

Government Gazette 15159

STATE PRESIDENT'S OFFICE

No. 1851.
6 October 1993

It is hereby notified that the Acting State President has assented to the following Act which is hereby published for general information:-

No. 131 of 1993: Nuclear Energy Act, 1993.

GENERAL EXPLANATORY NOTE:

Words in bold type indicate omissions from existing enactments.

Words in italics indicate insertions in existing enactments.

ACT

To provide for the continued existence of the Atomic Energy Corporation of South Africa, Limited, and of the Council for Nuclear Safety and for the management thereof; to determine the objects, powers and functions of that Corporation and that Council; to provide for the implementation of the Nuclear Non-Proliferation Treaty and the Safeguards Agreement; to regulate the licensing of nuclear activities; to amend the Hazardous Substances Act, 1973, so as to amend a certain definition; and to provide for matters connected therewith.

(English text signed by the Acting State President.)
(Assented to 24 September 1993.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:-

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CHAPTER I

Introduction

Definitions

1. In this Act, unless the context otherwise indicates-

- (a) any expression to which a meaning has been assigned in the Patents Act, 1978 (Act No. 57 of 1978), the Nuclear Non-Proliferation Treaty and the Safeguards Agreement, bears the meaning so assigned thereto; and
- (b) (i) "AEC" means the Atomic Energy Corporation of South Africa, Limited, referred to in section 4; and "corporation" has a corresponding meaning; (ii)
- (ii) "Board of Directors" means the Board of Directors referred to in section 8; (xxix)
- (iii) "chief executive officer" means the person appointed as such in terms of section 11; (xiii)
- (iv) "CNS" means the Council for Nuclear Safety referred to in section 33; (xxxiv)
- (v) "council" means the council referred to in section 36; (xxviii)
- (vi) "director" means a member of the Board of Directors referred to in section 8; (viii)
- (vii) "dispose of" means sell, exchange, donate, distribute, lend or in any other manner transfer; and "disposal of" has a corresponding meaning; (v)
- (viii) "enrich" means increase the ratio of an isotopic

constituent of an element to the remaining isotopic constituents of that element relative to the naturally occurring ratio; and "enrichment" has a corresponding meaning; (xl)

- (ix) "executive officer" means the person appointed as such in terms of section 44; (xxxvii)
- (x) "fixed date" means the date fixed in terms of section 86; (xxxviii)
- (xi) "IAEA" means the International Atomic Energy Agency; (xiv)
(xii) "inspector" means a person appointed as such in terms of section 67; (xv)
- (xiii) "ionizing radiation" means electromagnetic or corpuscular emission emitted from radioactive material and capable of producing ions, directly or indirectly, while passing through matter; (xvi)
- (xiv) "licensee" means a person to whom a nuclear licence has been granted, whether or not that licence is still in force; (x)
- (xv) "management board" the board established in terms of section 12; (vi)
- (xvi) "Minister" means the Minister of Mineral and Energy Affairs; (xxvi)
- (xvii) "nuclear accident" means any occurrence or succession of occurrences having the same origin which-
 - (a) causes nuclear damage; or
 - (b) results in-
 - (i) the release of radioactive material; or
 - (ii) a radiation dose, which exceeds the limits determined by the CNS and laid down in the relevant nuclear licence; (xxii)
- (xviii) "nuclear damage" means any injury to or the death or any sickness or disease of a person, or other damage, including any damage to or any loss of use of property, which arises out of, or results from, or is attributable to, the ionizing

radiations associated with radioactive material or with the generation of nuclear energy; (xxiii)

- (xix) "nuclear energy" means all the energy released by a nuclear fission or nuclear fusion process; (xviii)
- (xx) "nuclear fuel" means any material capable of undergoing a nuclear fission or nuclear fusion process by itself or in combination with some other material; (xvii)
- (xxi) "nuclear installation" means a facility, installation, plant or structure (other than a facility, installation, plant or structure situated at any mine as defined in section 1 of the Minerals Act, 1991 (Act No. 50 of 1991)) designed or adapted for, or which may involve the carrying out of, any process within the nuclear fuel cycle involving radioactive material and which is capable of causing nuclear damage; and includes-
 - (a) a uranium or thorium refinement or conversion facility;
 - (b) a uranium enrichment facility;
 - (c) a nuclear fuel fabrication facility;
 - (d) a nuclear reactor, including a nuclear fission reactor or a nuclear fusion reactor or any other facility intended to create nuclear fusion;
 - (e) a reprocessing facility;
 - (f) a waste disposal facility;
 - (g) a storage facility;
 - (h) any other facility, installation, plant or structure which has been declared under section 2(d) to be a nuclear installation, as well as the site upon which such installation is situated; (xix)
- (xxii) "nuclear licence" means a nuclear licence referred to in section 51 or 52; (xx)
- (xxiii) "nuclear material" means source material and special nuclear material; (xxi)
- (xxiv) "Nuclear Non-Proliferation Treaty" the Treaty on the Non-Proliferation of Nuclear Weapons acceded to by the Republic

on 10. July 1991; (xxiv)

(xxv) "nuclear related equipment and material" means equipment and material which have been declared under section 2(h) to be nuclear related equipment and material; (xxv)

(xxvi) "period of responsibility", in relation to a licensee, means the period beginning on the date of the grant of the relevant nuclear licence and ending on whichever of the following dates is the earlier, namely-

(a) the date on which the CNS gives notice in writing to the licensee that in its opinion the risk of nuclear damage from anything on the site, or at or in the nuclear installation, in question, or from any activity referred to in section 51(1) carried out in regard to the radioactive material, or from any act performed in regard to the nuclear installation or site in question, as the case may be, no longer exceeds the limits consistent with the safeguarding of persons; or

(b) the date on which a nuclear licence in respect of the nuclear installation, radioactive material or site in question is granted to some other person; (xxxix)

(xxvii) "plant" includes any machinery, equipment or device, whether it is attached to the ground or not; (i)

(xxviii) "prescribed" means prescribed by regulation; (xlii)

(xxix) "process", in relation to source material, special nuclear material and restricted material, means recover, extract, concentrate, refine or convert such material, but does not include enriching; and "processing" has a corresponding meaning; (xli)

(xxx) "radioactive material" means any substance consisting of, or containing, any radioactive nuclide, whether natural or artificial; (xxxix)

(xxxix) "radioactive nuclide" means an unstable atomic nucleus which decays spontaneously with the accompanying emission of ionizing radiation; (xxxix)

(xxxix) "radioactive waste" means any radioactive material which is intended to be discarded as waste material; (xxx)

(xxxix) "regulation" means any regulation made under this Act;

(xxxiii)

- (xxxiv) "reprocess" means extract or separate from source material or special nuclear material that has been subjected to radiation, those constituents that have undergone transmutations as a result of the radiation, or those constituents that have not undergone transmutations and are re-usable; (xi)
- (xxxv) "restricted material" means beryllium and zirconium and any other substance that has under section 2(a) been declared to be restricted material; (iv)
- (xxxvi) "Safeguards Agreement" means the comprehensive safeguards agreement concluded by the Republic with the IAEA on 16 September 1991 regarding the application of safeguards in connection with the Nuclear Non-Proliferation Treaty; (xliii)
- (xxxvii) "site" means a site on which a nuclear installation is situated or is being constructed or on which any activity which involves radioactive material is carried out which installation or activity is subject to licensing in terms of section 51 and is described in the nuclear licence concerned; (xxxvi)
- (xxxviii) "source material" means material which has under section 2(b) been declared to be source material; (vii)
- (xxxix) "special nuclear material" means any material which has under section 2(c) been declared to be special nuclear material; (xxxv)
- (xl) "storage facility" means a facility for the acceptance, handling and treatment of irradiated fuel and the storage thereof; (xxvii)
- (xli) "subsidiary company" means a "subsidiary company" contemplated in section 1 of the Companies Act, 1973 (Act No. 61 of 1973), and which has been established by the AEC, either alone or in association with any other person; (ix)
- (xlii) "this Act" includes any regulations; (xii) and
- (xliii) "waste disposal facility" means a facility for the acceptance, handling and treatment of radioactive waste and irradiated fuel and the discarding of radioactive waste. (iii)

Notices

2. The Minister may by notice in the Gazette-

- (a) declare any substance of such degree of purity as specified in the notice to be restricted material for the purposes of this Act;
- (b) declare any substance containing uranium or thorium with concentration and mass limits above those specified in the notice to be source material for the purposes of this Act;
- (c) declare-
 - (i) plutonium-239;
 - (ii) uranium-233;
 - (iii) uranium enriched in its 235 or 233 isotopes;
 - (iv) transuranium elements; or
 - (v) any composition of any of the materials referred to in subparagraphs (i), (ii), (iii) and (iv) or any composition of the said materials and any other substance or substances,

with concentration and mass limits above those specified in the notice, to be special nuclear material for the purposes of this Act;
- (d) declare any facility, installation, plant or structure designed or adapted for or which may involve the carrying out of any process within the nuclear fuel cycle involving radioactive material, and which is capable of causing nuclear damage, to be a nuclear installation for the purposes of this Act;
- (e) determine the levels of the specific activity and total activity of radioactive material and the radiation dose with reference to which the CNS may issue a declaration in terms of section 51(1)(b)(i);
- (f) determine the levels of specific activity and total activity of radioactive material below which the provisions of this Act do not apply;
- (g) with the concurrence of the CNS and AEC, exempt any radioactive material from the provisions of this Act;
- (h) for the purposes of this Act, declare equipment and material specially designed or prepared for the processing, use or production

of nuclear material, to be nuclear related equipment and material.

Application of this Act

3. The provisions of this Act are not applicable-

- (a) subject to the provisions of section 28, in respect of Group IV hazardous substances as defined in section 1 of the Hazardous Substances Act, 1973 (Act No. 15 of 1973); or
- (b) in respect of radioactive material with a specific activity and a total activity below the levels determined in terms of section 2(f); or
- (c) in respect of any other radioactive material exempted in terms of section 2(g).

CHAPTER II

The Atomic Energy Corporation of South Africa, Limited

Continuation of Atomic Energy Corporation

4. (1) The Atomic Energy Corporation of South Africa, Limited, established by section 2 of the Nuclear Energy Act, 1982 (Act No. 92 of 1982), shall continue as a juristic person, known as the AEC, notwithstanding the repeal of that Act by this Act.

(2) The registrar of deeds concerned shall make such entries or endorsements as he may deem necessary to give effect to the provisions of subsection (1) in or on any relevant register, title deed or any other document in his office or submitted to him, and no office fees or other moneys shall be payable in respect of such an entry or endorsement.

Objects of AEC

5. The objects of the AEC are to-

- (a) develop technology and expertise in the field of nuclear energy, and to undertake the production of nuclear energy for peaceful purposes;
- (b) develop, and promote the development of, nuclear related technology and related expertise, and to make these generally available;
- (c) process source material, special nuclear material and restricted material and to reprocess and enrich source material and special nuclear material;

- (d) commercially utilize the technological expertise in its possession;
- (e) exercise control over the discarding of radioactive waste and the storing of irradiated nuclear fuel;
- (f) undertake and promote research in the field of nuclear energy and nuclear related technology;
- (g) act as national authority for the implementation of the Safeguards Agreement and other similar agreements with other institutions and governments; and
- (h) co-operate with any person, institution, government or administration in matters falling within the said objects, and promote such co-operation between the Republic and other countries.

