to obstruct an inspector in the execution of his duties under this Act.

(6) Where an inspector is obstructed in the execution of his powers or duties under this Act—

(a) the person in charge of the activities being carried out at the building, land or other place, or in the aircraft, marine vessel, lorry or other vehicle, and, if the person obstructing the inspector is not the person in charge, the person obstructing the inspector shall be guilty also of an offence under this section, and

(b) in any other case, a person obstructing the inspector shall be guilty of an offence under this section.

(7) A person who does not comply with a requirement made or a direction given by an inspector under this section shall be guilty of an offence.

(8) It shall be an offence for a person falsely to pretend to be an inspector.

(9) Save in the case of a radiological emergency, an inspector shall consult with the Minister for Finance before exercising any powers conferred on him by *paragraphs (g)* and *(h)* of *subsection (1)* or *paragraph (d)* as it applies to fauna of *subsection (2)* of this section.

Control of radioactive substances, etc.

30.—(1) The Minister may, after consultation with the Ministers for Finance, Industry and Commerce, Agriculture and Food, Labour, Health, Education, Foreign Affairs, the Environment, Tourism and Transport, the Marine, Communications and Defence and the Institute, by order regulate, restrict or prohibit (save under licence issued by the Institute) the custody, production, processing, handling, holding, storage, use, manufacture, importation, distribution, transportation, exportation or other disposal of such radioactive substances, nuclear devices, or irradiating apparatus, as may be specified in the order, and any such order may have regard to varying levels of activity or ionising

radiation and to the extent to which such substances, devices or apparatus are or may be, in his opinion, a danger to the life or health of any person.

(2) For the purpose of giving effect to existing and future acts adopted by the Institutions of the European Communities relating to the health protection of the general public and workers against the dangers of ionising radiation the Minister after consultation with the Ministers referred to in *subsection (1)* of this section and the Institute, may make an order under this section.

(3) An order made under *subsection (2)* of this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of the order.

(4) A licence granted under this section shall be subject to such conditions as the Institute may attach to it, including a condition that the licence may be revoked if the Institute is of the opinion that any such condition has not been observed.

(5) A licence granted under this section by the Institute may be amended or revoked by the Institute.

(6) A person whose licence has been amended or revoked may apply to the High Court for a declaration and the High Court, having heard the evidence adduced, may at its discretion declare that the exigencies of the common good do not require the amendment or revocation of the licence and upon the making of such a declaration the Institute shall re-issue the licence.

(7) The Minister may, with the consent of the Minister for Finance, prescribe by regulations a fee which the Institute may charge in respect of the issue of a licence under this section.

(8) The Minister may, after consultation with the Ministers referred to in *subsection (1)* of this section and the Institute, by order amend or revoke an order under this section.

Regulations concerning levels of activity.

31.—(1) For the purpose of protecting individuals from radiological hazards, the Minister, after consultation with the Ministers for Agriculture and Food, Finance, the Environment, Health and the Marine and the Institute, may prescribe by regulations levels of activity (in this Act referred to as “*prescribed levels*”) in respect of animals, fauna, poultry, eggs, crops, carcasses, feeding stuffs, fish, seaweed, bottled water or water supplies intended for human consumption or any food.

(2) Where regulations have been made under this section, or by the Council or Commission of the European Communities—

(a) food which contains a level of activity in excess of specified levels shall be deemed to be unfit for human consumption and the provisions of the Health Act, 1947, shall apply

accordingly,

- (b) without prejudice to the generality of the foregoing, milk which contains a level of activity in excess of specified levels shall be deemed to be milk not of the nature, substance and quality demanded by the purchaser for the purpose of the Sale of Food and Drugs Acts, 1875 to 1936, and
- (c) any water supply (whether public or private) intended for human consumption which contains a level of activity in excess of specified levels shall be deemed to be unfit for human consumption and the Minister for the Environment, after consultation with the Minister and the Institute, shall give such directions as he considers necessary to the sanitary authority in whose sanitary district the water supply is located on measures to be taken in relation to the water supply, including measures for the protection and information of users of the water supply and the issuing of warning notices that the water therefrom is unfit for human consumption, and the sanitary authority shall comply with any such direction.

Regulations and orders to be made by certain Ministers.

32.—(1) For the purpose of protecting individuals from levels of activity in food in circumstances where specified levels of activity have been or are likely to be exceeded—

- (a) the Minister for Agriculture and Food, after consultation with the Minister, the Minister for Health, the Minister for Finance and the Institute, may make regulations designating an area (in this section referred to as a “*designated area*”) to be an area in which specified levels of activity have been exceeded or are likely to be exceeded and regulating in that area agricultural activities including harvesting, slaughtering, animal feeding and related activities including production and processing of food and, without prejudice to the generality of the aforesaid, regulating—
 - (i) the movement of any animals, fauna, poultry, eggs, crops, carcasses, feeding stuffs, litter, dung or any food within, into or out of a designated area,
 - (ii) the sale of any animals, fauna, poultry, eggs, crops, carcasses, feeding stuffs, litter, dung or any food originating in a designated area, or
 - (iii) the production, movement or sale of bottled water;
- (b) the Minister for Agriculture and Food, after consultation with the Minister, the Minister for Finance, the Minister for Health and the Institute, may make regulations regulating—
 - (i) the harvesting of crops,

- (ii) the slaughter of animals, fauna or poultry,
 - (iii) the feeding to any animals, fauna or poultry of any feeding stuff—
 - (I) that was grown, prepared or processed in a designated area or in contravention of a regulation made under this section, or
 - (II) that was taken from a designated area after a time specified in a regulation made under this section,
 - (iv) the sale in the State, the importation into the State or the exportation from the State of any animals, fauna, poultry, eggs, crops, carcasses, feeding stuffs, bottled water, food, litter or dung, or
 - (v) generally any matter, in relation to animals, fauna, poultry, eggs, crops, carcasses, feeding stuffs, dung, litter, food, bottled water, the production or processing of food or the production of bottled water as he may think expedient for the protection of individuals;
- (c) the Minister for the Marine, after consultation with the Minister, the Minister for Health and the Institute, may make regulations designating an area (in this section referred to as a “*specified area*”) to be an area in which specified levels of activity have been exceeded or may be exceeded and regulating in that area fishing and aquaculture activities, the preparation, treatment and marketing of fish and fishery products and seaweed harvesting and, without prejudice to the generality of the aforesaid, regulating—
- (i) the taking of fish, the fishing for fish or the movement of fish or seaweed within, into or out of a specified area,
 - (ii) the landing of fish which were taken from waters in a specified area, or
 - (iii) the sale of fish, fishery products or seaweed taken from a specified area;
- (d) the Minister for the Marine, after consultation with the Minister, the Minister for Health and the Institute, may make regulations regulating—
- (i) the taking of fish or the fishing for fish,
 - (ii) the harvesting of seaweed,
 - (iii) the sale in the State, the importation into the State or the exportation from the State of fish, fishery products or seaweed,
 - (iv) the preparation, treatment, processing and marketing of

fish and fishery products whether or not such fish or fishery products are intended for human consumption, or

(v) generally any matter in relation to fish, seaweed or aquaculture activities as he may think expedient for the protection of individuals;

(e) the Minister for Finance, after consultation with the Minister, the Minister for Health, the Minister for Agriculture and Food and the Institute, may make regulations regulating—

(i) the taking of fauna or the hunting for fauna,

(ii) the sale of any fauna,

(iii) generally any matter in relation to fauna as he may think expedient for the protection of individuals; and

(f) the Minister for Health, after consultation with the Minister, the Minister for Agriculture and Food and the Institute, may make regulations regulating the importation into or the exportation from the State of any food.

(2) Where there is or there is likely to be a radiological emergency—

(a) the Minister for Agriculture and Food, after consultation with the Minister and the Institute, may make an order acquiring compulsorily any animals, fauna, poultry, eggs, crops, carcasses, feeding stuffs, bottled water or any food, and

(b) the Minister for the Marine, after consultation with the Minister and the Institute, may make an order acquiring compulsorily any fish, seaweed or fishery products.

