

NUCLEAR DAMAGE COMPENSATION ACT

Act No. 2094, Jan. 24, 1969

Amended by Act No. 2765, Apr. 7, 1975

Act No. 3549, Apr. 1, 1982

Act No. 3849, May 12, 1986

Act No. 4940, Jan. 5, 1995

Act No. 6350, Jan. 16, 2001

Act No. 6873, May 15, 2003

Act No. 7188, Mar. 11, 2004

Act No. 8581, Aug. 3, 2007

Act No. 8852, Feb. 29, 2008

Act No. 10089, Mar. 17, 2010

Act No. 10911, Jul. 25, 2011

Act No. 10912, Jul. 25, 2011

Act No. 11714, Mar. 23, 2013

Act No. 13075, Jan. 20, 2015

Act No. 13543, Dec. 1, 2015

Article 1 (Purpose)

The purpose of this Act is to provide for matters concerning compensation for nuclear damage caused by the operation, etc. of nuclear reactors so as to protect victims and to contribute to the sound development of nuclear businesses.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 2 (Definitions)

(1) The terms used in this Act shall be defined as follows:

1. The term "operation, etc. of nuclear reactors" means any of the following, and the transportation, storage, or disuse of nuclear fuel materials or things contaminated thereby (including nuclear fission products; hereinafter the same shall apply) which are incidental thereto:

- (a) Operation of nuclear reactors;
- (b) Conversion of nuclear fuel materials, which is prescribed by Presidential Decree;
- (c) Fabrication of nuclear fuel materials, which is prescribed by Presidential Decree;
- (d) Treatment of spent nuclear fuels, which is prescribed by Presidential Decree;
- (e) Use of nuclear fuel materials, which is prescribed by Presidential Decree;
- (f) Storage, treatment, or disposal of radioactive waste, which is prescribed by Presidential Decree;

2. The term "nuclear damage" means damage (including the loss of economic interests related to the use of the environment, which is caused by serious environmental damage) caused by the nuclear fission process of nuclear fuel materials, or by radiation or by the toxicity of nuclear fuel materials or materials contaminated thereby, and the following expenses: Provided, That excluded herefrom, shall be damage suffered by relevant nuclear business operators and the employees thereof in conducting duties:

- (a) Expenses for measures taken or to be taken to recover from serious environmental damage to the original state according to plans formulated under relevant Acts and subordinate statutes, such as the Framework Act on the Management of Disasters and Safety;
- (b) Expenses for measures for preventing disasters (including additional losses or damage caused by the measures for preventing disasters) taken according to measures plans formulated under relevant Acts and subordinate statutes, such as the Framework Act on the Management of Disasters and Safety or the Act on Measures for the Protection of Nuclear Facilities, etc. and Prevention of Radiation Disasters, to mitigate or minimize damage or expenses caused by the outbreak of nuclear incidents or to prevent or minimize damage or expenses caused by grave and imminent danger which may cause a nuclear incident;

3. The term "nuclear business operator" means a person who falls, or fell, under any of the following:

- (a) A person who obtains permission for the construction or operation of a nuclear reactor or relevant facilities;
- (b) A foreign nuclear ship operator who reports entry into or departure from a port of the Republic of Korea;
- (c) A person who obtains permission for fabrication business (including conversion business);
- (d) A person who obtains designation of spent nuclear fuel processing business;
- (e) A person who obtains permission to use nuclear fuel materials;
- (f) A person who obtains permission to construct and operate disposal facilities, etc.;
- (g) A nuclear energy research and development institute, or nuclear energy-related service institution and product-manufacturing institution referred to in Article 11 of the Nuclear Energy Promotion Act;
- (h) An institution specializing in nuclear safety under the Nuclear Safety Act;

4. The term "nuclear incident" means an incident posing serious and imminent danger, which has caused or may cause nuclear damage (including a series of incidents arising from the same cause).

(2) The definition of terms used in this Act, other than those prescribed in paragraph (1), shall be governed by the Nuclear Energy Promotion Act and the Nuclear Safety Act.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 2-2 (Scope of Application)

(1) This Act shall apply to nuclear damage caused by the outbreak of nuclear incidents in the territory of the Republic of Korea (including the territorial sea) and the exclusive economic sea zone of the Republic of Korea.