Functions of AEC

6. (1) In order to achieve its objects, the AEC may-
- (a) with the approval of the Minister, granted with the concurrence of the Minister of State Expenditure-
 - (i) for the purpose of developing or exploiting in any manner any invention or technological expertise, establish a company in terms of the Companies Act, 1973 (Act No. 61 of 1973), or in association with any person so establish a company, or finance the establishment of such a company or assist in the financing thereof, or acquire an interest in or control over such a company;
 - (ii) purchase or otherwise acquire immovable property, and encumber or dispose of such property;
 - (iii) purchase, erect, or cause to be erected, buildings or other works or plants;
 - (b) manage a company contemplated in paragraph (a)(i) and appoint any person to act on behalf of the AEC as director of, or in any other capacity in relation to, such company;
 - (c) establish and manage facilities for collecting and disseminating information regarding activities falling within the objects of the AEC;
 - (d) utilize or let buildings, works or plants to the benefit of the AEC or a company contemplated in paragraph (a) (i);

- (e) hire, possess, purchase or otherwise acquire movable property, and let, pledge, encumber or dispose of such property;
- (f) hire or let services or make them otherwise available;
- (g) conclude agreements with producers to produce and deliver such quantities of source material as maybe required by the AEC and its subsidiary companies from time to time;
- (h) cede or assign to any person any or all of the rights and obligations of the AEC in terms of any contract relating to the sale or supply of source material;
- (i) undertake or promote the prospecting for and mining of source material and restricted material;
- (j) undertake, cause to be undertaken or promote the development of nuclear technology, nuclear related technology and know-how and nuclear research;
- (k) manufacture or otherwise produce, or acquire or possess uranium hexafluoride (UF₆) or dispose thereof;
- (l) acquire, possess, utilize, dispose of or process source material, special nuclear material and restricted material, and enrich and reprocess source material and special nuclear material;
- (m) manufacture, acquire or possess nuclear fuel and dispose thereof;
- (n) produce nuclear energy;
- (o) import into or export from the Republic source material, special nuclear material, restricted material and nuclear related equipment and material and technology;
- (p) control the discarding of radioactive waste, discard radioactive waste and operate waste disposal facilities for such purpose;
- (q) control the storage of irradiated nuclear fuel, store irradiated fuel and operate storage facilities for such purpose;
- (r) undertake, or cause to be undertaken, the transport of source material, special nuclear material, nuclear fuel, irradiated nuclear fuel, radioactive material and radioactive waste;
- (s) make such arrangements as the Minister may deem necessary for the stockpiling of strategic raw materials, materials and equipment;

- (t) (i) sell to any person or in any other manner make available for use on such conditions as determined by the Board of Directors, any patent, licence, concession, right to manufacture or any similar right granting powers to use any information, expertise, process or technology which has been developed by the AEC or a subsidiary company and which is its property;
 - (ii) apply for, buy or otherwise acquire, patents, licences, concessions, rights of manufacture or other similar rights conferring powers to use any technologies, expertise, information or processes, and use, exercise, develop or grant licences in respect of such rights, concessions, technologies, expertise, information or processes, or otherwise derive benefit therefrom;
- (u) co-operate with educational, scientific or other bodies or institutions with a view to the provision of instruction to, or the training of, persons required by the AEC, and if the AEC deems it necessary, provide financial or other assistance for the training of such persons;
- (v) award bursaries and loans for study purposes to any person;
- (w) do any other thing that is necessary to achieve, or is conducive to the achievement of, its objects.
- (2) In order to create and utilize viable business opportunities in commerce and industry, the AEC may-
- (i) produce and otherwise acquire reports, computer programs and other intellectual property and dispose thereof;
 - (ii) manufacture and sell instruments, equipment and similar products;
 - (iii) process and sell minerals;
 - (iv) produce, process and sell metals, chemicals and related products;
 - (v) render services against payment.
- (3) The functions of the AEC mentioned in this section shall be performed by the chief executive officer, except in so far as they have been assigned by this Act or by the Board of Directors or by the Minister to any other person.

Exercise of powers of AEC outside Republic

7. (1) The AEC may at the request of or with the prior approval of the Minister undertake the development, transfer or exploitation of nuclear or nuclear related technology on behalf of or in collaboration with any person, institution, government or administration, in any country or territory outside the Republic.

(2) Subject to the provisions of subsection (3), the provisions of this Act, in so far as they can be applied, apply mutatis mutandis to the AEC in the exercising of its powers in terms of this section as if the country or territory in which it so exercises its powers were within the Republic.

(3) Development, transfer and exploitation of technology in terms of subsection (1) are undertaken on such conditions-

(a) as are agreed upon between the chief executive officer and the person, institution, government or administration on behalf of or in collaboration with whom such development, transfer and exploitation are to be undertaken; and

(b) as are approved by the Board of Directors.

(4) The Minister may with the concurrence of the Minister of Finance indemnify the AEC against any losses which it may incur consequent on any act or omission of a person, institution, government or administration referred to in subsection (1).

Control and management of affairs of AEC

8. (1) The affairs of the AEC shall be managed by a Board of Directors, which, subject to the provisions of this Act, shall determine the policy and goals of the AEC and shall generally exercise control over the performance of its functions and the exercise of its powers.

(2) The Board of Directors shall consist of-

(a) a chairman appointed by the Minister;

(b) not more than six other directors appointed by the Minister after consultation with the chairman and chief executive officer, of whom

(i) one shall be a person who is involved in the mining and extraction of source material;

(ii) one shall be appointed to represent Eskom referred to in section 2 of the Eskom Act, 1987 (Act No. 40 of 1987);

- (iii) one shall be a person who is involved in commerce;
 - (iv) one shall be a person who is involved in industry;
 - (v) two shall be persons who have knowledge or experience of technology of an advanced nature which forms part of the AEC's activities;
- (c) the chief executive officer, who is an ex officio member of the Board of Directors;
- (d) an official of the Department of Mineral and Energy Affairs appointed by the Minister;
- (e) an official of the Department of Foreign Affairs designated by the Minister after consultation with the Minister of Foreign Affairs.
- (3) The directors shall be South African citizens permanently resident in the Republic.
- (4) (a) The chairman of the Board of Directors shall hold office for a period not exceeding five years, but may be reappointed.
- (b) A director referred to in subsection (2)(b) shall hold office for a period not exceeding three years, but may be reappointed.
- (5) The directors, other than a director who is in the full-time employment of the State or the AEC, shall be appointed on such conditions, including conditions relating to the payment of remuneration and allowances, as the Minister may determine with the concurrence of the Minister of State Expenditure.
- (6) (a) The Minister may appoint one of the other directors as vice-chairman of the Board of Directors to act as chairman, if the chairman is absent or is unable to perform his functions as chairman.
- (b) When the vice-chairman so acts as chairman, he shall exercise all the powers and perform all the duties and functions of the chairman.
- (7) The chairman or vice-chairman, or in their absence a director elected by the directors present, shall preside at a meeting of the Board of Directors.
- (8) If a director dies or vacates his office, the Minister may, subject to the provisions of subsection (2), appoint another person as a director for the unexpired part of his term of office.

(9) Any person who immediately prior to the commencement of this Act served as a member of the board of directors as defined in section 1 of the Nuclear Energy Act, 1982 (Act No. 92 of 1982), shall remain a member of the Board of Directors until the expiry of the period for which he was appointed in terms of section 5 of the said Act or until the appointment of a Board of Directors in terms of subsection (2), whichever occurs first.

(10) The Minister may at any time discharge a director from office if such director is unable to fulfil his duties or is guilty of misconduct.

(11) A director shall not be personally liable for any loss or damage arising out of, or in connection with, the performance of his duties by virtue of his appointment as a director, unless such loss or damage is due to his gross negligence or his failure to comply with any provision of this Act or to anything done by him in bad faith.

(12) A director shall vacate his office if he-

- (a) loses or relinquishes his South African citizenship or is no longer permanently resident in the Republic;
- (b) is declared insolvent or hands his estate over to his creditors;
- (c) is convicted of an offence and sentenced to imprisonment without the option of a fine;
- (d) has been absent from three consecutive meetings of the Board of Directors without leave of the chairman, unless the Board of Directors condones his absence on his advancing good reasons for his absence;
- (e) resigns as director;
- (f) is discharged by the Minister in terms of subsection (10);
- (g) (i) is nominated as a candidate for election as a member of Parliament in terms of the provisions of the Electoral Act, 1979 (Act No. 45 of 1979); or
(ii) is nominated or elected as a member of Parliament or designated or appointed to any other public office in the legislative or executive authority of the State.

Meetings of Board of Directors

9. (1) The first meeting of the Board of Directors shall be held at the time and place determined by the chairman, and meetings thereafter shall be held at such times and places as the Board of Directors shall determine.

(2) The chairman or, in his absence, the vice-chairman may at any time call a special meeting of the Board of Directors, to be held at such time and place as the chairman or vice-chairman, as the case may be, may determine.

(3) A majority of the directors shall form a quorum for any meeting of the Board of Directors.

(4) A decision of the majority of the directors present at a meeting of the Board of Directors shall constitute a decision of such Board, and in the event of an equality of votes on any matter the director presiding at the relevant meeting shall have a casting vote in addition to his deliberative vote.

(5) No decision taken by the Board of Directors or act performed under the authority of the Board of Directors, shall be invalid merely by reason of a vacancy on the Board of Directors or of the fact that any person not entitled to sit as a director, sat as a director at the time the decision was taken, if the decision was taken or the act was authorized by the required majority of directors present at the meeting and who were entitled to sit as directors.

Committees for particular purposes

10. (1) The Board of Directors may establish one or more committees, including an executive committee, which, subject to the directives of the Board of Directors, shall perform such functions of the Board of Directors as it may determine.

(2) A committee contemplated in subsection (1) shall consist of such persons, including directors and employees of the AEC, as the Board of Directors deems necessary, and the Board of Directors may dissolve or reconstitute a committee at any time.

(3) If such a committee consists of more than one member, the Board of Directors shall designate a member of the committee as chairman thereof.

(4) The AEC may pay the members of a committee referred to in subsection (1) who are not in the full-time service of the State or employees of the AEC such remuneration and such allowances as the Minister may determine with the concurrence of the Minister of State Expenditure.

Chief executive officer

11. (1) The Board of Directors shall, with the concurrence of the Minister, appoint an employee of the AEC as chief executive officer of the AEC.

(2) The chief executive officer shall be the chairman of the management board and is, subject to section 6(3), responsible, in co-operation with the management board, for the management and the performance of the functions of the AEC by virtue of this Act and such functions as may be assigned to him by the Minister or the Board of Directors in terms of the provisions of this Act or by the provisions of this Act or any other law, and shall report on such matters as the Board of Directors or the Minister may determine.

(3) Whenever the chief executive officer is for any reason absent or unable to perform his functions, or whenever there is a vacancy in the office of chief executive officer, the Board of Directors may designate a member of the management board to act as chief executive officer until the chief executive officer resumes his functions or a chief executive officer is appointed in terms of subsection (1), and that member shall, while so acting, have all the powers and perform all the functions of the chief executive officer.

(4) An appointment as chief executive officer or a designation as acting chief executive officer shall be subject to such conditions of service as the Board of Directors may with the approval of the Minister determine from time to time.

Management board

12. The Board of Directors shall establish a management board to assist the chief executive officer, subject to the directives and control of the said Board, in the execution of his managerial functions, and may appoint as many employees of the AEC as it may deem necessary as members of such management board.

Staff of AEC and conditions of service

13. (1) The chief executive officer-

(a) may, subject to paragraph (b) and on such conditions as determined by the Board of Directors, appoint such employees of the AEC as he may deem necessary to assist him in the performance of his functions;

(b) shall pay such employees such remuneration, allowances, subsidies and other benefits as the Board of Directors may determine in accordance with a system approved from time to time by the Minister with the consent of the Minister of State Expenditure;

(c) may, on such conditions as he may deem fit, second an employee of the AEC, either for a particular service or for a period of time, to

the service of a department of State, the government of another country or territory or an institution or person inside or outside the Republic: Provided that an employee shall not be seconded to the service of the government of such other country or territory or of such person or institution outside the Republic, unless the employee consents thereto: Provided further that if an employee is so seconded, his conditions of service as employee of the AEC shall not be adversely affected thereby.

(2) Any person who immediately prior to the fixed date was an officer or employee appointed or deemed to have been appointed as such in terms of section 8 employee the Nuclear Energy Act, 1982 (Act No. 92 of 1982), shall from that date be deemed to have been appointed as an employee in terms of subsection (1) (a) of this section on such conditions of service as may be determined from time to time in terms of the said subsection.