Slaughter of animals, etc., destruction of crops, etc. and disposal of eggs, fish, etc.

33.—(1) The Minister for Agriculture and Food may cause to be slaughtered any animals, fauna or poultry affected by levels of activity which exceed the specified levels and may cause the carcasses of the said animals, fauna or poultry to be disposed of as he thinks fit.

(2) The Minister for Agriculture and Food may cause to be destroyed any eggs, crops, carcasses, feeding stuffs, bottled water or other food affected by levels of activity which exceed the specified levels and may cause the ashes or other remains of the eggs, crops, carcasses, feeding stuffs, bottled water or food so destroyed to be disposed of as he thinks fit.

(3) The Minister for the Marine may cause to be destroyed any fish, fishery products or seaweed affected by levels of activity which exceed the specified levels and may cause such destroyed fish, fishery products or seaweed to be disposed of as he thinks fit.

(4) The Minister for Finance may cause to be destroyed any fauna affected by levels of activity which exceed the specified levels and may cause such fauna so destroyed to be disposed of as he thinks fit.

Notification of accidents, etc.

34.—(1) Where there has been the theft of, or the threat of theft of, or an accident or loss involving any radioactive substance, nuclear device or irradiating apparatus held, used, manufactured, imported, distributed, transported or exported under a licence issued under this Act, the licensee shall—

(a) send forthwith notice of the said theft or threat of theft, accident or loss to the Institute and as soon as practicable thereafter send written notice to the Institute giving particulars of the said theft, threat of theft, accident or loss, and

(b) provide the Institute with such information on the said theft, threat of theft, accident or loss as the Institute may require in order to take appropriate action.

(2) A person who contravenes *subsection (1)* of this section shall be guilty of an offence.

PART IV

Miscellaneous

Convention countries.

35.—(1) The Minister for Foreign Affairs may by order designate the countries which are parties to the Protection Convention.

(2) The Minister for Foreign Affairs may by order amend or revoke an order under this section including an order under this subsection.

(3) An order under this section shall, as soon as may be after it is made, be laid before each House of the Oireachtas.

Disclosure of confidential information.

36.—(1) A person shall not disclose any confidential information that becomes available to him—

(a) by virtue of the provisions of the Protection Convention,

(b) pursuant to the Notification Convention, in connection with the notification of a nuclear accident or relevant to minimising its radiological consequences,

(c) arising out of the provision of assistance under the Assistance Convention either—

(i) when the assistance is being provided to or in another state, on behalf of the State, or

(ii) when the assistance is being provided to or in the State on behalf of another state or an international organisation, or

(d) while performing (or as a result of having performed) duties as a member of the Institute, or member of its staff, or as an advisor or consultant to the Institute,

unless he is duly authorised to do so.

(2) A person who contravenes a provision of *subsection (1)* of this section shall be guilty of an offence.

(3) In *subsection (1)* of this section—

“*confidential*” means that which is expressed to be confidential either as regards particular information or as regards information of a particular class or description;

“*duly authorised*” means authorised by a Minister of the Government, by a person authorised in that behalf by that Minister, by the Institute or by a person authorised in that behalf by the Institute.

Certificates.

37.—(1) A certificate of the Minister stating that equipment, property or other materials being sent to, from or through the State for the purposes of assistance pursuant to the Assistance Convention shall be accepted by the Revenue Commissioners so as to exempt such equipment, property or materials from any tax or custom charges and render them immune from seizure, attachment or requisition.

(2) On the issue of a certificate under *subsection (1)* of this section the said equipment, property or materials shall be imported, exported or otherwise transported, as the case may be, without undue delay.

Offences relating to nuclear material.

38.—(1) A person who—

(a) possesses, uses, transfers, alters, disposes or disperses nuclear material in such a manner so as to cause or be likely to cause death or serious injury to any person, or substantial damage to property, or

(b) steals nuclear material, or

(c) embezzles or fraudulently obtains nuclear material, or

(d) does any act constituting an unlawful demand for nuclear material, by the threat of the use of force, by the use of force, or by a threat of any kind, or

(e) threatens—

(i) to use nuclear material to cause death or serious injury to any person or substantial property damage,

(ii) to commit an offence under *paragraph (b)* of this subsection in order to compel any person, an international organisation or state to do or to refrain from doing any act,

shall be guilty of an offence.

(2) If a person, whether an Irish citizen or not, does in a convention country an act which if he had done it in the State, would have constituted an offence under *subsection (1)* of this section, he shall be guilty of the offence which the act would have constituted if he had

done it in the State.

(3) If a person who is a national of a convention country or an Irish citizen does outside the State or a convention country an act which if he had done it in the State would have constituted an offence under *subsection (1)* of this section, he shall be guilty of the offence which the act would have constituted if he had done it in the State.

(4) A member of the Garda Síochána may arrest without warrant any person whom he suspects has committed or is committing an offence under this section.

(5) For the purpose of investigating offences under this section, a member of the Garda Síochána may demand names and addresses and proof of identity from any persons he reasonably suspects of having committed or being involved in the act of committing an offence under this section.

(6) (a) For the purposes of this section, any act done on board a ship, aircraft or hovercraft, when it is in or over the State or the territory of a convention country, shall be treated as done in the State or that country and any act done on board a ship, aircraft or hovercraft registered in the State or a convention country shall be treated as done in the State or that country and in the convention country (if any) in or over whose territory it is done.

(b) In *paragraph (a)* of this subsection “*territory*” includes territorial seas.

(7) This section shall apply only to acts done after the commencement of this Act.

(8) In this section—

“*act*” includes omission;

“*steals*” has the meaning assigned to it by section 1 of the Larceny Act, 1916.

Proceedings by virtue of *section 38* of this Act.

39.—(1) Proceedings for an offence under *section 38* of this Act which is an offence by virtue of *subsection (2)* or *(3)* of the said section may be taken in any place in the State and the offence may for all incidental purposes be treated as having been committed in that place.

(2) Where a person is charged with an offence under *section 38 (1)* of this Act, no further proceedings (other than a remand in custody or bail) shall be taken except by or with the consent of the Director of Public Prosecutions.

(3) The Director of Public Prosecutions shall not take, or consent to the taking of, further proceedings such as are mentioned in *subsection (2)* of this section in respect of an offence involving an act referred to in *section 38 (1)* of this Act unless it appears to him that—

- (a) a convention country in relation to which Part II of the Extradition Act, 1965, applies has made a request under that Part for the surrender of the person concerned for the purpose of trying him for an offence in respect of the act in question and the request has been finally refused (whether as the result of a decision of a court or otherwise), or
- (b) a warrant has been issued by a judicial authority in a place in relation to which Part III of the Extradition Act, 1965, applies for the arrest of the person concerned for the purpose of trying him for an offence in respect of the act in question and it has been finally determined (whether as a result of a decision of a court or otherwise) that the warrant should not be endorsed for execution in the State under that Part or that the person concerned should not be delivered up in accordance with the warrant, or
- (c) because of special circumstances (which may include the likelihood of a refusal such as is mentioned in *paragraph (a)* of this subsection or of a determination such as is mentioned in *paragraph (b)* of this subsection) it is expedient that proceedings should be taken against the person concerned for an offence under the law of the State in respect of the act in question.

(4) No proceedings shall be taken under section 38 of the Extradition Act, 1965, in respect of an act that constitutes an offence by virtue of that section and also an offence referred to in *subsection (1)* of this section.

(5) *Subsection (3)* of this section shall not apply to proceedings against an Irish citizen or to proceedings in respect of an offence alleged to have been committed in the State.

Offences and penalties.

40.—(1) A person who contravenes a provision of an order made under *section 30* or a regulation or order made under *section 32* of this Act shall be guilty of an offence under this Act.

(2) A person who is guilty of an offence under this Act shall be liable:

- (a) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 12 months, or to both such fine and such imprisonment,
- (b) on conviction on indictment, other than for an offence under *section 38* of this Act, to a fine not exceeding £100,000 or to imprisonment for a term not exceeding 10 years, or to both,
- (c) on conviction on indictment for an offence under *section 38* of this Act, to a fine not exceeding £1,000,000 or to imprisonment for life or other term decided by the court or to both, and

(d) in every case on conviction on indictment, to the forfeiture of the substance, device or apparatus in respect of which the offence was committed.