(2) The application of this Act may exclude or be restricted to individuals, corporations, organizations, or governments of nations which prohibit or restrict compensation for nuclear damage suffered by the people of the Republic of Korea, by corporations or organizations established under the Acts and subordinate statutes of the Republic of Korea or by the Government of the Republic of Korea.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

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

(1) Where nuclear damage is caused by the operation, etc. of a nuclear reactor, the relevant nuclear business operator shall be liable for such damage: Provided, That the same shall not apply where such damage is caused by an armed conflict between nations, hostility, civil war, or rebellion.

(2) When nuclear damage is caused by moving nuclear fuel materials or things contaminated thereby, from one nuclear business operator to another nuclear business operator, the nuclear business operator who is the consignor of such nuclear fuel materials shall be liable for the damage: Provided, That where a special agreement exists between the nuclear business operators on the liability for damage, the special agreement shall govern.

(3) In cases falling under paragraph (1) or (2), no person other than the nuclear business operator who assumes the liability for damage under paragraph (1) or (2) shall assume the liability for damage.

(4) Articles 769, 770, 773, 875, and 881 of the Commercial Act shall not apply to nuclear damage caused by the operation, etc. of nuclear reactors installed in ships.

(5) The Product Liability Act shall not apply to nuclear damage caused by the operation, etc. of nuclear reactors.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 3-2 (Limitation of Liabilities)

(1) A nuclear business operator shall assume liability for nuclear damage within the limit of a calculation unit of 300 million for each nuclear incident: Provided, That no limitation of liabilities for damage shall apply where a nuclear business operator causes nuclear damage intentionally, or by reckless conduct or by willful blindness of the likelihood of the damage.

(2) "Calculation unit" referred to in paragraph (1) means an amount equivalent to the special drawing right of the International Monetary Fund.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 4 (Right to Indemnity)

(1) A nuclear business operator who has paid compensation for nuclear damage under Article 3, caused intentionally or by the gross negligence of a third party, may exercise a right to indemnity with respect thereto: Provided, That where such damage is caused in the course of supplying materials or providing services (including labor) for the operation, etc. of a nuclear reactor, he/she may exercise a right to indemnity only when the damage is caused intentionally or by the gross negligence of the supplier or provider, or the employees thereof.

(2) In cases falling under paragraph (1), if a special agreement on a right to indemnity exists, the special agreement shall govern.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 5 (Duty to Take Measures for Compensation)

(1) No nuclear business operator shall engage in the operation, etc. of nuclear reactors unless he/she takes measures to compensate for nuclear damage (hereinafter referred to as "measures for compensation").

(2) Measures for compensation referred to in paragraph (1) shall be taken by concluding liability insurance policies for nuclear damage compensation and indemnity agreements for nuclear damage compensation, or depositing money.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 6 (Amount of Compensation)

(1) The amount of an liability insurance policy for nuclear damage compensation and an indemnity agreement for nuclear damage compensation, or the deposited amount, which are referred to in Article 5 (2), shall be the amount prescribed by Presidential Decree within the limit of liabilities for damage referred to in Article 3-2, based on the type of facilities using nuclear energy, nature of nuclear fuel materials handled, consequences of outbreak of nuclear incidents, etc. (hereinafter referred to as "amount of compensation").

(2) Where an amount available for compensation for future nuclear damage falls short of the amount of compensation due to compensation for nuclear damage, the Nuclear Safety and Security Commission may order the relevant nuclear business operator to make up for such shortage within a deadline within which to comply with the amount of measures for compensation, if necessary to ensure the performance of compensation for nuclear damage.

(3) Even where an order referred to in paragraph (2) is issued, Article 5 (1) shall not apply.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 7 (Liability Insurance Policies for Nuclear Damage Compensation)

(1) "Liability insurance policy for nuclear damage compensation" in Article 5 (2) means a policy under which the insurer (limited to persons eligible to engage in liability insurance business under the Insurance Business Act) agrees to cover the loss suffered by a nuclear business operator who has assumed liability for damage under Article 3 as a result of paying compensation for nuclear damage caused by a specific cause, whereas the policyholder agrees to pay insurance premiums to the insurer.