(3) The chief executive officer may from time to time on such conditions and with such security as he may deem fit-

- (a) provide collateral security, including guarantees, to a financial institution as defined in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990), in respect of a loan granted to any employee of the AEC by such financial institution to enable such employee to acquire, improve or enlarge immovable property for the purposes of occupation;
- (b) build, cause to be built, buy or hire dwelling houses, flats or flat buildings for occupation by such employees, and may sell or let such houses or flats to such employees or otherwise alienate, let or otherwise deal with such houses, flats or flat buildings;
- (c) establish, institute, erect or carry on sports and recreational societies, social clubs, social and health services, restaurants, hostels, bursary schemes for purposes of study or other similar undertakings or schemes which in its opinion may be beneficial to such employees.

(4) (a) Subject to the provisions of paragraph (b) of this subsection, the AEC shall for the purposes of the Associated Institutions Pension Fund Act, 1963 (Act No. 41 of 1963), be deemed to be an associated institution.

(b) The AEC may with the approval of the Minister, granted with the concurrence of the Minister of State Expenditure, institute and manage or cause to be managed a pension or provident fund or an alternative pension or provident fund for its employees.

Delegation of powers and assignment of functions

14. (1) The Minister may in writing delegate any power granted to him in terms of section 21 or 22 to the Board of Directors or, after consultation with the Board of Directors, to the council or the South African Council for the Non-Proliferation of Weapons of Mass Destruction established by section 4 of the Non-Proliferation of Weapons of Mass Destruction Act, 1993, or any other person.

(2) The Board of Directors may-

- (a) delegate any power granted to it by or under this Act to the chairman or any other director, the chief executive officer or a committee established under section 10; or
- (b) assign the performance of a function entrusted to the Board of Directors by or under this Act to the chairman or any other director, the chief executive officer or a committee established under section 10.

(3) The chief executive officer may in writing-

- (a) delegate any power conferred upon him by or under this Act in his capacity as chief executive officer to an employee of the AEC; or
- (b) assign the performance of any function conferred on him by or under this Act in his capacity as chief executive officer or accounting officer to such an employee.

(4) A delegation or assignment under subsections (1), (2) and (3) may be made subject to such conditions and restrictions as may be determined by the Minister, the Board of Directors or the chief executive officer, as the case may be, and may be withdrawn or amended by the Minister, the Board of Directors or the chief executive officer, as the case may be.

(5) The Minister, the Board of Directors or the chief executive officer shall not be divested of a power or function delegated or assigned by him or it in terms of subsection (1), (2) or (3), and may, subject to the provisions of subsection (6), amend or withdraw any decision made in the exercise of such delegated power.

(6) A decision made in the exercise of a power so delegated and by which a right has been conferred upon any person, shall not be amended or withdrawn.

(7) Where a power or function is delegated or assigned under subsection (1), (2) or (3) to the holder of an office, such delegation or assignment shall be deemed to have been made to the holder for the time being of the office or to any person at any time lawfully acting in his stead.

Share capital

15. (1) The share capital of the AEC shall be that amount which the Minister, with the concurrence of the Minister of Finance, shall determine from time to time on the recommendation of the Board of Directors and shall be divided into ordinary shares of one rand each.

(2) The State shall take up shares in the AEC to such extent and in such manner and subject to such conditions as the Minister may, with the concurrence of the Minister of Finance, determine.

Limitation of liability of State

16. The liability of the State as holder of the shares in the AEC shall be limited to the amount unpaid on shares held by it.

Finance of AEC

17. (1) The funds of the AEC shall consist of-

- (a) the share capital referred to in section 15;
- (b) money appropriated by Parliament to enable the AEC to perform its functions;
- (c) income derived by virtue of the exercise and performance of its powers and functions;
- (d) money raised or obtained by the AEC in terms of section 18;
- (e) the proceeds of the sale of shares and of dividends on shares held by the AEC in any company referred to in section 6(1)(a);
- (f) donations or contributions received by the AEC from any person, institution, government or administration;
- (g) income derived by virtue of subsection (4);
- (h) money received from any other source.

(2) (a) The AEC shall utilize its funds to defray expenses in connection with the performance of its functions or the exercise of its powers.

(b) The AEC shall use donations or contributions contemplated in subsection (1) (f) for such purposes and in accordance with such conditions as are specified by the donor or contributor concerned.

(3) The chief executive officer may in respect of-

- (a) work performed, products manufactured or services rendered by employees of the ABC; or
- (b) the utilization of the AEC's facilities; or
- (c) rights resulting from any discovery, invention or improvement by the AEC, charge such fees or make such financial arrangements as he may deem fit.

(4) The chief executive officer shall open an account in the name of the AEC with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990), and shall deposit therein all money received in terms of this section.

(5) The Board of Directors may with the approval of the Minister, granted with the consent of the Minister of State Expenditure, empower the chief executive officer to invest any unspent part of the AEC's funds, and to use interest on such investments to defray expenses in connection with the performance of his functions.

(6) The Board of Directors may with the approval of the Minister, granted with the consent of the Minister of State Expenditure, authorize the establishment of such reserve funds and the depositing of such amounts therein as it may deem necessary or desirable.

(7) The Board of Directors shall in each financial year, at such time as determined by the Minister, submit a statement of the AEC's estimated income and expenditure during the following financial year to the Minister for his approval, granted with the concurrence of the Minister of State Expenditure.

(8) The Board of Directors shall comply with the provisions of the Reporting by Public Entities Act, 1992 (Act No. 93 of 1992).

Loans

18. The chief executive officer may, with the approval of the Minister, granted with the concurrence of the Minister of Finance, raise money by way of loan, or otherwise obtain money at such rate of interest and on such conditions as the Board of Directors may deem fit, and may issue debentures and, if necessary, provide security or make provision for the repayment of money so raised or obtained.

Accounting officer and accounting

19. (1) The chief executive officer shall be the accounting officer of

the AEC.

(2) The accounting officer shall perform the functions entrusted to him by this Act, the Reporting by Public Entities Act, 1992 (Act No. 93 of 1992), or any other law or by the Board of Directors or by the Minister.

(3) The financial year of the AEC shall end on 31 March in each year.

CHAPTER III

International safeguards

Application of Nuclear Non-Proliferation Treaty and Safeguards Agreement

20. (1) Whereas South Africa acceded to the Nuclear Non-Proliferation Treaty on 10 July 1991 and entered into the Safeguards Agreement with the IAEA on 16 September 1991 in order to timeously detect and deter the diversion of nuclear material intended to be used for peaceful nuclear activities, to the manufacture of nuclear weapons or of other nuclear explosive devices or for any other unknown purposes, the AEC acts on behalf of the State as the national authority responsible for the implementation of the said Safeguards Agreement.

(2) In order to fulfil the responsibilities referred to in subsection (1)-

(a) the chief executive officer shall continuously liaise with the IAEA in respect of

- (i) negotiations on subsidiary arrangements to the Safeguards Agreement;
- (ii) the supply and maintenance of information regarding the design of nuclear installations and sites;
- (iii) the furnishing of such reports as required by the Safeguards Agreement and the subsidiary arrangements;
- (iv) requests for exemption from or termination of safeguards on nuclear material;
- (v) the provision of facilities to and support of inspectors of the IAEA;
- (vi) the selection of inspectors nominated for the Republic by the IAEA;
- (vii) the accompaniment of IAEA inspectors during inspections;

- (viii) the handling of the import into and export from the Republic of equipment and samples of. the IAEA;
- (b) the chief executive officer may issue instructions in respect of-
- (i) measuring methods and systems;
 - (ii) procedures for the handling of shipper-receiver differences in respect of nuclear material;
 - (iii) the undertaking of periodic physical stocktaking of nuclear material;
 - (iv) the operation of material accounting systems; (v) the keeping of records and reporting;
 - (vi) the provision of information regarding the design and changes to designs of nuclear installations and sites;
 - (vii) the provision of information on the import into, and export from, the Republic of nuclear material and nuclear related equipment and material;
 - (viii) applications for the exemption of or termination of safeguards on nuclear material;
 - (ix) the physical protection of nuclear material;
- (c) the chief executive officer may-
- (i) undertake the arrangement and verification of the physical inventory of nuclear material;
 - (ii) undertake inspections, as and when he deems it necessary, independently of the IAEA;
 - (iii) verify measuring methods and systems;
 - (iv) take and analyse samples;
 - (v) take independent measurements of nuclear material;
- (d) the chief executive officer may apply such measures as he may deem necessary regarding the containment and surveillance of nuclear material.
- (3) Any person in possession of, using, handling or processing nuclear

material shall-

- (a) keep the prescribed records;
- (b) submit the prescribed reports to the AEC;
- (c) perform the prescribed measurements on nuclear material and maintain the prescribed measuring control programmes;
- (d) provide the AEC with information regarding design and changes to designs of nuclear installations and sites in the prescribed manner;
- (e) undertake periodic prescribed physical stocktaking of nuclear material;
- (f) in the prescribed manner give prior notice of the import and export of nuclear material and nuclear related equipment and material;
- (g) implement and maintain the prescribed physical protective measures in respect of nuclear material;
- (h) without delay report to the AEC any loss of nuclear material in excess of the prescribed limits;
- (i) in the prescribed manner provide the AEC with periodic schedules of planned activities;
- (j) allow inspectors of the IAEA and authorized persons of the AEC to carry out inspections without any hindrance.

(4) All information disclosed or supplied to any person in terms of any provision of this Chapter, shall be treated by him as confidential and he shall use it only for the purposes of the application of the Nuclear Non-Proliferation Treaty and the Safeguards Agreement.

Authorization for acquisition or possession of, and carrying out of certain activities in respect of, nuclear material; restricted material and nuclear related equipment and material

21. (1) Except with the written authority of the Minister, no person, except the AEC, shall-

- (a) be in possession of any source material, unless he has come into possession thereof as a result of prospecting, reclamation or mining operations lawfully undertaken by him, or unless he is in possession of such material on behalf of a person who has so come into possession of such material or unless he has in any other manner lawfully acquired such material;

- (b) acquire, use or dispose of any source material;
- (c) import any source material into the Republic;
- (d) process, enrich or reprocess any source material;
- (e) acquire or be in possession of any special nuclear material;
- (f) import any special nuclear material into the Republic;
- (g) use or dispose of any special nuclear material;
- (h) process, enrich or reprocess any special nuclear material;
- (i) acquire or be in possession of any restricted material;
- (j) import any restricted material into the Republic;
- (k) use or dispose of any restricted material;
- (l) produce nuclear energy;
- (m) manufacture or otherwise produce or acquire, possess or dispose of uranium hexafluoride (UF₆);
- (n) import uranium hexafluoride (UF₆) into the Republic;
- (o) manufacture, acquire, possess or dispose of nuclear fuel;
- (p) import nuclear fuel into the Republic;
- (q) manufacture or otherwise produce, import, acquire, possess, use or dispose of nuclear related equipment and material.

(2) Any authority under subsection (1) may be granted subject to such conditions as the Minister may in his discretion impose.

(3) Any authority granted by the Minister under subsection (1) and any conditions imposed by him under subsection (2) shall be granted or imposed by him only after consultation with the Board of Directors.

(4) In the event of an application for an authorization being refused, the Minister shall in writing inform the applicant of his decision, stating the reasons for such decision.

(5) If a person who is a South African citizen or is resident in the Republic or a juristic person registered in the Republic performs an act

mentioned in subsection (1)(b), (d), (e), (g), (h), (i), (k), (l), (m), (o) or (q) in any country outside the Republic, he shall be deemed to have performed such act in the Republic.

Export of nuclear material, restricted material and nuclear related equipment and material

22. (1) Except on the written authority of the Minister, no person, except the AEC, shall export from the Republic source material, special nuclear material or restricted material or nuclear related equipment and material.