(3) Where an offence under this Act is committed by a body corporate or by a person purporting to act on behalf of a body corporate or an unincorporated body of persons and is proved to have been so committed with the consent or connivance of, or to be attributable to any neglect on the part of, any person being a director, manager, secretary, member of the committee of management or other controlling authority of any such body, or being any other similar officer of any such body, that person shall also be guilty of an offence and shall be liable to be proceeded against and punished accordingly.

Prosecutions.

41.—(1) A summary offence under an order made under *section 30* of this Act may be prosecuted by the Minister or the Institute.

(2) A summary offence under a regulation made under *section 32 (1) (a) or (b)* of this Act may be prosecuted by the Minister for Agriculture and Food.

(3) A summary offence under a regulation made under *section 32 (1) (c) or (d)* of this Act may be prosecuted by the Minister for the Marine.

(4) A summary offence under a regulation made under *section 32 (1) (e)* of this Act may be prosecuted by the Minister for Finance.

(5) A summary offence under a regulation made under *section 32 (1) (f)* of this Act may be prosecuted by the Minister for Health.

(6) A summary offence under *section 29* of this Act in relation to an offence concerning an inspector may be brought by the Minister who appointed that inspector or by the Institute if the Institute appointed that inspector.

Compensation.

42.—(1) The Minister may, after consultation with such other Ministers of the Government and other persons as he considers appropriate, pay compensation in respect of—

(a) death of or injury to a person providing assistance to the State on behalf of a requested state or organisation in accordance with the Assistance Convention, or

(b) loss of or damage to non-consumable equipment or materials related to the assistance,

except in cases of wilful misconduct by the persons who caused the death, injury, loss or damage.

(2) In the event of—

(a) death of or injury to a person providing assistance to another state on behalf of the State in accordance with the Assistance Convention, or

(b) loss of or damage to non-consumable equipment or materials related to the assistance,

except in cases of wilful misconduct by the persons who caused the death, injury, loss or damage, the Minister may pay compensation unless the requesting state concerned pays such compensation or indicates its intention to pay compensation for such death, injury, loss or damage.

(3) Where the Minister pays compensation under *subsection (2)* of this section he shall, in consultation with the Minister for Foreign Affairs, lodge claims with the requesting state concerned for reimbursement of the cost of such compensation.

Repeals and amendment of Safety, Health and Welfare at Work Act, 1989.

43.—(1) The Nuclear Energy (An Bord Fuinnimh Núicléigh) Act, 1971 , on the establishment day, shall stand repealed.

(2) The Third Schedule to the Safety, Health and Welfare at Work Act, 1989 , on the establishment day, is hereby amended by the deletion in column (1) of “(No. 12 of 1971)” and by the deletion in column (2) of “Nuclear Energy Act, 1971” and by the insertion of “*Radiological Protection Act, 1991*” in column (2) of the said Schedule.

Saver of orders made under Nuclear Energy (An Bord Fuinnimh Núicléigh) Act, 1971.

44.—Notwithstanding the repeal of section 6 of the Nuclear Energy (An Bord Fuinnimh Núicléigh) Act, 1971 , any order made under section 6 of that Act shall remain in force and may be amended or revoked as if made under *section 30* of this Act.

Amendment of Health Act, 1953.

45.—The Health Act, 1953 , is hereby amended—

(a) by the insertion after “may” in section 59 (4) of “, after consultation with the Radiological Protection Institute of Ireland,”,

(b) by the insertion before “radio-active” and “irradiating apparatus” in section 59 (4) (a) of “medical”,

(c) by the deletion of section 59 (4) (b), and

(d) by the insertion after section 59 (5) (a) (v) of the following—

“(vi) by members of the staff of the Radiological Protection Institute of Ireland,”.

Amendment of Factories Act, 1955.

46.—The Factories Act, 1955 , is hereby amended by the insertion in section 71 (1) after “Minister for Health” of “(or, where a process of manufacture involves the use of radioactive substances or nuclear devices (within the meaning of the *Radiological Protection Act, 1991*) or irradiating apparatus, after consultation with the Radiological Protection Institute of Ireland)”.

Exemption from stamp duty.

47.—Section 12 of the Finance Act, 1895, shall not apply to the vesting in the Institute of any property or rights transferred by this Act.

FIRST SCHEDULE

The Radiological Protection Institute of Ireland

Section 6 .

1. The Institute shall be a body corporate with perpetual succession and an official seal and power to sue and be sued in its corporate name and, with the consent of the Minister, to acquire, hold and dispose of land or an interest in land and to acquire, hold and dispose of any other property.

2. The Institute shall consist of a chairman, and not less than 6 or more than 11 ordinary members, who shall be appointed to be members of the Institute by the Minister with the consent of the Minister for Finance.

3. Of the members of the Institute—

(a) not more than 5 shall be persons engaged in, or having knowledge or experience (being knowledge or experience that the Minister considers appropriate for membership of the Institute) of or in relation to any of the following subjects: agriculture, food, physics, engineering, medicine, dentistry, radiology, radiography, nuclear medicine, medical physics, radiotherapy or radiological safety matters generally,

(b) not more than 6 shall be persons nominated for appointment as members of the Institute by such organisations as the Minister may determine that are representative of persons engaged in the activities listed in *subparagraph (a)* of this paragraph; and the Minister may appoint as members of the Institute one or more persons nominated under this subparagraph by such an organisation as aforesaid or one or more persons nominated by a group, designated by the Minister, of such organisations as aforesaid.

4. The Chairman of the Institute may at any time resign his office by letter addressed to the Minister.

5. The Minister may with the consent of the Minister for Finance at any time remove the Chairman of the Institute from office.

6. Subject to the provisions of this Schedule, the Chairman of the Institute shall hold office on such terms and conditions as the Minister may, with the consent of the Minister for Finance, determine.

7. The Chairman of the Institute shall be paid, out of moneys at the disposal of the Institute, such remuneration and allowances for expenses incurred by him as the Minister may, with the consent of the Minister for Finance, determine.

8. Subject to the provisions of this Schedule, each ordinary member of the Institute shall hold office on such terms and conditions as the

Minister, with the consent of the Minister for Finance, may determine.

9. The period of office of the Chairman or of an ordinary member of the Institute shall be such period, not exceeding five years, as the Minister, with the consent of the Minister for Finance, may determine when appointing him.

10. A member of the Institute including the Chairman whose term of office expires by effluxion of time shall be eligible for re-appointment as a member of the Institute.

11. The Minister may, with the consent of the Minister for Finance, at any time remove an ordinary member of the Institute from office.

12. An ordinary member of the Institute may resign his office as a member by letter addressed to the Minister.

13. A member of the Institute including the Chairman shall be disqualified from holding and shall cease to hold office if he is adjudged bankrupt or makes a composition or arrangement with creditors or is sentenced by a court of competent jurisdiction to a term of imprisonment or penal servitude.

14. Each ordinary member of the Institute shall be paid, out of moneys at the disposal of the Institute, such remuneration (if any) and allowances for expenses incurred by him (if any) as the Minister may, with the consent of the Minister for Finance, sanction.

15. The Institute shall hold such and so many meetings as may be necessary for the performance of its functions.

16. The Minister may fix the date, time and place of the first meeting of the Institute.

17. The quorum for a meeting of the Institute shall be at least 50 per cent. of the number of persons, including the Chairman, appointed as members of the Institute.

18. At a meeting of the Institute—

(a) the Chairman of the Institute shall, if present, be the chairman of the meeting, and

(b) if and so long as the Chairman of the Institute is not present or if the office of Chairman is vacant, the members of the Institute who are present shall choose one of their number to be chairman of the meeting.

19. The Chairman of the Institute and each ordinary member of the Institute present at a meeting thereof shall have a vote.

20. Every question at a meeting of the Institute shall be determined by a majority of the votes of the members present and voting on the question and, in the case of an equal division of votes, the chairman of

the meeting shall have a second or casting vote.