(2) When subscribing to a liability insurance policy for nuclear damage compensation, a nuclear business operator shall obtain approval for the terms and conditions thereof from the Nuclear Safety and Security Commission.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 8 (Priority of Claims for Damage)

- (1) When claiming damage, a victim shall have priority over other creditors in the reimbursement of insurance money.
- (2) An insured person may request the insurer to pay insurance money only within the limit of payments he/she has made for compensation to a victim or within the limit consented to by a victim.
- (3) The right to claim the payment of insurance money under a liability insurance policy for nuclear damage compensation shall not be transferred, held as a security, or seized: Provided, That the same shall not apply to the seizure of a right to claim damage by a victim.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 9 (Indemnity Agreements for Nuclear Damage Compensation)

- (1) "Indemnity agreement for nuclear damage compensation" in Article 5 (2) means an agreement under which the Government agrees to indemnify the loss suffered by a nuclear business operator who has assumed liability for damage under Article 3, as a result of paying compensation for nuclear damage not covered by an insurance policy, whereas the nuclear business operator agrees to pay indemnity fees to the Government.
- (2) Matters necessary for indemnity agreements for nuclear damage compensation shall be separately prescribed by law.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 10 (Priority of Claims for Compensation)

Article 8 shall apply mutatis mutandis to claims for compensation.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 11 (Deposits)

As a measure for compensation, a deposit shall be paid into the district court having jurisdiction over the principal office of the relevant nuclear business operator, either in cash or securities prescribed by Presidential Decree.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 12 (Reimbursement by Deposit)

A victim shall be entitled to be reimbursed by means of the cash or securities deposited by the nuclear business operator against a claim for damage.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 13 (Return of Deposits)

- (1) In any of the following cases, a nuclear business operator may reclaim cash or securities deposited, by obtaining approval from the Nuclear Safety and Security Commission:
 1. Where a nuclear business operator takes other measures for compensation in substitution of deposit;
 2. Where a nuclear business operator terminates the operation, etc. of a nuclear reactor.
- (2) The Nuclear Safety and Security Commission may grant approval under paragraph (1) by designating the timing and amount to be reclaimed within the extent it deems necessary to ensure the performance of compensation for nuclear damage.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 13-2 (Extinctive Prescription)

- (1) A right to claim for nuclear damage under this Act shall lapse by prescription if not exercised within three years from the date on which the victim or the legal representative thereof becomes aware of the damage and of the person who assumes liability for damage under Article 3.
- (2) A right to claim for nuclear damage under this Act shall lapse by prescription if not exercised within ten years from the date the relevant nuclear incident occurs: Provided, That a right to claim for nuclear damage resulting in physical injuries, diseases or death shall lapse by prescription if it is not exercised within 30 years from the date on which the relevant nuclear incident occurs.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 14 (Measures of Government)

- (1) Where the amount of compensation to be paid by a nuclear business operator in the outbreak of nuclear damage exceeds the amount of measures for compensation, the Government shall provide necessary aid to the nuclear business operator, when necessary to achieve the purposes of this Act.
- (2) In cases falling under the proviso to Article 3 (1), the Government shall take measures necessary to rescue victims and to prevent the spread of damage.
- (3) The Government shall provide aid under paragraph (1) within the extent authorized by a resolution of the National Assembly.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 15 (Nuclear Damage Deliberation Committee)

- (1) The Nuclear Damage Deliberation Committee (hereinafter referred to as the "Deliberation Committee") may be established in the Nuclear Safety and Security Commission to mediate disputes on compensation for nuclear damage.
- (2) The Deliberation Committee shall conduct the following affairs:
 1. Mediation of disputes;
 2. Investigation and assessment of nuclear damage, which are necessary to perform the duties referred to in paragraph (1).
- (3) Matters necessary for the organization and operation of the Deliberation Committee, and the mediation and processing of disputes, shall be prescribed by Presidential Decree.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 16 (Reporting and Inspection)

- (1) If necessary, the Nuclear Safety and Security Commission may order nuclear business operators to prepare a report, or have public officials belonging thereto enter the offices, factories, or places of business (where nuclear reactors are installed in ships, referring to such ships) of nuclear business operators to inspect books, documents or other necessary articles or to inquire of relevant persons.
- (2) A public official conducting an inspection or inquiry under paragraph (1) shall carry a certificate indicating his/her authority and present it to relevant persons.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 17 (Consultation with Relevant Ministries)

When intending to issue an order under Article 6 (2), the Nuclear Safety and Security Commission shall consult with relevant ministers.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 18 (Exclusion from Application)

Articles 5 through 13 shall not apply to nuclear business conducted by the Government.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 19 (Penal Provisions)

A person who engages in the operation, etc. of a nuclear reactor before taking measures for compensation, in violation of Article 5, shall be punished by imprisonment with prison labor for not more than three years or by a fine not exceeding thirty million won. In such cases, both imprisonment with prison labor and fine may be imposed concurrently. <Amended by Act No. 13543, Dec. 1, 2015>

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 20 (Fines for Negligence)

(1) Any of the following persons shall be punished by a fine for negligence not exceeding five million won: <Amended by Act No. 13543, Dec. 1, 2015>

1. A person who fails to prepare a report under Article 16 or makes a false report;
2. A person who refuses, interferes with or evades an inspection referred to in Article 16, or fails to make a statement or makes a false statement in response to questions.