(2) An authority under subsection (1) may be granted on such conditions as the Minister may in his discretion impose, but taking into account the provisions of the Nuclear Non-Proliferation Treaty, the Safeguards Agreement or other similar agreements with other institutions or other governments: Provided that the export of source material, special nuclear material and restricted material and the equipment and material referred to in subsection (1)(b)-

(a) to a nuclear weapons state shall at all times be subject to the condition that the material and the equipment may be used for peaceful purposes only;

(b) to a non-nuclear weapons state shall always be subject to the condition that the material and the equipment shall at all times be subject to comprehensive international safeguards.

(3) Any authority granted by the Minister under subsection (1) and the conditions imposed by him under subsection (2) shall be granted and imposed by him only after consultation with the Board of Directors.

(4) In the event of an application for an authorization being refused, the Minister shall in writing inform the applicant of his decision, stating the reasons for such decision.

Furnishing of information and reports

23. (1) The chief executive officer may direct any person to whom an authority was granted under section 21 or 22 to furnish returns of-

(a) any source material, restricted material or special nuclear material acquired by him or in his possession or under his control;

(b) any nuclear related equipment or material acquired by him or in his possession or under his control;

(c) any other information in his possession relating to any work

carried out by him or on his behalf or under his direction in connection with the production, use, processing, enrichment or reprocessing of source material, restricted material, special nuclear material or nuclear energy, or in connection with research in respect of matters connected therewith.

(2) Returns referred to in subsection (1) shall contain such particulars and be accompanied by such plans, drawings and other documents as are specified in the notice concerned.

Inspection or investigation

24. (1) (a) An employee of the AEC authorized thereto in writing by the chief executive officer may, subject to paragraph (b), at all reasonable times enter any place or go upon any land, to determine whether the conditions of an authority referred to in section 23(1) are being complied with, or where he has reasonable grounds to suspect that any material, substance, equipment or plant referred to in the said section may be present or may be carried out or is situated, and may at that place or on that ground carry out such inspections and conduct such investigations as he may deem necessary or expedient.

(b) The chief executive officer shall issue to a person authorized under paragraph (a) a duly authenticated document to the effect that he has been so authorized, and in the exercise of his powers that person shall on demand produce such document.

(2) (a) An authorized person referred to in subsection (1) shall, before carrying out an inspection or conducting any such investigation in terms of the said subsection, consult with appropriate persons having duties upon the site or place in question to determine whether the carrying out of any such inspection or the conducting of any such investigation will be injurious to any person's health, or will cause injury to any person or damage to any property.

(b) In the event of disagreement as to whether the proposed inspection or investigation would or would not be likely to have any effect contemplated in paragraph (a), the said authorized person shall refer the question to the chief executive officer, who shall decide thereon.

(3) Any person carrying out the inspection or conducting the investigation may make copies of or excerpts from any drawing, plan or other document found at the place or on the land, and in any way take samples of any mineral, material or substance found in, on or under the surface of the place or land in question, and may, for the purpose of making copies or excerpts or of conducting tests or investigations, remove such a drawing, plan or document and retain possession thereof for a period not exceeding 60 days, and may also require the submission of such

documents as he may deem necessary.

(4) The AEC shall not be obliged to return any samples taken under subsection (3) to the owner of the land, place or site in question, or to compensate the owner therefor.

(5) The authorized person referred to in subsection (1) may use such apparatus and equipment as he may need and may take with him such persons as he may deem necessary to assist him in the exercise of his powers under this section.

(6) The said authorized person shall at the conclusion of his inspection or investigation without delay submit a written report thereon to the chief executive officer.

(7) If the chief executive officer on the strength of the report contemplated in subsection (6) is of the opinion that any activity or condition connected with nuclear material or nuclear related equipment and material, whether or not such activity or condition is relevant to any criminal offence under this Act, does not comply with the provisions and objects of the Nuclear Non-Proliferation Treaty and the Safeguards Agreement, or any similar agreement with any other institution or government, he shall notify the Minister accordingly.

(8) The Minister may in writing require that the activity in question be discontinued forthwith or that the condition in question be cleared away forthwith in such manner; and subject to such conditions as he may determine.

Patents for inventions in respect of nuclear material, restricted material, nuclear energy and nuclear related equipment and material

25. (1) Notwithstanding anything to the contrary contained in the Patents Act, 1978 (Act No. 57 of 1978), or any other law-

(a) any person who lodges with the registrar of patents an application for a patent in respect of an invention relating to the processing, use or production of source material, special nuclear material, restricted material or nuclear related equipment and material, or the production of nuclear energy, shall forthwith in writing notify the chief executive officer of the application so lodged, and shall at the same time furnish the chief executive officer with a copy of the specification relating to such invention and any other information regarding such invention which he may require: Provided that the chief executive officer shall regard such information as confidential and shall not use it for any commercial purposes;

(b) the registrar of patents shall-

- (i) allow any person duly authorized thereto in writing by the chief executive officer to inspect any application for a patent referred to in paragraph (a) and any document relevant to and accompanying any such application;
- (ii) defer acceptance of any application for a patent in respect of any such invention for a period of three months from the date upon which such application is lodged in the patents office, and for a further period of three months if the chief executive officer so directs in writing;
- (iii) at the written request of the chief executive officer, and until he otherwise directs, withhold acceptance or sealing of the patent application in respect of any such invention and keep secret the specification thereof, and notify the applicant accordingly.

(2) The communication of an invention to the chief executive officer or to any person acting in terms of an authorization contemplated in subsection (1) (b) (i), or anything done by such authorized person in connection with the invention for the purposes of any inspection contemplated in the said subsection, shall be deemed not to be publication or use of the invention prejudicing the grant or validity of any patent for the invention.

(3) The chief executive officer may, if he is by virtue of the information submitted to him under subsection (1) (a) satisfied that the grant of a patent for an invention would be contrary to the provisions of the Nuclear Non-Proliferation Treaty or the Safeguards Agreement or any similar agreement with any other institution or government, and after the applicant concerned has been granted the opportunity to lodge written or oral representations with him-

- (a) in writing direct the registrar of patents to refuse the granting of such patent, upon which the registrar shall refuse to grant the patent, notify the applicant accordingly and keep secret the specification of the invention and the manner in which it is to be applied; or
- (b) in writing authorize the registrar of patents to grant the patent, subject to the condition that the claims in the specification of the invention shall contain the disclaimer in respect of that invention mentioned in the authority.

(4) If the chief executive officer is satisfied that the patent application lodged with him in terms of subsection (1)(a) is not contrary to the Nuclear Non-Proliferation Treaty or the Safeguards Agreement or any

similar agreement with any other institution or government, he shall notify the registrar of patents accordingly.

(5) When any direction given under subsection (1)(b)(ii) or (iii) is withdrawn or an authority is granted under subsection (3) (b), any steps taken before the date of that direction in terms of the Patents Act, 1978, in respect of the relevant patent application and which were interrupted by such direction, may be continued as if the interruption did, not occur, and any period that has lapsed between the date on which the direction was issued to the registrar of patents and the date of the withdrawal thereof or of the authority for the granting of the patent, shall not be taken into account in the calculation of any prescribed period in terms of the Patents Act, 1978.

(6) The grant of a patent contrary to the provisions of subsection (3) shall be null and void.

Prohibition of applications for certain patents in countries outside Republic

26. (1) Except with the written consent of the chief executive officer, granted with the approval of the Minister, no person who is a South African citizen or is resident in the Republic, and no juristic person registered in the Republic, except the AEC, shall apply in a country outside the Republic for a patent for an invention or improvement in respect of the processing, use or production of source material, special nuclear material, restricted material or nuclear related equipment and material or the production of nuclear energy.

(2) The chief executive officer may grant consent under subsection (1) on such conditions as he may deem expedient.

(3) The chief executive officer shall grant or refuse such consent within a period of three months from the date on which the application concerned was lodged with him.

CHAPTER IV

Powers of AEC in respect of source material, special nuclear material, restricted material, radioactive waste, and irradiated nuclear fuel

Acquisition by State of source material and special nuclear material

27. (1) The Minister may, at any time when in his opinion the national interest so requires, acquire or cause to be acquired by purchase, lease or expropriation any source material which has been mined or processed and any special nuclear material.

(2) The control of all source material and special nuclear material acquired by the State under subsection (1) shall vest in the AEC.

(3) The Minister shall, in respect of any expropriation of source material or special nuclear material under subsection (1), pay to the owner thereof such compensation as may be agreed upon by the Minister, with the consent of the Minister of State Expenditure, and the owner or, failing such agreement, as may be determined by arbitration.

(4) The provisions of sections 7, 8 and 9 of the Expropriation Act, 1975 (Act No. 63 of 1975), shall mutatis mutandis apply in respect of each expropriation under subsection (1).

Power of AEC in respect of radioactive material

28. Notwithstanding anything to the contrary contained in any other law, the AEC or a subsidiary company may produce or otherwise acquire, or dispose of, or import into or export from the Republic, or be in possession of, or use on the premises of the AEC or a subsidiary company, or convey or cause to be conveyed, any radioactive material.

Control over discarding of radioactive waste and storage of irradiated nuclear fuel

29. Subject to the provisions of sections 34 and 51(1), the authority over discarding of radioactive waste and the storage of irradiated nuclear fuel, shall vest in the AEC.

Discarding of radioactive waste and storage of irradiated nuclear fuel

30. (1) Subject to authorities granted from time to time in terms of the Hazardous Substances Act, 1973 (Act No. 15 of 1973), no person may, except on the written authority of the chief executive officer, in any manner discard any radioactive waste or cause it to be discarded.

(2) No person shall, except on the written authority of the chief executive office, granted with the concurrence of the Board of Directors, store any irradiated nuclear fuel or cause it to be stored.

(3) An authority under subsection (1) or (2) may, in addition to the conditions contained in a nuclear licence, be granted on such conditions as the chief executive officer may in his discretion impose.

Reporting of information on occurrence of source material

31. (1) Any person who by virtue of information obtained in the course of prospecting or mining operations or of carrying out any scientific

investigation or a chemical or metallurgical process, or otherwise, has reason to believe that any source material occurs at any place, shall within a period of 30 days after he has developed such belief submit to the Director-General: Mineral and Energy Affairs and the AEC a written report regarding the matter, containing full particulars of the grounds on which his belief is based and full particulars of the place where it occurs.

(2) Notwithstanding anything to the contrary contained in any other law, the AEC shall have access to and the use of all information in respect of mineral values which must be made available to the Department of Mineral and Energy Affairs under the provisions of any law: Provided that-

- (a) no information obtained under this subsection may be furnished to anyone outside the service of the AEC without the written permission of the person from whom such information is derived; and
- (b) the AEC may use the said information only for feasibility and other studies with respect to reserves of source material in the Republic, or matters incidental thereto.

Provision of radioactive material for research, development and training purposes

32. The chief executive officer may, as far as is practicable, having regard to the public interest and safety, and upon such terms as the Board of Directors may determine, make available for nuclear research and technology development and for the training of persons to qualify them to engage in nuclear research and technology development, such quantities and kinds of nuclear material, radioactive material and nuclear related equipment and material as the chief executive officer may in his discretion determine, having regard to the quantities thereof available.

CHAPTER V

Council for Nuclear Safety

Continuation of Council for Nuclear Safety

33. The Council for Nuclear Safety established by section 24 of the Nuclear Energy Act, 1982 (Act No. 92 of 1982), shall continue as a juristic person known as the CNS, notwithstanding the repeal of that Act by this Act.

Objects of CNS

34. The objects of the CNS are, with a view to the safeguarding of persons against nuclear damage, to regulate and exercise control, through the issue of nuclear licences or the exercise of the discretion

contemplated in section 51(1), over-

- (a) the construction or use of a nuclear installation;
- (b) the use, possession, production, storage, processing, enriching, reprocessing, conveyance or disposal of radioactive material;
- (c) the discarding of radioactive waste; and
- (d) the storage of irradiated nuclear fuel;
- (e) the carrying out of any other activity involving radioactive material and which is capable of causing nuclear damage.