21. (1) A member of the Institute including the Chairman who is either directly or indirectly interested in any company or concern with which the Institute proposes to make any contract, or in any contract which the Institute proposes to make:

- (a) shall disclose to the Institute the fact and the nature of such interest at the meeting of the Institute at which the question of entering into such contract is first considered or, if he has no such interest at that time, as soon as may be after he has acquired such interest,
- (b) shall take no part in any deliberations of the Institute relating to such contract save to such extent as the other members of the Institute may permit,
- (c) shall not vote on a decision relating to such contract, and
- (d) shall not be counted in the quorum present at the meeting dealing with such contract.

(2) A disclosure under this paragraph shall be recorded in the minutes of the Institute.

22. The Institute may act notwithstanding one or more than one vacancy among its members.

23. Subject to the provisions of this Schedule, the Institute shall regulate, by standing orders or otherwise, the procedure and business of the Institute.

24. The Institute shall, as soon as may be after its establishment, provide itself with a seal.

25. The seal of the Institute shall be authenticated by the signature of the Chairman of the Institute or some other member thereof authorised by the Institute to act in that behalf and the signature of an officer of the Institute authorised by the Institute to act in that behalf.

26. Judicial notice shall be taken of the seal of the Institute and every document purporting to be an instrument made by the Institute and to be sealed with the seal (purporting to be authenticated in accordance with *paragraph 25* of this Schedule) of the Institute shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown.

SECOND SCHEDULE

Convention on Assistance in the Case of a Nuclear Accident or Radiological
Emergency

Section 2 .

THE STATES PARTIES TO THIS CONVENTION,

AWARE that nuclear activities are being carried out in a number of States,

NOTING that comprehensive measures have been and are being taken to ensure a high level of safety in nuclear activities, aimed at preventing nuclear accidents and minimizing the consequences of any such accident, should it occur,

DESIRING to strengthen further international co-operation in the safe development and use of nuclear energy,

CONVINCED of the need for an international framework which will facilitate the prompt provision of assistance in the event of a nuclear accident or radiological emergency to mitigate its consequences,

NOTING the usefulness of bilateral and multilateral arrangements on mutual assistance in this area,

NOTING the activities of the International Atomic Energy Agency in developing guidelines for mutual emergency assistance arrangements in connection with a nuclear accident or radiological emergency,

HAVE AGREED as follows:

Article 1

General provisions

1. The States Parties shall cooperate between themselves and with the International Atomic Energy Agency (hereinafter referred to as the “Agency”) in accordance with the provisions of this Convention to facilitate prompt assistance in the event of a nuclear accident or radiological emergency to minimize its consequences and to protect life, property and the environment from the effects of radioactive releases.

2. To facilitate such cooperation States Parties may agree on bilateral or multilateral arrangements or, where appropriate, a combination of these, for preventing or minimizing injury and damage which may result in the event of a nuclear accident or radiological emergency.

3. The States Parties request the Agency, acting within the framework of its Statute, to use its best endeavours in accordance with the provisions of this Convention to promote, facilitate and support the cooperation between States Parties provided for in this Convention.

Article 2

Provision of assistance

1. If a State Party needs assistance in the event of a nuclear accident or radiological emergency, whether or not such accident or emergency originates within its territory, jurisdiction or control, it may call for such assistance from any other State Party, directly or through the Agency, and from the Agency, or, where appropriate, from other

international intergovernmental organizations (hereinafter referred to as “*international organizations*”).

2. A State Party requesting assistance shall specify the scope and type of assistance required and, where practicable, provide the assisting party with such information as may be necessary for that party to determine the extent to which it is able to meet the request. In the event that it is not practicable for the requesting State Party to specify the scope and type of assistance required, the requesting State Party and the assisting party shall, in consultation, decide upon the scope and type of assistance required.

3. Each State Party to which a request for such assistance is directed shall promptly decide and notify the requesting State Party, directly or through the Agency, whether it is in a position to render the assistance requested, and the scope and terms of the assistance that might be rendered.

4. States Parties shall, within the limits of their capabilities, identify and notify the Agency of experts, equipment and materials which could be made available for the provision of assistance to other States Parties in the event of a nuclear accident or radiological emergency as well as the terms, especially financial, under which such assistance could be provided.

5. Any State Party may request assistance relating to medical treatment or temporary relocation into the territory of another State Party of people involved in a nuclear accident or radiological emergency.

6. The Agency shall respond, in accordance with its Statute and as provided for in this Convention, to a requesting State Party's or a Member State's request for assistance in the event of a nuclear accident or radiological emergency by:

- (a) making available appropriate resources allocated for this purpose;
- (b) transmitting promptly the request to other States and international organizations which, according to the Agency's information, may possess the necessary resources; and
- (c) if so requested by the requesting State, co-ordinating the assistance at the international level which may thus become available.

Article 3

Direction and control of assistance

Unless otherwise agreed:

- (a) the overall direction, control, co-ordination and supervision of the assistance shall be the responsibility within its territory

of the requesting State. The assisting party should, where the assistance involves personnel, designate in consultation with the requesting State, the person who should be in charge of and retain immediate operational supervision over the personnel and the equipment provided by it. The designated person should exercise such supervision in cooperation with the appropriate authorities of the requesting State;

- (b) the requesting State shall provide, to the extent of its capabilities, local facilities and services for the proper and effective administration of the assistance. It shall also ensure the protection of personnel, equipment and materials brought into its territory by or on behalf of the assisting party for such purpose;
- (c) ownership of equipment and materials provided by either party during the periods of assistance shall be unaffected, and their return shall be ensured;
- (d) a State Party providing assistance in response to a request under paragraph 5 of article 2 shall co-ordinate that assistance within its territory.

Article 4

Competent authorities and points of contact

1. Each State Party shall make known to the Agency and to other States Parties, directly or through the Agency, its competent authorities and point of contact authorized to make and receive requests for and to accept offers of assistance. Such points of contact and a focal point within the Agency shall be available continuously.
2. Each State Party shall promptly inform the Agency of any changes that may occur in the information referred to in paragraph 1.
3. The Agency shall regularly and expeditiously provide to States Parties, Member States and relevant international organizations the information referred to in paragraphs 1 and 2.

Article 5

Functions of the Agency

The States Parties request the Agency, in accordance with paragraph 3 of article 1 and without prejudice to other provisions of this Convention, to:

- (a) collect and disseminate to States Parties and Member States information concerning:
 - (i) experts, equipment and materials which could be made available in the event of nuclear accidents or

- radiological emergencies;
- (ii) methodologies, techniques and available results of research relating to response to nuclear accidents or radiological emergencies;
- (b) assist a State Party or a Member State when requested in any of the following or other appropriate matters:
- (i) preparing both emergency plans in the case of nuclear accidents and radiological emergencies and the appropriate legislation;
- (ii) developing appropriate training programmes for personnel to deal with nuclear accidents and radiological emergencies;
- (iii) transmitting requests for assistance and relevant information in the event of a nuclear accident or radiological emergency;
- (iv) developing appropriate radiation monitoring programmes, procedures and standards;
- (v) conducting investigations into the feasibility of establishing appropriate radiation monitoring systems;
- (c) make available to a State Party or a Member State requesting assistance in the event of a nuclear accident or radiological emergency appropriate resources allocated for the purpose of conducting an initial assessment of the accident or emergency;
- (d) offer its good offices to the States Parties and Member States in the event of a nuclear accident or radiological emergency;
- (e) establish and maintain liaison with relevant international organizations for the purposes of obtaining and exchanging relevant information and data, and make a list of such organizations available to States Parties, Member States and the aforementioned organizations.

Article 6

Confidentiality and public statements

1. The requesting State and the assisting party shall protect the confidentiality of any confidential information that becomes available to either of them in connection with the assistance in the event of a nuclear accident or radiological emergency. Such information shall be used exclusively for the purpose of the assistance agreed upon.

2. The assisting party shall make every effort to coordinate with the requesting State before releasing information to the public on the assistance provided in connection with a nuclear accident or

radiological emergency.