(2) The Nuclear Safety and Security Commission shall impose and collect fines for negligence referred to in paragraph (1), as prescribed by Presidential Decree.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 21 (Joint Penal Provisions)

When the representative of a juristic person or an agent, employee, or other servant of a corporation or individual commits an offence under Article 19 in connection with the business of the corporation or individual, not only shall such violator be punished, but the corporation or individual also shall be punished by a fine under the relevant provisions: Provided, That this shall not apply where the juristic person or the individual has not neglected to pay due attention and supervision concerning the relevant business to prevent such violation.

[This Article Wholly Amended by Act No. 10089, Mar. 17, 2010]

Article 22 (Reporting to National Assembly)

In the outbreak of large-scale nuclear damage, the Government shall report to the National Assembly without delay, on the status of such damage and measures taken by the Government under this Act.

[This Article Wholly Amended by Act No. 13075, Jan. 20, 2015]

Article 23 Omitted. <by Act No. 6350, Jan. 16, 2001>

ADDENDUM

This Act shall enter into force on the date of its promulgation.

ADDENDUM <Act No. 2765, Apr. 7, 1975>

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 3549, Apr. 1, 1982>

Article 1 (Enforcement Date)

This Act shall enter into force within six months after the date of its promulgation; however, the enforcement date thereof shall be prescribed by Presidential Decree.

Articles 2 through 6 Omitted.

ADDENDUM <Act No. 3849, May 12, 1986>

This Act shall enter into force 30 days after the date of its promulgation.

ADDENDA <Act No. 4940, Jan. 5, 1995>

Article 1 (Enforcement Date)

This Act shall enter into force nine months after the date of its promulgation.

Articles 2 through 8 Omitted.

ADDENDA <Act No. 4940, Jan. 5, 1995>

Article 1 (Enforcement Date)

This Act shall enter into force nine months after the date of its promulgation.

Articles 2 through 8 Omitted.

ADDENDA <Act No. 6350, Jan. 16, 2001>

(1) (Enforcement Date) This Act shall enter into force on January 1, 2002: Provided, That the amended provisions of Article 3 (5) shall enter into force on July 1, 2002.

(2) (Applicability to Compensation for Nuclear Damage) The amended provisions of Articles 2, 2-2, 3 (1), (4) and (5), 3-2, and 13-2 shall begin to apply to compensation for nuclear damage arising from the first nuclear incident that occurs after this Act enters into force.

ADDENDA <Act No. 6873, May 15, 2003>

Article 1 (Enforcement Date)

This Act shall enter into force nine months after the date of its promulgation.

Articles 2 through 5 Omitted.

ADDENDA <Act No. 7188, Mar. 11, 2004>

Article 1 (Enforcement Date)

This Act shall enter into force on the date prescribed by Presidential Decree in any event, not exceeding three months from the date of its promulgation.

Articles 2 through 11 Omitted.

ADDENDA <Act No. 8581, Aug. 3, 2007>

Article 1 (Enforcement Date)

This Act shall enter into force one year after the date of its promulgation. (Proviso Omitted.)

Articles 2 through 9 Omitted.

ADDENDA <Act No. 8852, Feb. 29, 2008>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 7 Omitted.

ADDENDUM <Act No. 10089, Mar. 17, 2010>

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 10911, Jul. 25, 2011>

Article 1 (Enforcement Date)

This Act shall enter into force three months from the date of its promulgation.

Articles 2 through 5 Omitted.

ADDENDA <Act No. 10912, Jul. 25, 2011>

Article 1 (Enforcement Date)

This Act shall enter into force three months from the date of its promulgation.

Articles 2 through 5 Omitted.

ADDENDA <Act No. 11714, Mar. 23, 2013>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation.

Article 2 Omitted.

ADDENDUM <Act No. 13075, Jan. 20, 2015>

This Act shall enter into force on the date of its promulgation.

ADDENDUM <Act No. 13543, Dec. 1, 2015>

This Act shall enter into force six months from the date of its promulgation.