Functions of CNS

35. (1) The CNS may, subject to the provisions of this Act, and in addition to the powers granted and functions assigned to it under the other provisions of this Act, for the purpose of achieving its objects-

- (a) grant nuclear licences and issue declarations contemplated in section 51(1);
- (b) hire, purchase or otherwise acquire movable and immovable property, and may rent, sell or otherwise dispose of property so acquired: Provided that immovable property shall not be purchased or otherwise acquired, sold, burdened or otherwise disposed of without the prior approval of the Minister, granted with the concurrence of the Minister of State Expenditure;
- (c) apply for, purchase or by any other means acquire patents, licences, concessions, manufacturing rights or other similar rights which grant authority to utilize technologies, know-how, information or processes, and may use, exercise or develop such rights, concessions, know-how, processes, technologies or information so acquired or grant licences in regard thereto, or gain advantage therefrom in any other way;
- (d) collaborate with any other body or institution or establish and control facilities for the collection and dissemination of scientific and technical information, in connection with any matter regarding nuclear energy falling within the purview of the objects of the CNS;
- (e) collaborate with any educational, scientific or other body or institution in connection with the provision of instruction for, or the training of, persons required by the CNS, and may provide, on such conditions as the CNS may deem fit, financial or other

assistance in connection with the training of such persons in so far as in the opinion of the CNS it may be necessary in order to ensure that a sufficient number of trained persons will be available to enable the CNS to perform its functions;

- (f) insure itself against any loss, damage, risk or liability which it may suffer or incur;
- (g) advise the Minister on matters associated with any activity or condition which is capable of causing nuclear damage or which he may refer to the CNS, or regarding which the CNS may deem it necessary to advise the Minister;
- (h) accredit persons or suppliers of certain services or facilities necessary to enable licensees to comply with the requirements of the CNS;
- (i) act as the national competent authority for any purpose in connection with the IAEA's Regulations for the Safe Transport of Radioactive Material,

and the CNS shall in general have the power to conclude contracts, enter into agreements, provide consultancy or other services, or perform any act, whether in the Republic or elsewhere, whereby the objects of the CNS under this Act are carried into effect or which is calculated, directly or indirectly, to enhance the value of the services which the CNS may render towards the achievement of its objects or which the Minister may from time to time determine.

(2) The functions of the CNS mentioned in this section shall be performed by the executive officer, except in so far as they are by this Act, the council or the Minister assigned to any other person.

(3) (a) Subject to the provisions of paragraph (b) of this subsection, the CNS shall for the purposes of the Associated Institutions Pension Fund Act, 1963 (Act No. 41 of 1963), be deemed to be an associated institution.

(b) The CNS may with the approval of the Minister, granted with the concurrence of the Minister of State Expenditure, institute and manage or cause to be managed a pension or provident fund or an alternative pension or provident fund for its employees.

Control and management of affairs of CNS

36. (1) The affairs of the CNS shall be managed by a council, which, subject to the provisions of this Act, shall determine the policy of the CNS and shall generally exercise control over the performance of its functions and the exercise of its powers.

(2) The council shall consist of-

(a) the executive officer, who shall be an ex officio member of the council; and

(b) subject to subsection (3), not more than seven members, appointed by the Minister after consultation with-

(i) the executive officer;

(ii) the president of the Council for Scientific and Industrial Research;

(iii) the president of the Foundation for Research Development;

(iv) the director-general of the South African Bureau of Standards; and

(v) the president of the Medical Research Council, who shall not be licensees or employees of licensees and need not be employees of the said statutory bodies, and whose knowledge and experience and standing will in the opinion of the Minister contribute to the achievement by the CNS of its objects.

(3) The Minister may, whenever he deems it necessary or expedient, subject to the provisions of subsection (2), appoint an alternate member for any member of the council.

(4) Save for the executive officer, a member or alternate member of the council shall hold office for such period, but not exceeding three years, as the Minister may determine at the time of his appointment.

(5) Any person whose term of office as a member or an alternate member of the council has expired, shall be eligible for reappointment.

(6) The Minister may at any time terminate the period of office of a member or alternate member of the council if such member or alternate member is unable to perform his duties or is guilty of misconduct.

(7) In the event of the resignation, vacation of office or death of a member or alternate member of the council, the Minister may, after consultation with the chairman and the executive officer, appoint any other person in his stead for the unexpired term of office of such member or alternate member.

(8) A member holding office on the Council for Nuclear Safety

established under section 24 of the Nuclear Energy Act, 1982 (Act No. 92 of 1982), as substituted by section 10 of the Nuclear Energy Amendment Act, 1988 (Act No. 56 of 1988), immediately prior to the commencement of this Act, shall continue to hold his office on the council until the expiry of the period for which he was appointed in terms of section 24C of the first-mentioned Act or until the appointment of a council in terms of subsection (2), whichever occurs first.

Chairman and vice-chairman

37. (1) The Minister shall appoint a member of the council, other than the executive officer, as the chairman and another member as the vice-chairman of the council.

(2) The chairman or, in his absence, the vice-chairman shall preside at a meeting of the council, and if both the chairman and the vice-chairman are absent from any meeting of the council, the members present shall elect a member from among themselves to preside at such meeting.

(3) For the purposes of subsection (2) "member" shall include an alternate member present at a particular meeting of the council during the absence, or vacancy in the office, of the member in whose place he has been appointed as an alternate member.

Co-option of persons

38. The council may co-opt any person to assist it in the performance of its functions under this Act: Provided that such person shall not have any voting rights with regard to any matter before the council.

Disqualification for membership of council, and vacating of office

39. (1) No person shall be appointed as a member or alternate member of the council if such person -

- (a) is an unrehabilitated insolvent;
- (b) is not a South African citizen permanently resident in the Republic;
- (c) has been convicted of a criminal offence and in respect thereof sentenced to imprisonment without the option of a fine; or
- (d) (i) has been nominated as a candidate for election as a member of Parliament in terms of the provisions of the Electoral Act, 1979 (Act No. 45 of 1979); or

- (ii) has been nominated or elected as a member of Parliament or designated or appointed to any other office in the legislative or the executive authority of the State.
- (2) A member or alternate member of the council shall vacate his office if-
- (a) he becomes subject to a disqualification referred to in subsection (1);
 - (b) he becomes of unsound mind;
 - (c) in the case of a member, he has been absent from more than two consecutive meetings of the council without the leave of the chairman or, in the case of an alternate member, if he has been so absent during the absence, or vacancy in the office, of the member for whom he has been appointed as alternate member;
 - (d) the Minister terminates his period of office in terms of section 36(6); or
 - (e) he resigns as a member or alternate member.

Limitation of liability of member or alternate member of council

40. A member or alternate member of the council shall not be personally liable for any loss or damage arising out of, or in connection with, the performance of his duties by virtue of his appointment as such, unless the loss or damage is due to anything done in bad faith or to gross negligence or failure to comply with any provision of this Act.

Meetings of council

41. (1) A majority of the members of the council shall form a quorum for any meeting of the council.

(2) The decision of a majority of the members of the council present at a meeting of the council shall constitute a decision of the council, and in the event of an equality of votes on any matter the member presiding at the meeting in question shall have a casting vote in addition to his deliberative vote.

(3) No decision taken by the council or act performed under the authority of the council shall be invalid merely by reason of a vacancy on the council or the fact that any person not entitled to sit as a member of the council sat as a member at the time the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the majority of the members of the council present at the time who were

entitled to sit as members of the council.

(4) For the purposes of this section "member" shall include an alternate member present at a particular meeting of the council during the absence, or vacancy in the office, of the member in whose place he has been appointed.

Executive committee of council

42. (1) The council may nominate an executive committee, which may during the periods between meetings of the council perform such functions of the council as the council may determine from time to time, but the executive committee shall not be competent to set aside or vary a decision of the council.

(2) The executive committee shall consist of the chairman, vice-chairman and as many members of the council as the council shall determine.

(3) The chairman of the council or, in his absence, the vice-chairman shall preside at a meeting of the executive committee.

(4) The provisions of section 41 shall mutatis mutandis apply to any meeting of the executive committee.

(5) Any decision of the executive committee shall be laid upon the table at the first meeting of the council following upon the meeting of the executive committee at which the relevant decision was taken.

(6) The council may set aside or vary a decision of the executive committee, except a decision in consequence of which a payment has been made or any other right has been granted, to any person.

Committees of council

43. The council may establish such committees as it may consider necessary to assist it in the performance of its functions, and may appoint as members of any such committee such persons as it may deem fit, including members of the council or employees of the CNS or a licensee.

Executive officer of CNS

44. (1) The Minister shall with the concurrence of the council appoint an employee of the CNS as executive officer of the CNS.

(2) The executive officer shall be responsible for the management and the performance of the functions of the CNS by virtue of this Act and such functions as may be assigned to him by the council or the Minister in terms of the provisions of this Act or by the provisions of this Act or any other

law, and shall report on such matters as the council or the Minister may determine.

(3) Whenever the executive officer is absent or for any reason unable to perform his functions or whenever there is a vacancy in the office of the executive officer, the chairman of the council may designate an employee of the CNS to act as executive officer until the executive officer is able to resume his functions or until an executive officer is appointed in terms of subsection (1), and that employee shall, while so acting, have all the powers and perform all the functions of the executive officer.

Personnel of CNS

45. (1) The executive officer may, subject to the provisions of section 47(2) and on such conditions as the council may determine, appoint such employees as he may deem necessary to assist him in the performance of his functions.

(2) Any person serving as an officer or employee of the Council for Nuclear Safety immediately prior to the commencement of this Act and who was appointed, or was deemed to have been appointed, as such in terms of section 24K(2) of the Nuclear Energy Act, 1982 (Act No. 92 of 1982), shall be deemed to have been appointed as an employee in terms of subsection (1) of this section from the date of his appointment, on the conditions determined in accordance with the said subsection.

Delegation of powers and assignment of functions

46. (1) The council may in writing-

(a) delegate any power conferred on it by or under any provision of this Act, excluding the power under section 35(1)(a), to the chairman, the executive officer, the executive committee nominated under section 42, or any committee established under section 43 or any member thereof; or

(b) assign the performance of any function entrusted to the council by or under this Act to the chairman or any other member of the council, the executive officer, the executive committee nominated under section 42, or any committee established under section 43 or any member thereof.

(2) The executive officer may in writing-

(a) delegate any power conferred on him by or under this Act in his capacity as executive officer to any employee of the CNS; or

(b) assign the performance of any function entrusted to him by or under

this Act in his capacity as executive officer or accounting officer to such an employee.

(3) A delegation or assignment under subsection (1) or (2) may be made subject to such conditions and restrictions as may be determined by the council or the executive officer, as the case may be, and may be withdrawn or amended by it or him.

(4) The council or the executive officer shall not be divested of a power or function delegated or assigned by it or him in terms of subsection (1) or (2), and may, subject to the provisions of subsection (5), amend or withdraw any decision made in the exercise of such delegated powers or performance of such assigned functions.

(5) A decision made in the exercise or performance of any power or function delegated or assigned under subsection (1) or (2) and by which a right has been conferred upon any person, shall not be set aside or varied.

(6) Where a power or function is delegated or assigned under subsection (1) or (2) to the holder of an office, such delegation or assignment shall be deemed to have been made to the holder for the time being of the office or to any person at any time lawfully acting in the capacity of such holder.

Remuneration and allowances paid and benefits afforded to members or alternate members of council and other persons

47. (1) Members or alternate members of the council and other persons referred to in sections 38 and 43 who are not in the full-time service of the State or employees of the CNS, shall be paid from the funds of the CNS such remuneration and allowances and be afforded such benefits as the Minister may determine with the concurrence of the Minister of State Expenditure.

(2) The CNS shall out of its own funds pay to its employees such salaries, allowances, subsidies and other benefits as the council may determine in accordance with a system approved from time to time for that purpose by the Minister with the concurrence of the Minister of State Expenditure.