Article 7

Reimbursement of costs

1. An assisting party may offer assistance without costs to the requesting State. When considering whether to offer assistance on such a basis, the assisting party shall take into account:

- (a) the nature of the nuclear accident or radiological emergency;
- (b) the place of origin of the nuclear accident or radiological emergency;
- (c) the needs of developing countries;
- (d) the particular needs of countries without nuclear facilities; and
- (e) any other relevant factors.

2. When assistance is provided wholly or partly on a reimbursement basis, the requesting State shall reimburse the assisting party for the costs incurred for the services rendered by persons or organizations acting on its behalf, and for all expenses in connection with the assistance to the extent that such expenses are not directly defrayed by the requesting State. Unless otherwise agreed, reimbursement shall be provided promptly after the assisting party has presented its request for reimbursement to the requesting State, and in respect of costs other than local costs, shall be freely transferrable.

3. Notwithstanding paragraph 2, the assisting party may at any time waive, or agree to the postponement of, the, reimbursement in whole or in part. In considering such waiver or postponement, assisting parties shall give due consideration to the needs of developing countries.

Article 8

Privileges, immunities and facilities

1. The requesting State shall afford to personnel of the assisting party and personnel acting on its behalf the necessary privileges, immunities and facilities for the performance of their assistance functions.

2. The requesting State shall afford the following privileges and immunities to personnel of the assisting party or personnel acting on its behalf who have been duly notified to and accepted by the requesting State:

- (a) immunity from arrest, detention and legal process, including criminal, civil and administrative jurisdiction, of the requesting State, in respect of acts or omissions in the performance of their duties; and
- (b) exemption from taxation, duties or other charges, except those which are normally incorporated in the price of goods or

paid for services rendered, in respect of the performance of their assistance functions.

3. The requesting State shall:

- (a) afford the assisting party exemption from taxation, duties or other charges on the equipment and property brought into the territory of the requesting State by the assisting party for the purpose of the assistance; and
- (b) provide immunity from seizure, attachment or requisition of such equipment and property.

4. The requesting State shall ensure the return of such equipment and property. If requested by the assisting party, the requesting State shall arrange, to the extent it is able to do so, for the necessary decontamination of recoverable equipment involved in the assistance before its return.

5. The requesting State shall facilitate the entry into, stay in and departure from its national territory of personnel notified pursuant to paragraph 2 and of equipment and property involved in the assistance.

6. Nothing in this article shall require the requesting State to provide its nationals or permanent residents with the privileges and immunities provided for in the foregoing paragraphs.

7. Without prejudice to the privileges and immunities, all beneficiaries enjoying such privileges and immunities under this article have a duty to respect the laws and regulations of the requesting State. They shall also have the duty not to interfere in the domestic affairs of the requesting State.

8. Nothing in this article shall prejudice rights and obligations with respect to privileges and immunities afforded pursuant to other international agreements or the rules of customary international law.

9. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare that it does not consider itself bound in whole or in part by paragraphs 2 and 3.

10. A State Party which has made a declaration in accordance with paragraph 9 may at any time withdraw it by notification to the depositary.

Article 9

Transit of personnel, equipment and property

Each State Party shall, at the request of the requesting State or the assisting party, seek to facilitate the transit through its territory of duly notified personnel, equipment and property involved in the assistance to and from the requesting State.

Article 10

Claims and compensation

1. The States Parties shall closely cooperate in order to facilitate the settlement of legal proceedings and claims under this article.

2. Unless otherwise agreed, a requesting State shall in respect of death or of injury to persons, damage to or loss of property, or damage to the environment caused within its territory or other area under its jurisdiction or control in the course of providing the assistance requested:

- (a) not bring any legal proceedings against the assisting party or persons or other legal entities acting on its behalf;
- (b) assume responsibility for dealing with legal proceedings and claims brought by third parties against the assisting party or against persons or other legal entities acting on its behalf;
- (c) hold the assisting party or persons or other legal entities acting on its behalf harmless in respect of legal proceedings and claims referred to in sub-paragraph (b); and
- (d) compensate the assisting party or persons or other legal entities acting on its behalf for:
 - (i) death of or injury to personnel of the assisting party or persons acting on its behalf;
 - (ii) loss of or damage to non-consumable equipment or materials related to the assistance;

except in cases of wilful misconduct by the individuals who caused the death, injury, loss or damage.

3. This article shall not prevent compensation or indemnity available under any applicable international agreement or national law of any State.

4. Nothing in this article shall require the requesting State to apply paragraph 2 in whole or in part to its nationals or permanent residents.

5. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare:

- (a) that it does not consider itself bound in whole or in part by paragraph 2;
- (b) that it will not apply paragraph 2 in whole or in part in cases of gross negligence by the individuals who caused the death, injury, loss or damage.

6. A State Party which has made a declaration in accordance with paragraph 5 may at any time withdraw it by notification to the

depository.

Article 11

Termination of assistance

The requesting State or the assisting party may at any time, after appropriate consultations and by notification in writing, request the termination of assistance received or provided under this Convention. Once such a request has been made, the parties involved shall consult with each other to make arrangements for the proper conclusion of the assistance.

Article 12

Relationship to other international agreements

This Convention shall not affect the reciprocal rights and obligations of States Parties under existing international agreements which relate to the matters covered by this Convention, or under future international agreements concluded in accordance with the object and purpose of this Convention.

Article 13

Settlement of disputes

1. In the event of a dispute between States Parties, or between a State Party and the Agency, concerning the interpretation or application of this Convention, the parties to the dispute shall consult with a view to the settlement of the dispute by negotiation or by any other peaceful means of settling disputes acceptable to them.

2. If a dispute of this character between States Parties cannot be settled within one year from the request for consultation pursuant to paragraph 1, it shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the dispute are unable to agree on the organization of the arbitration, a party may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In cases of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.

3. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare that it does not consider itself bound by either or both of the dispute settlement procedures provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2 with respect to a State Party for which such a declaration is in force.

4. A State Party which has made a declaration in accordance with

paragraph 3 may at any time withdraw it by notification to the depositary.

Article 14

Entry into force

1. This Convention shall be open for signature by all States and Namibia, represented by the United Nations Council for Namibia, at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York, from 26 September 1986 and 6 October 1986 respectively, until its entry into force or for twelve months, whichever period is longer.

2. A State and Namibia, represented by the United Nations Council for Namibia, may express its consent to be bound by this Convention either by signature, or by deposit of an instrument of ratification, acceptance or approval following signature made subject to ratification, acceptance or approval, or by deposit of an instrument of accession. The instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

3. This Convention shall enter into force thirty days after consent to be bound has been expressed by three States.

4. For each State expressing consent to be bound by this Convention after its entry into force, this Convention shall enter into force for that State thirty days after the date of expression of consent.

5. (a) This Convention shall be open for accession, as provided for in this article, by international organizations and regional integration organizations constituted by sovereign States, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(b) In matters within their competence such organizations shall, on their own behalf, exercise the rights and fulfil the obligations which this Convention attributes to States Parties.

(c) When depositing its instrument of accession, such an organization shall communicate to the depositary a declaration indicating the extent of its competence in respect of matters covered by this Convention.

(d) Such an organization shall not hold any vote additional to those of its Member States.

Article 15

Provisional application

A State may, upon signature or at any later date before this Convention enters into force for it, declare that it will apply this

Convention provisionally.

Article 16

Amendments

1. A State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all other States Parties.

2. If a majority of the States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment adopted at the conference by a two-thirds majority of all States Parties shall be laid down in a protocol which is open to signature in Vienna and New York by all States Parties.

3. The protocol shall enter into force thirty days after consent to be bound has been expressed by three States. For each State expressing consent to be bound by the protocol after its entry into force, the protocol shall enter into force for that State thirty days after the date of expression of consent.

Article 17

Denunciation

1. A State Party may denounce this Convention by written notification to the depositary.

2. Denunciation shall take effect one year following the date on which the notification is received by the depositary.

Article 18

Depositary

1. The Director General of the Agency shall be the depositary of this Convention.

2. The Director General of the Agency shall promptly notify States Parties and all other States of:

- (a) each signature of this Convention or any protocol of amendment;
- (b) each deposit of an instrument of ratification, acceptance, approval or accession concerning this Convention or any protocol of amendment;
- (c) any declaration or withdrawal thereof in accordance with articles 8, 10 and 13;
- (d) any declaration of provisional application of this Convention in accordance with article 15;

- (e) the entry into force of this Convention and of any amendment thereto; and
- (f) any denunciation made under article 17.

Article 19

Authentic texts and certified copies

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic Energy Agency who shall send certified copies to States Parties and all other States.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Convention, open for signature as provided for in paragraph 1 of article 14.

ADOPTED by the General Conference of the International Atomic Energy Agency meeting in special session at Vienna on the twenty-sixth day of September one thousand nine hundred and eighty-six.

THIRD SCHEDULE

Convention on Early Notification of a Nuclear Accident

Section 2 .

THE STATES PARTIES TO THIS CONVENTION,

AWARE that nuclear activities are being carried out in a number of States,

NOTING that comprehensive measures have been and are being taken to ensure a high level of safety in nuclear activities, aimed at preventing nuclear accidents and minimizing the consequences of any such accident, should it occur,

DESIRING to strengthen further international co-operation in the safe development and use of nuclear energy,

CONVINCED of the need for States to provide relevant information about nuclear accidents as early as possible in order that transboundary radiological consequences can be minimized,

NOTING the usefulness of bilateral and multilateral arrangements on information exchange in this area,

HAVE AGREED as follows:

Article 1

Scope of application

1. This Convention shall apply in the event of any accident involving facilities or activities of a State Party or of persons or legal entities

under its jurisdiction or control, referred to in paragraph 2 below, 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.

2. The facilities and activities referred to in paragraph 1 are the following:

- (a) any nuclear reactor wherever located;
- (b) any nuclear fuel cycle facility;
- (c) any radioactive waste management facility;
- (d) the transport and storage of nuclear fuels or radioactive wastes;
- (e) the manufacture, use, storage, disposal and transport of radioisotopes for agricultural, industrial, medical and related scientific and research purposes; and
- (f) the use of radioisotopes for power generation in space objects.

Article 2

Notification and information

In the event of an accident specified in article 1 (hereinafter referred to as a “*nuclear accident*”), the State Party referred to in that article shall:

- (a) forthwith notify, directly or through the International Atomic Energy Agency (hereinafter referred to as the “*Agency*”), those States which are or may be physically affected as specified in article 1 and the Agency of the nuclear accident, its nature, the time of its occurrence and its exact location where appropriate; and
- (b) promptly provide the States referred to in sub-paragraph (a), directly or through the Agency, and the Agency with such available information relevant to minimizing the radiological consequences in those States, as specified in article 5.

Article 3

Other Nuclear Accidents

With a view to minimizing the radiological consequences, States Parties may notify in the event of nuclear accidents other than those specified in article 1.

Article 4

Functions of the Agency

The Agency shall:

- (a) forthwith inform States Parties, Member States, other States which are or may be physically affected as specified in article 1 and relevant international intergovernmental organizations (hereinafter referred to as “*international organizations*”) of a notification received pursuant to sub-paragraph (a) of article 2; and
- (b) promptly provide any State Party, Member State or relevant international organization, upon request, with the information received pursuant to sub-paragraph (b) of article 2.

Article 5

Information to be provided

1. The information to be provided pursuant to sub-paragraph (b) of article 2 shall comprise the following data as then available to the notifying State Party:

- (a) the time, exact location where appropriate, and the nature of the nuclear accident;
- (b) the facility or activity involved;
- (c) the assumed or established cause and the foreseeable development of the nuclear accident relevant to the transboundary release of the radioactive materials;
- (d) the general characteristics of the radioactive release, including, as far as is practicable and appropriate, the nature, probable physical and chemical form and the quantity, composition and effective height of the radioactive release;
- (e) information on current and forecast meteorological and hydrological conditions, necessary for forecasting the transboundary release of the radioactive materials;
- (f) the results of environmental monitoring relevant to the transboundary release of the radioactive materials;
- (g) the off-site protective measures taken or planned;
- (h) the predicted behaviour over time of the radioactive release.

2. Such information shall be supplemented at appropriate intervals by further relevant information on the development of the emergency situation, including its foreseeable or actual termination.

3. Information received pursuant to sub-paragraph (b) of article 2 may be used without restriction, except when such information is provided in confidence by the notifying State Party.

Article 6

Consultations

A State Party providing information pursuant to sub-paragraph (b) of article 2 shall, as far as is reasonably practicable, respond promptly to a request for further information or consultations sought by an affected State Party with a view to minimizing the radiological consequences in that State.

Article 7

Competent authorities and points of contact

1. Each State Party shall make known to the Agency and to other States Parties, directly or through the Agency, its competent authorities and point of contact responsible for issuing and receiving the notification and information referred to in article 2. Such points of contact and a focal point within the Agency shall be available continuously.

2. Each State Party shall promptly inform the Agency of any changes that may occur in the information referred to in paragraph 1.

3. The Agency shall maintain an up-to-date list of such national authorities and points of contact as well as points of contact of relevant international organizations and shall provide it to States Parties and Member States and to relevant international organizations.

Article 8

Assistance to States Parties

The Agency shall, in accordance with its Statute and upon a request of a State Party which does not have nuclear activities itself and borders on a State having an active nuclear programme but not Party, conduct investigations into the feasibility and establishment of an appropriate radiation monitoring system in order to facilitate the achievement of the objectives of this Convention.

Article 9

Bilateral and multilateral arrangements

In furtherance of their mutual interests, States Parties may consider, where deemed appropriate, the conclusion of bilateral or multilateral arrangements relating to the subject matter of this Convention.

Article 10

Relationship to other international agreements

This Convention shall not affect the reciprocal rights and obligations of States Parties under existing international agreements which relate to the matters covered by this Convention, or under future international agreements concluded in accordance with the object and purpose of this

Convention.

Article 11

Settlement of disputes

1. In the event of a dispute between States Parties, or between a State Party and the Agency, concerning the interpretation or application of this Convention, the parties to the dispute shall consult with a view to the settlement of the dispute by negotiation or by any other peaceful means of settling disputes acceptable to them.

2. If a dispute of this character between States Parties cannot be settled within one year from the request for consultation pursuant to paragraph 1, it shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the dispute are unable to agree on the organization of the arbitration, a party may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In cases of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.

3. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare that it does not consider itself bound by either or both of the dispute settlement procedures provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2 with respect to a State Party for which such a declaration is in force.

4. A State Party which has made a declaration in accordance with paragraph 3 may at any time withdraw it by notification to the depositary.

Article 12

Entry into force

1. This Convention shall be open for signature by all States and Namibia, represented by the United Nations Council for Namibia, at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York, from 26 September 1986 and 6 October 1986 respectively, until its entry into force or for twelve months, whichever period is longer.

2. A State and Namibia, represented by the United Nations Council for Namibia, may express its consent to be bound by this Convention either by signature, or by deposit of an instrument of ratification, acceptance or approval following signature made subject to ratification, acceptance or approval, or by deposit of an instrument of accession. The instruments of ratification, acceptance, approval or accession shall

be deposited with the depositary.

3. This Convention shall enter into force thirty days after consent to be bound has been expressed by three States.

4. For each State expressing consent to be bound by this Convention after its entry into force, this Convention shall enter into force for that State thirty days after the date of expression of consent.

5. (a) This Convention shall be open for accession, as provided for in this article, by international organizations and regional integration organizations constituted by sovereign States, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(b) In matters within their competence such organizations shall, on their own behalf, exercise the rights and fulfil the obligations which this Convention attributes to States Parties.

(c) When depositing its instrument of accession, such an organization shall communicate to the depositary a declaration indicating the extent of its competence in respect of matters covered by this Convention.

(d) Such an organization shall not hold any vote additional to those of its Member States.

Article 13

Provisional application

A State may, upon signature or at any later date before this Convention enters into force for it, declare that it will apply this Convention provisionally.

Article 14

Amendments

1. A State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all other States Parties.

2. If a majority of the States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment adopted at the conference by a two-thirds majority of all States Parties shall be laid down in a protocol which is open to signature in Vienna and New York by all States Parties.