Funds of CNS

48. (1) The funds of the CNS shall consist of-

(a) fees paid by licensees;

(b) money appropriated by Parliament; and

(c) money received from any other source.

(2) The CNS shall utilize its funds for the defrayal of expenses incurred by the CNS in the performance of its functions under this Act, but money or other goods donated or bequeathed to the CNS shall be utilized in accordance with the conditions, if any, of the donation or bequest in question.

(3) The executive officer shall open an account in the name of the CNS with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990), and shall deposit in that account all money received in terms of this section.

(4) (a) The executive officer may invest all money received in terms of subsection (1) which is not required for immediate use, with the Public Investment Commissioners or, with the approval of the council, with such other institutions as the Minister, may with the concurrence of the Minister of State Expenditure determine.

(b) The CNS may use interest on such investments to defray expenses in connection with the performance of its functions.

(5) The council may with the approval of the Minister, granted with the concurrence of the Minister of State Expenditure, authorize the establishment of such reserve funds and the depositing of such amounts therein as it may deem necessary or expedient.

(6) The council shall in each financial year, at such time as is determined by the Minister, submit a statement of the CNS's estimated income and expenditure during the following financial year to the Minister for his approval, granted with the concurrence of the Minister of State Expenditure.

(7) The council shall comply with the provisions of the Reporting by Public Entities Act, 1992 (Act No. 93 of 1992).

Accounting

49. (1) The executive officer shall be the accounting officer of the CNS charged with the responsibility of accounting for all money received and payments made by the CNS.

(2) The accounting officer shall exercise all the powers and perform all the functions granted or entrusted to him by this Act, the Reporting by Public Entities Act, 1992 (Act No. 93 of 1992), or any other law or by the council or the Minister.

(3) The financial year of the CNS shall end on 31 March in each year.

(4) The external auditing of the CNS shall be conducted by the Auditor-General.

CHAPTER VI

Licensing of nuclear activities

Functions of CNS regarding nuclear licences

50. (1) Whenever the CNS receives an application for a nuclear licence in accordance with the provisions of this Act, it shall consider all relevant aspects of the application and may direct the applicant to furnish it with such information as the CNS may require to assist it in reaching a decision on the granting of a nuclear licence or not, and the conditions subject to which such licence ought to be granted.

(2) In the event of an application for a nuclear licence being refused, the CNS shall inform the applicant of its decision in writing and shall state the reasons for its decision.

Licences in respect of nuclear installations and activities involving radioactive material

51. (1) No person shall, except under the authority of a nuclear licence granted to such person by the CNS on application-

- (a) construct or use a nuclear installation; or
- (b) notwithstanding any other provision contained in this Act, except section 3, in any manner use, possess, produce, store, enrich, process, reprocess, cause to be conveyed, dispose of or carry out any other activity involving radioactive material and which is capable of causing nuclear damage or discard radioactive waste or store irradiated nuclear fuel or engage in any activity the performance of which may result in persons accumulating a radiation dose resulting from radioactive material, unless-
 - (i) the specific activity and the total activity of the radioactive material, or the radiation dose which persons may accumulate, is below the levels determined under section 2(e), and the CNS has declared in writing that in its opinion the risk of nuclear damage associated with the performance of the activity in question will not exceed limits laid down by the CNS for the safeguarding of persons; or
 - (ii) in the opinion of the CNS, the objects of this Act regarding the regulation of and control over any act or

activity performed or carried out as contemplated in this section by such person in respect of any site or radioactive material, are effectively achieved by the provisions of any law which applies in respect of such control, and the CNS has so declared in writing.

(2) The CNS may at any time withdraw a declaration contemplated in subsection (1) (b) (i) or (1) (b) (ii) and shall, within a period of 30 days after such withdrawal, notify the person in respect of whom the declaration has been made of such withdrawal in the manner it may deem fit.

(3) If two or more nuclear installations or sites are in the opinion of the CNS situated sufficiently close to one another to be regarded as one nuclear installation or site, the CNS may, for the purposes of the grant of a licence, regard them as one nuclear installation or site, as the case may be.

Licensing of certain vessels

52. (1) No vessel propelled by nuclear energy or which has on board any nuclear installation or any radioactive material, except where such radioactive material is in transit to or from a nuclear installation or site in the Republic in respect of which a nuclear licence has been granted by the CNS, shall enter the territorial waters of the Republic for the purpose of calling at any port within the Republic, or anchor or otherwise sojourn in the said waters, or enter or be in any such port, except under the authority of a nuclear licence granted by the CNS.

(2) A nuclear licence referred to in subsection (1) shall be valid for such period as is determined by the CNS, and may from time to time be renewed or extended for such further period as the CNS may determine.

(3) The licensee under any nuclear licence referred to in subsection (1) will not solely because of the expiry of such a nuclear licence be relieved of liability for anything which occurred or which was done or omitted during the currency of the nuclear licence.

(4) The provisions of sections 62 and 63 shall mutatis mutandis apply to-

- (a) any nuclear accident which occurs on, or in connection with, a vessel referred to in subsection (1) while it is in the territorial waters of the Republic or a port within the Republic; and
- (b) any claims for compensation arising out of such an accident in excess of the security or other provision contemplated in section 55(2)(b).

(5) An inspector authorized thereto in writing by the CNS shall in respect of any such vessel, and subject to the terms of any agreement referred to in section 55(1)(c), have the powers conferred upon him by section 67 in respect of sites and places contemplated in the said section.

(6) In so far as it may be necessary in order to give effect to any condition of a nuclear licence referred to in subsection (1) or to any provision of an agreement referred to in section 55(1)(c), any harbour authority may waive compliance with any regulation made for the control and management of harbours under any Act of Parliament.

(7) The CNS shall exercise the powers conferred upon it by this section subject to such directions as the Minister may determine from time to time.

Non-transferability of nuclear licences

53. A nuclear licence shall not be granted to any person other than a juristic person, and shall not be transferable.

General conditions in respect of certain nuclear licences

54. (1) (a) A nuclear licence referred to in section 51(1) shall be subject to such conditions as the CNS may deem necessary or desirable for the purpose of the safeguarding of persons against nuclear damage and which, subject to subsection (2), the CNS may impose when granting such nuclear licence or in its discretion at any time thereafter.

(b) The CNS may at any time amend any condition contemplated in paragraph (a) imposed by it.

(2) Conditions imposed under subsection (1)(a) may in particular include provisions relating to-

- (a) the accounting for and control of radioactive material;
- (b) the maintenance of an efficient system for detecting and recording the presence and intensity of any ionizing radiations from time to time emitted by anything at or in the nuclear installation in question or the site in question where any activity is performed, or by anything which is conveyed, removed or discharged therefrom;
- (c) the design, siting, construction, installation, operation, modification and maintenance of any nuclear installation to be constructed or used;
- (d) preparations for dealing with, and measures to be taken on, the occurrence of any nuclear accident or other emergency at or in the nuclear installation in question, or on the site in question or in

connection with the radioactive material in question;

- (e) the storage, handling, treatment, conveyance and disposal of radioactive material, the storage of irradiated nuclear fuel or the discarding of radioactive waste.

Conditions relating to licensing of vessels

55. (1) A nuclear licence granted under section 52(1) shall be subject to -

- (a) such conditions relating to liability for nuclear damage, security therefor and the manner of dealing with such security, as the Minister may determine from time to time with the concurrence of the Minister of Finance;
- (b) such conditions as the CNS may deem necessary or desirable for the purposes of the safeguarding of persons against nuclear damage, and which, subject to subsection (2), it may impose when granting such nuclear licence or in its discretion at any time thereafter;
- (c) in the case of a vessel registered outside the Republic, the appropriate terms of any agreement between the Government of the Republic and the government of the country in which the vessel in question is registered.

(2) Conditions imposed under subsection (1)(a) may include provisions-

- (a) determining, limiting or precluding the liability of the licensee concerned, notwithstanding provisions to the contrary contained in any law or rules of common law, for nuclear damage caused (whether with or without fault on the part of that licensee) by anything being on, or done upon or originating from the vessel while it is in the territorial waters of the Republic or in a port within the Republic;
- (b) requiring the licensee concerned from time to time to give security or otherwise provide, to the satisfaction of the Minister, for the fulfilment of any obligations which such licensee may incur for any nuclear damage contemplated in paragraph (a);
- (c) relating to the manner and circumstances in which any such security or other provision shall be made available in order to satisfy any claim against such licensee in respect of such nuclear damage;
- (d) determining any period or periods within which an action against such licensee for compensation in respect of such nuclear damage may be commenced.

(3) An agreement referred to in subsection (1)(c) may include any provision that may be determined, prescribed or imposed under subsection (1)(a) or (b) as a condition of a nuclear licence, and any such provision so included shall, in so far as it is not expressly embodied in the relevant nuclear licence as a condition thereof, be deemed to be a condition of that nuclear licence.

(4) Subject to the terms of any agreement referred to in subsection (1)(c), the CNS may at any time amend or rescind any condition imposed by it under subsection (1)(b), and the CNS shall within 30 days notify the licensee concerned in writing of any such amendment or rescission.

Fees

56. (1) Any person who applies for the granting of any nuclear licence shall, within the period specified by the CNS, pay such fees in respect of the application as the CNS may specify.

(2) Any person to whom a nuclear licence has been granted shall in respect of-

(a) an annual licence fee;

(b) any subsequent renewal or extension of the nuclear licence granted to him;

(c) any subsequent imposition of conditions contemplated in section 54(1)(a) or 55(1)(b); and

(d) any amendment of conditions contemplated in section 54(1) (b) or 55(4),

pay, within the period specified by the CNS, such fees as the CNS may from time to time determine.

(3) The CNS may charge fees in respect of services rendered by it.

Display of copies of regulations and conditions by licensees

57. (1) A licensee shall at all times while the nuclear licence granted to him is in force, post or in any other manner display and cause to be kept so posted or displayed, at a place suitable for this purpose, or if the CNS has for the purposes of this subsection designated a place, at such designated place, on the site, or at or in the nuclear installation, or at or on the vessel in question, a copy of the wording of any regulation or condition to which the relevant nuclear licence is subject under the provisions of this Act.

(2) Such copy of the wording of any regulation or condition shall be in bold print and worded, in addition to the official languages of the Republic, in such other languages determined in each individual case by the CNS, as to be conveniently read and understood by all persons present or carrying out duties on the site, or at or in the nuclear installation, or at or on the vessel in question.

Representations in connection with nuclear licences, and inspection of certain documents

58. (1) (a) The CNS may direct any person applying for a nuclear licence to serve upon any local authority, or upon any other person specified by it, a notice of his application, giving such particulars in respect of the proposed site or nuclear installation or the radioactive material or vessel in question as may be specified in the directive, and to publish such notice in the Gazette.

(b) A notice contemplated in paragraph (a) shall provide for a period of not less than three months within which representations may be made to the CNS in regard to the application.

(c) If the CNS has given such a directive it shall not grant the nuclear licence before the period so provided for has elapsed and, if representations were made to it within the said period in terms of the said notice, before it has considered such representations.

(2) As long as any nuclear licence referred to in section 51(1) (a) is in force, all persons having duties at or in the nuclear installation or on the site or in connection with the radioactive material in question, shall have the right, either individually or through an association or body recognized by the CNS for the purposes of this subsection as representative of such persons, to make representations to the CNS regarding the exercise of its powers under section 54(1) (a) and (b).

(3) (a) The CNS shall keep record of the particulars of any site or nuclear installation and of all acts and activities in respect of which it has granted a nuclear licence referred to in section 51(1), together with a map or maps showing, where applicable, the position and limits of every site or nuclear installation in question.

(b) The CNS shall make arrangements for copies of such record and every such map to be available for inspection by the public, and shall, at such times and in such manner as it may deem appropriate, give notice to the public of such arrangements.