3. The protocol shall enter into force thirty days after consent to be bound has been expressed by three States. For each State expressing

consent to be bound by the protocol after its entry into force, the protocol shall enter into force for that State thirty days after the date of expression of consent.

Article 15

Denunciation

1. A State Party may denounce this Convention by written notification to the depositary.
2. Denunciation shall take effect one year following the date on which the notification is received by the depositary.

Article 16

Depositary

1. The Director General of the Agency shall be the depositary of this Convention.
2. The Director General of the Agency shall promptly notify States Parties and all other States of:
 - (a) each signature of this Convention or any protocol of amendment;
 - (b) each deposit of an instrument of ratification, acceptance, approval or accession concerning this Convention or any protocol of amendment;
 - (c) any declaration or withdrawal thereof in accordance with article 11;
 - (d) any declaration of provisional application of this Convention in accordance with article 13;
 - (e) the entry into force of this Convention and of any amendment thereto; and
 - (f) any denunciation made under article 15.

Article 17

Authentic texts and certified copies

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic Energy Agency who shall send certified copies to States Parties and all other States.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Convention, open for signature as provided for in paragraph 1 of article 12.

ADOPTED by the General Conference of the International Atomic

Energy Agency meeting in special session at Vienna on the twenty-sixth day of September one thousand nine hundred and eighty-six.

FOURTH SCHEDULE

Convention on the Physical Protection of Nuclear Material

Section 2 .

THE STATES PARTIES TO THIS CONVENTION,

RECOGNISING the right of all States to develop and apply nuclear energy for peaceful purposes and their legitimate interests in the potential benefits to be derived from the peaceful application of nuclear energy,

CONVINCED of the need for facilitating international co-operation in the peaceful application of nuclear energy,

DESIRING to avert the potential dangers posed by the unlawful taking and use of nuclear material,

CONVINCED that offences relating to nuclear material are a matter of grave concern and that there is an urgent need to adopt appropriate and effective measures to ensure the prevention, detection and punishment of such offences,

AWARE OF THE NEED FOR international co-operation to establish, in conformity with the national law of each State Party and with this Convention, effective measures for the physical protection of nuclear material,

CONVINCED that this Convention should facilitate the safe transfer of nuclear material,

STRESSING also the importance of the physical protection of nuclear material in domestic use, storage and transport,

RECOGNISING the importance of effective physical protection of nuclear material used for military purposes, and understanding that such material is and will continue to be accorded stringent physical protection,

HAVE AGREED as follows:

Article 1

For the purposes of this Convention:

- (a) “*nuclear material*” means plutonium except that with isotopic concentration exceeding 80 per cent 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;

(b) “*uranium enriched in the isotope 235 or 233*” means uranium containing the isotope 235 or 233 or both in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature;

(c) “*international nuclear transport*” means the carriage of a consignment of nuclear material by any means of transportation intended to go beyond the territory of the State where the shipment originates beginning with the departure from a facility of the shipper in that State and ending with the arrival at a facility of the receiver within the State of ultimate destination.

Article 2

1. This Convention shall apply to nuclear material used for peaceful purposes while in international nuclear transport.

2. With the exception of articles 3 and 4 and paragraph 3 of article 5, this Convention shall also apply to nuclear material used for peaceful purposes while in domestic use, storage and transport.

3. Apart from the commitments expressly undertaken by States Parties in the articles covered by paragraph 2 with respect to nuclear material used for peaceful purposes while in domestic use, storage and transport, nothing in this Convention shall be interpreted as affecting the sovereign rights of a State regarding the domestic use, storage and transport of such nuclear material.

Article 3

Each State Party shall take appropriate steps within the framework of its national law and consistent with international law to ensure as far as practicable that, during international nuclear transport, nuclear material within its territory, or on board a ship or aircraft under its jurisdiction insofar as such ship or aircraft is engaged in the transport to or from that State, is protected at the levels described in Annex I.

Article 4

1. Each State Party shall not export or authorize the export of nuclear material unless the State Party has received assurances that such material will be protected during the international nuclear transport at the levels described in Annex I.

2. Each State Party shall not import or authorize the import of nuclear material from a State not party to this Convention unless the State Party has received assurances that such material will during the international nuclear transport be protected at the levels described in Annex I.

3. A State Party shall not allow the transit of its territory by land or internal waterways or through its airports or seaports of nuclear

material between States that are not parties to this Convention unless the State Party has received assurances as far as practicable that this nuclear material will be protected during international nuclear transport at the levels described in Annex I.

4. Each State Party shall apply within the framework of its national law the levels of physical protection described in Annex I to nuclear material being transported from a part of that State to another part of the same State through international waters or airspace.

5. The State Party responsible for receiving assurances that the nuclear material will be protected at the levels described in Annex I according to paragraphs 1 to 3 shall identify and inform in advance States which the nuclear material is expected to transit by land or internal waterways, or whose airports or seaports it is expected to enter.

6. The responsibility for obtaining assurances referred to in paragraph 1 may be transferred, by mutual agreement, to the State Party involved in the transport as the importing State.

7. Nothing in this article shall be interpreted as in any way affecting the territorial sovereignty and jurisdiction of a State, including that over its airspace and territorial sea.

Article 5

1. States Parties shall identify and make known to each other directly or through the International Atomic Energy Agency their central authority and point of contact having responsibility for physical protection of nuclear material and for co-ordinating recovery and response operations in the event of any unauthorized removal, use or alteration of nuclear material or in the event of credible threat thereof.

2. In the case of theft, robbery or any other unlawful taking of nuclear material or of credible threat thereof, States Parties shall, in accordance with their national law, provide co-operation and assistance to the maximum feasible extent in the recovery and protection of such material to any State that so requests. In particular:

(a) a State Party shall take appropriate steps to inform as soon as possible other States, which appear to it to be concerned, of any theft, robbery or other unlawful taking of nuclear material or credible threat thereof and to inform, where appropriate, international organizations;

(b) as appropriate, the States Parties concerned shall exchange information with each other or international organizations with a view to protecting threatened nuclear material, verifying the integrity of the shipping container, or recovering unlawfully taken nuclear material and shall:

(i) co-ordinate their efforts through diplomatic and other agreed channels;

- (ii) render assistance, if requested;
- (iii) ensure the return of nuclear material stolen or missing as a consequence of the above-mentioned events.

The means of implementation of this co-operation shall be determined by the States Parties concerned.

3. States Parties shall co-operate and consult as appropriate, with each other directly or through international organizations, with a view to obtaining guidance on the design, maintenance and improvement of systems of physical protection of nuclear material in international transport.

Article 6

1. States Parties shall take appropriate measures consistent with their national law to protect the confidentiality of any information which they receive in confidence by virtue of the provisions of this Convention from another State Party or through participation in an activity carried out for the implementation of this Convention. If States Parties provide information to international organizations in confidence, steps shall be taken to ensure that the confidentiality of such information is protected.

2. States Parties shall not be required by this Convention to provide any information which they are not permitted to communicate pursuant to national law or which would jeopardize the security of the State concerned or the physical protection of nuclear material.

Article 7

1. The intentional commission of:

- (a) an act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property;
- (b) a theft or robbery of nuclear material;
- (c) an embezzlement or fraudulent obtaining of nuclear material;
- (d) an act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation;
- (e) a threat:
 - (i) to use nuclear material to cause death or serious injury to any person or substantial property damage, or
 - (ii) to commit an offence described in sub-paragraph (b) in order to compel a natural or legal person, international organization or State to do or to refrain from doing any

act;

(f) an attempt to commit any offence described in paragraphs (a), (b) or (c); and

(g) an act which constitutes participation in any offence described in paragraphs (a) to (f)

shall be made a punishable offence by each State Party under its national law.

2. Each State Party shall make the offences described in this article punishable by appropriate penalties which take into account their grave nature.