(c) If, in the opinion of the CNS, the risk of nuclear damage arising from anything done or being done, or which has been or is present, at or in

any nuclear installation, or on any site in respect of which no nuclear licence is any longer in force, is within limits laid down by the CNS for the safeguarding of persons, particulars in connection therewith may be removed from the record referred to in paragraph (a).

Security by certain licensees in respect of liability for nuclear damage

59. (1) The CNS shall not grant a nuclear licence to any person unless such person has, if so required by the Minister, given security to the satisfaction of the Minister to fulfil any obligations which he may incur towards any person in terms of section 61 if such a nuclear licence is granted to him.

(2) The Minister shall with the concurrence of the Minister of Finance determine the time when, the manner in which and the amount for which security required by him in terms of subsection (1) shall be given.

(3) The Minister may, with the concurrence of the Minister of Finance, from time to time, whether during or after the expiry of the period of responsibility of a licensee, require such licensee-

- (a) although he has provided security in terms of subsection (1), to give additional security or to give security in another manner; or
- (b) to give security, although security was not previously required in terms of subsection (1), and the Minister may with the concurrence of the Minister of Finance-
 - (i) reduce the amount of security given;
 - (ii) refund to the licensee the amount given as security; or
 - (iii) discharge the licensee from security given in any other manner.

(4) If a nuclear accident occurs and compensation is claimed in respect thereof from the licensee in question, or the Minister is satisfied that such compensation will be so claimed, the Minister may require the licensee who has provided security to give additional security with respect to such accident or with respect to nuclear accidents which may occur subsequent to the giving of such additional security and cause damage for which he is liable in terms of this Act, to the extent to which, in the opinion of the Minister, the existing security given by the licensee has been or may be diminished, or rendered inadequate, as a result of any claim for compensation which has been or may be so made.

(5) The provisions of subsection (2) shall mutatis mutandis apply in respect of the giving of additional security in terms of subsection (3) or

(4).

Revocation and surrender of nuclear licences

60. (1) Any nuclear licence may at any time be revoked by the CNS or surrendered by any licensee.

(2) If a nuclear licence has been revoked by the CNS or surrendered in terms of subsection (1), the licensee concerned shall, if so directed by the CNS, deliver up or account for such nuclear licence to such person as the CNS may direct, and in the case of a licensee to whom a nuclear licence referred to in section 51(1) has been granted, such licensee shall during the remainder of his period of responsibility display, and cause to be so kept displayed, on the relevant site, if any, notices indicating the limits thereof in such positions as may be directed by the CNS.

(3) The CNS may on such revocation or surrender of a nuclear licence, or from time to time thereafter, in the case of a licensee to whom a nuclear licence referred to in section 51(1)(a) has been granted, until the expiration of the period of responsibility of the licensee concerned, give to the licensee such other directions as it may deem fit for preventing the causing of nuclear damage by anything which is being done or was done, or is or was present at or in, the relevant nuclear installation or on the relevant site, or for giving warning of any risk thereof.

Liability of certain licensees in respect of nuclear damage

61. (1) Any licensee shall, subject to the provisions of this Act, be liable for any nuclear damage caused during his period of responsibility-

- (a) in the case of a nuclear licence relating to any nuclear installation, by anything being present or which is being done at or in the nuclear installation in question, or by any radioactive material which has been discharged or released (in whatever form) from such nuclear installation;
- (b) in the case of a nuclear licence other than a nuclear licence relating to any particular nuclear installation, by-
 - (i) any radioactive material, or as a result of the performance or carrying out of any act or activity in connection with any radioactive material, in the possession or under the control of the licensee; or
 - (ii) any radioactive waste which has been discharged or released (in whatever form) from such site; or
 - (iii) the accumulation of a radiation dose arising from the

performance of any activity contemplated in section 51(1)(b)(i);

(c) by any radioactive material (in whatever form) while in the possession or under the control of the licensee, in the course of the conveyance thereof-

- (i) from or to any nuclear installation or site or any other place in the Republic; or
- (ii) in the territorial waters of the Republic from or to any place in the Republic to or from any place outside the Republic.

(2) For the purposes of subsection (1) radioactive material which is being conveyed on behalf of, or in terms of a contract with, a licensee shall be deemed to be under the control of such licensee while being so conveyed.

(3) Subject to the provisions of subsection (4), no person other than the licensee in question shall be liable for any nuclear damage caused as contemplated in subsection (1), and notwithstanding anything contained in the Apportionment of Damages Act, 1956 (Act No. 34 of 1956), or any other law or any other legal rule, no fault of any person shall be a defence to any claim for compensation on account of such damage, or affect the amount of the compensation which the licensee is liable to pay by virtue of the provisions of subsection (1).

(4) Notwithstanding the provisions of subsections (1) and (3)-

(a) a licensee shall not be liable to any person for any nuclear damage

- (i) to the extent to which such nuclear damage is attributable to the presence of such person or any property of such person at or in the nuclear installation, or on the site or near the radioactive material, in respect of which the nuclear licence in question has been granted, without the permission of the licensee or of a person acting on behalf of the licensee; or
- (ii) if such person deliberately caused or deliberately contributed to the cause of such damage;

(b) such licensee shall, for the purposes of recourse against or contribution by any person who deliberately caused or deliberately contributed to the cause of the damage for which the licensee is liable in terms of subsection (1), be deemed to be liable in delict therefor; and

- (c) the licensee shall retain any right of recourse or contribution which he may in terms of any contract have against any person in respect of any damage for which he is liable in terms of subsection (1).

Duties in case of nuclear accidents

62. (1) If a nuclear accident occurs in connection with radioactive material or a nuclear installation or a site in respect of which a nuclear licence has been granted, the licensee in question shall forthwith report it to the CNS and to such other persons, if any, as may be prescribed in relation to accidents of the kind in question.

(2) If the CNS is in terms of subsection (1) advised of the occurrence of a nuclear accident, it shall direct an inspector to investigate and report to it upon the accident and its causes, circumstances and effects, and, upon receipt of such report, the CNS shall in such manner as it may deem fit define particulars of the period during which and the area within which, in its opinion, the risk of nuclear damage connected with the accident exceeds the limits laid down by the CNS for the safeguarding of persons: Provided that if the CNS is of the opinion that it has not been informed of all persons who could have been present during any such period within any such area, the CNS shall define particulars of such period and area by notice in the Gazette.

(3) (a) The CNS shall, in the prescribed manner, keep a record of the names of all persons who according to its information were within the area so defined at any time during the period so defined, and of such particulars concerning them as may be prescribed.

(b) For the purposes of the proof of claims for compensation for nuclear damage any such record shall upon its mere production by any person in any court of law be admissible in evidence, and shall be prima facie proof of the presence of the person in question within the area so defined during the period so defined.

(4) Neither the defining of any area or period in terms of subsection (2) nor the failure to record the name of any person in terms of subsection (3), shall prejudice the right of any person to claim compensation from a licensee by virtue of the provisions of section 61.

Claims for compensation in excess of security

63. (1) If the aggregate amount of any claims for compensation against a licensee referred to in section 61 by virtue of the provisions of the said section, or if the amount of any such claims which has already been paid by the licensee together with the estimated amount still likely to be

required to be paid, exceeds, or is likely to exceed, the amount for which he has given security in terms of section 59 in respect of the nuclear accident in question, he shall forthwith notify the Minister thereof in writing, giving particulars of the aggregate number and amount of all such claims received and paid, together with an estimate of the number and amount of any other such claims which may have to be satisfied.

(2) If, upon receipt of a notice in terms of subsection (1) or any other information, the Minister is satisfied-

(a) that the aggregate amount of claims for compensation against a licensee by virtue of the provisions of section 61 that are unpaid and of such claims as are likely to be made thereafter, will exceed the amount of security given by such licensee in terms of section 59 in respect of the nuclear accident in question and available in respect of such claims; and

(b) that the licensee is unable to settle such claims, the Minister shall-

(i) table in Parliament a report on the nuclear accident in question in such form as he may consider appropriate, and in which is recommended that Parliament appropriate money for rendering financial assistance in the amount by which such claims exceed or are likely to exceed the security so available: Provided that the liability of the licensee as contemplated in section 61 shall in no respect be affected by any such appropriation; and

(ii) by notice in the Gazette suspend the obligation to pay such claims in respect of the nuclear accident in question until Parliament has decided about the recommendation.

(3) If Parliament has by resolution decided that money in an amount specified in such resolution be so appropriated, no payment of any such claim for compensation arising out of the said nuclear accident shall be made after the passing of such resolution without the approval of the Minister or an order of court.

(4) The giving of additional security by a licensee in terms of section 59(4) shall not affect the application of the provisions of this section.

Prescription of actions

64. Notwithstanding anything to the contrary in any other law contained

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(a) no action for compensation by virtue of the provisions of section

61 may be commenced- after the expiration of a period of 30 years from-

- (i) the date of the occurrence which gave rise to the right to claim such compensation; or
- (ii) in a case where a continuing occurrence or a succession of occurrences all attributable to a particular event or the carrying out of a particular operation gave rise to such right, the date of the last event in the course of that occurrence or succession of occurrences,

unless the claimant concerned during that period became aware, or by exercising reasonable care could have become aware, of the identity of the licensee concerned and of the facts from which the right to claim compensation arose, in which case no such action shall be commenced after the expiration of a period of two years from the date on which he so became aware or could have become aware, or after the expiration of such period of 30 years, whichever occurs first; and

- (b) the running of the said period of prescription of two years shall be suspended during any period in which negotiations in connection with a settlement are being conducted by or on behalf of the claimant and the licensee concerned, which period shall commence on the date on which such negotiations commenced in writing, and shall end on the date on which any of the parties concerned notifies the other that he is not proceeding with the negotiations: Provided that, subject to the provisions of paragraph (a), the said suspension shall not be longer than five years: Provided further that a claimant may only once claim such suspension during such period of prescription of two years.

Appeal to Minister

65. (1) Any person aggrieved by-

- (a) the refusal by the CNS to grant him a nuclear licence;
- (b) the withdrawal of a declaration which has been made in respect of him in terms of section 51(1);
- (c) the conditions imposed upon him by the CNS in terms of section 54 or 55; or
- (d) the revocation of a nuclear licence granted to him by the CNS, may within 60 days after he has been notified of the decision referred to in paragraph (a), (b), (c) or (d), as the case may be, in the prescribed manner appeal against such decision to the Minister.

(2) The implementation of a decision of the CNS shall not, pending the outcome of an appeal under subsection (1), be suspended.

(3) Whenever an appeal under subsection (1) is lodged with the Minister, the CNS shall at the request of the Minister submit to the Minister in writing the reasons for the decision against which the appeal is lodged.

(4) The Minister shall, after he has considered the grounds of the appeal, the reasons for the decision and any other information at his disposal-

- (a) confirm the decision of the CNS;
- (b) set aside such decision;
- (c) vary such decision; or
- (d) substitute for such decision any other decision which in the opinion of the Minister ought to have been taken.

(5) The decision of the Minister on an appeal shall for all purposes be deemed to be a decision of the CNS.

Appeal to Supreme Court against decision of Minister

66. (1) Any person aggrieved by-

- (a) any decision of the Minister in terms of section 65; or
- (b) any condition imposed by the Minister in terms of section 55, may within 60 days after he has been notified of the Minister's decision in the prescribed manner appeal against such decision to the Supreme Court of South Africa.

(2) A decision of the Minister contemplated in section 65 shall be deemed to be judgment in civil proceedings in the magistrate's court of the district in which the head office of the CNS is situated.

(3) The implementation of a decision of the Minister shall not, pending the outcome of an appeal under subsection (1), be suspended.

- (4) The Supreme Court may-
 - (a) confirm, set aside or amend the decision of the Minister; or
 - (b) remit the matter to the Minister for further consideration; and

(c) give an order as to costs as the court may deem fit.

(5) The judgment of the Supreme Court under subsection (4) shall have the effect of a judgment in civil proceedings.