Article 8

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 7 in the following cases:

(a) when the offence is committed in the territory of that State or on board a ship or aircraft registered in that State;

(b) when the alleged offender is a national of that State.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these offences in cases where the alleged offender is present in its territory and it does not extradite him pursuant to article 11 to any of the States mentioned in paragraph 1.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

4. In addition to the States Parties mentioned in paragraphs 1 and 2, each State Party may, consistent with international law, establish its jurisdiction over the offences set forth in article 7 when it is involved in international nuclear transport as the exporting or importing State.

Article 9

Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take appropriate measures, including detention, under its national law to ensure his presence for the purpose of prosecution or extradition. Measures taken according to this article shall be notified without delay to the States required to establish jurisdiction pursuant to article 8 and, where appropriate, all other States concerned.

Article 10

The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the

purpose of prosecution, through proceedings in accordance with the laws of that State.

Article 11

1. The offences in article 7 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include those offences as extraditable offences in every future extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of those offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognise those offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Each of the offences shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States Parties required to establish their jurisdiction in accordance with paragraph 1 of article 8.

Article 12

Any person regarding whom proceedings are being carried out in connection with any of the offences set forth in article 7 shall be guaranteed fair treatment at all stages of the proceedings.

Article 13

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in article 7, including the supply of evidence at their disposal necessary for the proceedings. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

Article 14

1. Each State Party shall inform the depositary of its laws and regulations which give effect to this Convention. The depositary shall communicate such information periodically to all States Parties.

2. The State Party where an alleged offender is prosecuted shall, wherever practicable, first communicate the final outcome of the

proceedings to the States directly concerned. The State Party shall also communicate the final outcome to the depositary who shall inform all States.

3. Where an offence involves nuclear material used for peaceful purposes in domestic use, storage or transport, and both the alleged offender and the nuclear material remain in the territory of the State Party in which the offence was committed, nothing in this Convention shall be interpreted as requiring that State Party to provide information concerning criminal proceedings arising out of such an offence.

Article 15

The Annexes constitute an integral part of this Convention.

Article 16

1. A conference of States Parties shall be convened by the depositary five years after the entry into force of this Convention to review the implementation of the Convention and its adequacy as concerns the preamble, the whole of the operative part and the annexes in the light of the then prevailing situation.

2. At intervals of not less than five years thereafter, the majority of States Parties may obtain, by submitting a proposal to this effect to the depositary, the convening of further conferences with the same objective.

Article 17

1. In the event of a dispute between two or more States Parties concerning the interpretation or application of this Convention, such States Parties shall consult with a view to the settlement of the dispute by negotiation, or by any other peaceful means of settling disputes acceptable to all parties to the dispute.

2. Any dispute of this character which cannot be settled in the manner prescribed in paragraph 1 shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the dispute are unable to agree on the organization of the arbitration, a party may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In case of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.

3. Each State Party may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by either or both of the dispute settlement procedures provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2, with respect to a State Party which has made a

reservation to that procedure.

4. Any State Party which has made a reservation in accordance with paragraph 3 may at any time withdraw that reservation by notification to the depositary.

Article 18

1. This Convention shall be open for signature by all States at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York from 3 March 1980 until its entry into force.

2. This Convention is subject to ratification, acceptance or approval by the signatory States.

3. After its entry into force, this Convention will be open for accession by all States.

4. (a) This Convention shall be open for signature or accession by international organizations and regional organizations of an integration or other nature, provided that any such organization is constituted by sovereign States and has competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(b) In matters within their competence, such organizations shall, on their own behalf, exercise the rights and fulfil the responsibilities which this Convention attributes to States Parties.

(c) When becoming party to this Convention such an organization shall communicate to the depositary a declaration indicating which States are members thereof and which articles of this Convention do not apply to it.

(d) Such an organization shall not hold any vote additional to those of its Member States.

5. Instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

Article 19

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-first instrument of ratification, acceptance or approval with the depositary.

2. For each State ratifying, accepting, approving or acceding to the Convention after the date of deposit of the twenty-first instrument of ratification, acceptance or approval, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 20

1. Without prejudice to article 16 a State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all States Parties. If a majority of States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment adopted at the conference by a two-thirds majority of all States Parties shall be promptly circulated by the depositary to all States Parties.

2. The amendment shall enter into force for each State Party that deposits its instrument of ratification, acceptance or approval of the amendment on the thirtieth day after the date on which two-thirds of the States Parties have deposited their instruments of ratification, acceptance or approval with the depositary. Thereafter, the amendment shall enter into force for any other State Party on the day on which that State Party deposits its instrument of ratification, acceptance or approval of the amendment.

Article 21

1. Any State Party may denounce this Convention by written notification to the depositary.

2. Denunciation shall take effect one hundred and eighty days following the date on which notification is received by the depositary.

Article 22

The depositary shall promptly notify all States of:

- (a) each signature of this Convention;
- (b) each deposit of an instrument of ratification, acceptance, approval or accession;
- (c) any reservation or withdrawal in accordance with article 17;
- (d) any communication made by an organization in accordance with paragraph 4 (c) of article 18;
- (e) the entry into force of this Convention;
- (f) the entry into force of any amendment to this Convention; and
- (g) any denunciation made under article 21.

Article 23

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic

Energy Agency who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Convention, opened for signature at Vienna and at New York on 3 March 1980.

ANNEX I

Levels of Physical Protection to be Applied in International Transport of Nuclear Material as Categorized in Annex II

1. Levels of physical protection for nuclear material during storage incidental to international nuclear transport include:

- (a) For Category III materials, storage within an area to which access is controlled;
- (b) For Category II materials, storage within an area under constant surveillance by guards or electronic devices, surrounded by a physical barrier with a limited number of points of entry under appropriate control or any area with an equivalent level of physical protection;
- (c) For Category I material, storage within a protected area as defined for Category II above, to which, in addition, access is restricted to persons whose trustworthiness has been determined, and which is under surveillance by guards who are in close communication with appropriate response forces. Specific measures taken in this context should have as their object the detection and prevention of any assault, unauthorized access or unauthorized removal of material.

2. Levels of physical protection for nuclear material during international transport include:

- (a) For Category II and III materials, transportation shall take place under special precautions including prior arrangements among sender, receiver, and carrier, and prior agreement between natural or legal persons subject to the jurisdiction and regulation of exporting and importing States, specifying time, place and procedures for transferring transport responsibility;
- (b) For Category I materials, transportation shall take place under special precautions identified above for transportation of Category II and III materials, and in addition, under constant surveillance by escorts and under conditions which assure close communication with appropriate response forces;
- (c) For natural uranium other than in the form of ore or ore-residue, transportation protection for quantities exceeding 500 kilograms uranium shall include advance notification of shipment specifying mode of transport, expected time of

arrival and confirmation of receipt of shipment.

ANNEX II

Table: Categorization of Nuclear Material

Material	Form	Category		
		I	II	III ^c
1. Plutonium ^a	Unirradiated ^b	2 kg or more	Less than 2 kg but more than 500 g	500 g or less but more than 15 g
2. Uranium-235	Unirradiated ^b			
	—uranium enriched to 20% ²³⁵ U or more	5 kg or more	Less than 5 kg but more than 1 kg	1 kg or less but more than 15 g
	—uranium enriched to 10% ²³⁵ U but less than 20%		10 kg or more	Less than 10 kg but more than 1 kg
	—uranium enriched above natural, but less than 10% ²³⁵ U			10 kg or more
3. Uranium-233	Unirradiated ^b	2 kg or more	Less than 2 kg but more than 500 g	500 g or less but more than 15 g
4. Irradiated fuel			Depleted or natural uranium, thorium or low-enriched fuel (less than 10% fissile content) ^{d e}	

a b c d e

All plutonium except that with isotopic concentration exceeding 80% in plutonium-238.

Material not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 100 rads/hour at one metre unshielded.

Quantities not falling in Category III and natural uranium should be protected in accordance with prudent management practice.

Although this level of protection is recommended, it would be open to States, upon evaluation of the specific circumstances, to assign a

different category of physical protection.

Other fuel which by virtue of its original fissile material content is classified as Category I and II before irradiation may be reduced one category level while the radiation level from the fuel exceeds 100 rads/hour at one metre unshielded.

© Government of Ireland. Oireachtas Copyright Material is reproduced with the permission of the House of the Oireachtas