(6) The decision of the Supreme Court contemplated in subsection (4)(a) shall for all purposes be deemed to be a decision of the CNS.

Inspectors

67. (1) The CNS may, subject to the provisions of section 45, appoint such number of inspectors as it may consider necessary or expedient for the purposes of giving effect to the provisions of this Chapter.

(2) The CNS shall issue to every person appointed under subsection (1) a certificate to the effect that he has so been appointed, and in the exercise of his powers and the performance of his functions that person shall on demand of any interested person produce such certificate.

(3) Any inspector may-

(a) at all reasonable times enter-

- (i) any nuclear installation or site in respect of which an application for a nuclear licence has been made to the CNS, or in respect of which such a nuclear licence has been granted;
- (ii) with the written authority of the CNS any place which the CNS on reasonable grounds suspects to be a site on which there is a nuclear installation;
- (iii) any place where parts of a nuclear installation are present or manufactured;
- (iv) any place where radioactive material is kept or is present, and in respect of which an application for a nuclear licence has been made to the CNS, or in respect of which such a nuclear licence has been granted;
- (v) with the written authority of the CNS any place where the CNS on reasonable grounds suspects that radioactive material is kept or is present,

with such equipment, and carry out thereon such inspections and conduct such investigations, as the inspector may consider necessary or expedient: Provided that before carrying out any such inspection

- or conducting any such investigation, the inspector shall consult with the appropriate persons having duties upon the site or place in question to determine whether the carrying out of any such inspection or the conducting of any such investigation would be likely to be injurious to any person's health, or to cause injury to any person or damage to any property: Provided further that in the event of disagreement as to whether the proposed inspection or investigation would or would not be likely to have any such effect, the inspector shall refer the matter to the council, which shall decide thereon;
- (b) direct the licensee or applicant in question, or any other person having duties in connection with or on the relevant site or place referred to in paragraph (a), to permit the inspector to take away for investigation the articles or objects pointed out by the inspector or to inspect the documents specified by the inspector, and to make copies thereof or to take them away for investigation, or direct such applicant, licensee or person, or any other person, to give the inspector information which he may possess and which in the opinion of the inspector is necessary for the purposes of any provision of this Act;
- (c) if any activity or condition associated with a nuclear installation, a site or any radioactive material, whether such activity or condition is relevant to any criminal contravention under this Act or not, in the opinion of the CNS does not comply with the requirements it has laid down for the safeguarding of the persons in respect of the relevant nuclear installation, site or radioactive material, with the approval of the CNS, in writing direct-
- (i) that the relevant activity be discontinued and the relevant condition be cleared away forthwith; and
- (ii) that the relevant nuclear installation, site or other place be put in a condition that complies with such requirements for the safeguarding of the public as agreed between the licensee concerned, or other person involved, and the CNS, or, in any other case, as determined by the inspector on the authority of the CNS;
- (d) with the approval of the CNS, take with him such persons as he may deem necessary to assist him in the exercise of his powers under this subsection, and to perform the functions and carry out the duties determined by him;
- (e) exercise or carry out any other prescribed powers and duties.
- (4) (a) Any person affected by any decision of an inspector taken under

any provision of this section which has not been so taken with the express approval of the CNS, may, within 30 days after the decision has been made known to him, lodge an appeal to the CNS in the prescribed manner.

(b) The CNS may in respect of such an appeal confirm, amend or annul the decision of the inspector.

(5) The CNS may require any applicant for a nuclear licence, or any licensee, or any owner or person in control of any site or place referred to in subsection (3) (a), to pay, within the period specified by the CNS, such fees to the CNS as the CNS may from time to time determine in connection with inspections and investigations in terms of this section.

CHAPTER VII

General provisions

Furnishing of reasons by Minister

68. When the Minister is in the exercise of any power in terms of this Act of the opinion that it is in the interests of the security of the State that the reasons for his exercise or his proposed exercise of such power be not disclosed, he need not disclose those reasons to any person affected or to be affected thereby.

Prohibition of disclosure of information in connection with nuclear installations and sites

69. (1) No person shall, subject to the provisions of subsection (2)-

(a) without the written consent of the executive officer, make known, transmit or otherwise disclose to any other person or publish, whether in or outside the Republic, any information in his possession or under his control (howsoever obtained) in regard to any nuclear installation or site in respect of which a nuclear licence has been issued or is to be issued, and which in the opinion of the executive officer may jeopardize the security arrangements in respect of such nuclear installation or site as required by the CNS for the purposes of the safeguarding of persons, and the executive officer shall not grant such consent without the concurrence of the licensee or future licensee of the nuclear installation or site in question;

(b) receive any information knowing or having reasonable grounds to believe that it has been communicated, transmitted or made known to him in contravention of the provisions of paragraph (a); or

(c) fail to take reasonable steps to safeguard information which he has

in his possession or under his control and which he is under paragraph (a) prohibited from making known, transmitting or otherwise disclosing to any person, or publishing, or so conduct himself as to endanger the secrecy thereof.

(2) The provisions of subsection (1) shall not apply in respect of the disclosure of information by any person in so far as it is necessary for the purposes of the performance of his functions in terms of this Act or for the purposes of legal proceedings under this Act or when it is required of him by a court or in terms of this Act.

(3) For the purposes of this section "information" shall include anything purporting to be information or containing or providing information.

Consent of CNS not recognition of accuracy of information

70. The written consent of the CNS granted in respect of matters mentioned in section 69 shall not be a recognition by the CNS of the accuracy of the information for which the consent referred to was granted, and the onus of proof of the accuracy thereof vests in any lawsuit with the person or organization which has made known, communicated or published such information.

Powers of AEC and CNS in connection with security of property and premises

71. (1) The AEC or the CNS may make or cause to be made such arrangements as it may deem necessary for the proper protection, defence or security of property which belongs to or is under the control of the AEC or a subsidiary company or the CNS, or is on any place on which activities of the AEC or a subsidiary company or the CNS are performed.

(2) Any person authorized thereto in writing by the chief executive officer or executive officer, as the case may be, may-

- (a) search a person or vehicle which is on any place referred to in subsection (1), and may open and investigate any container or parcel which is in the possession of that person or is on or in that vehicle;
- (b) attach any object which is in the possession of a person referred to in paragraph (a) or on or in such vehicle and which-
 - (i) belongs to the AEC or a subsidiary company or the CNS or is under the control of the AEC or a subsidiary company or the CNS; or
 - (ii) constitutes in his opinion a threat to the security of the

property of the AEC or a subsidiary company or the CNS or the security of a property under the control of the AEC or a subsidiary company or the CNS,

but excluding an object which is in the possession of such person for the purposes of the performance of the functions of the AEC or a subsidiary company or the CNS; and

(c) arrest or cause to be arrested a person in possession of an object referred to in paragraph (b)(ii).

Compensation in respect of injuries suffered by persons employed by CNS

72. (1) If a person who is employed in any capacity by or on behalf of the CNS, while so performing services suffers a personal injury or contracts a disease attributable to ionizing radiation from any radioactive material, or to the flammable, explosive, poisonous or special properties of radioactive material, or to the ionizing radiation produced by any apparatus or arising from the production or application of radioactive material or any apparatus, and in respect of which no liability can be established in terms of section 61, the CNS shall, subject to subsection (2)-

(a) defray all reasonable expenses incurred by or on behalf of such person in respect of medical, surgical, dental or hospital treatment, expert nursing services or the supply and maintenance of any artificial part of the body or other device necessitated by such injury or disease; and

(b) pay compensation in respect of disablement or death caused by such injury or disease.

(2) (a) If any person who is entitled to any benefit under this section would also be entitled, but for the provisions of this section, to any benefit in respect of the same injury or disease under the Workmen's Compensation Act, 1941 (Act No. 30 of 1941), his right under the said Act shall ipso facto lapse.

(b) Nothing contained in this section shall affect any right which any person may have under his contract of employment or under any provision of any law, to benefits more favourable than those to which he may be entitled under this section: Provided that no person shall be entitled to claim benefits both under this section and under the said contract or provision.

Recovery of losses and damage from persons in employment of AEC or subsidiary company or CNS

73. (1) If any person who is or was in the employment of the AEC or a

subsidiary company or the CNS, as the case may be, causes loss or damage to the AEC or the subsidiary company or the CNS in that he-

- (a) failed to collect the money due to the AEC or the subsidiary company or the CNS, as the case may be, while being responsible for the collection of such money;
- (b) is or was responsible for an irregular payment of money of the AEC or the subsidiary company or the CNS, or for a payment of such money not supported by a proper voucher;
- (c) is or was responsible for a fruitless expenditure of money of the AEC or the subsidiary company or the CNS owing to an omission to carry out his duties;
- (d) is or was responsible for a deficiency in, or the destruction of, or damage to, the money, stamps, face value documents and forms having a potential value, securities, equipment and stores or other property of the AEC or the subsidiary company or the CNS;
- (e) is or was responsible for a claim against the AEC or the subsidiary company or the CNS due to an omission to carry out his duties,

the accounting officer referred to in section 19 in the case of the AEC or a subsidiary company, or the accounting officer referred to in section 49 in the case of the CNS, shall determine the amount of such loss or damage, and may order by notice in writing the said person to pay to the AEC or the relevant subsidiary company or the CNS, as the case may be, within 30 days from the date of such notice the whole or any part of the amount so determined.

(2) If any person who is in the employment of the AEC or a subsidiary company or the CNS and who has in terms of subsection (1) been ordered to pay an amount, fails to pay such amount within the period stipulated in the notice in question, the amount may, subject to the provisions of subsections (4), (5) and (6), be deducted by the AEC or the subsidiary company in question or the CNS, as the case may be, from his monthly salary: Provided that such a deduction shall not in any month exceed one fourth of his monthly salary.

(3) If a person who was in the employment of the AEC or a subsidiary company or the CNS and who has in terms of subsection (1) been ordered to pay an amount, fails to pay such amount within the period stipulated in the notice in question, the relevant accounting officer may, subject to the provisions of subsections (3), (4) and (5), recover such amount on behalf of the AEC or the subsidiary company in question or the CNS, as the case may be, from such person by legal process.

(4) If any person who has been ordered to pay an amount under subsection (1), offers, within the period stipulated in the notice in question, to pay the amount in instalments, the accounting officer concerned may allow payment in such instalments as he may consider reasonable.

(5) Any person who has in terms of subsection (1) been ordered to pay an amount may, within a period of 30 days from the date of such order, appeal to the Board of Directors or the council, as the case may be, stating the grounds for his appeal, and the Board of Directors or such council may, after such further investigation as it may deem necessary, dismiss the appeal or order that the appellant be exempt either wholly or partly from the payment of such amount, as the Board of Directors or the council may consider fair and reasonable.

(6) Any person who has been ordered in terms of subsection (1) to pay an amount may, instead of appealing to the Board of Directors or the council under subsection (5), apply within a period of 30 days from the date of the order, or within such further period as the court may allow, to a competent court for an order setting aside such order or reducing the relevant amount, and the court may there upon, if it is not convinced on the merits of the case by the accounting officer concerned that the order was rightly made or that the amount is correct, make an order setting aside such order or reducing that amount, as the case may be.

(7) If an amount is reduced under subsection (5) or (6), the amount so reduced shall mutatis mutandis be recovered in terms of the provisions of subsections (1), (2), (3) and (4).

Discoveries, inventions and improvements by employees of AEC and other persons

74. (1) Subject to the provisions of subsections (4) and (5), the rights in all discoveries, inventions and improvements made by employees of the AEC in the course of their work as employees of the AEC, shall vest in the AEC, and the chief executive officer may make such discoveries, inventions or improvements available for use in the public interest, subject to such conditions and the payment of such fees and royalties as he may determine.

(2) The chief executive officer may in respect of any such discovery, invention or improvement the rights of which are vested in the AEC, pay out of its funds to the employee concerned such bonus or such other financial benefit as the Board of Directors may determine.

(3) (a) The chief executive officer may apply on behalf of the AEC for a patent for any invention or improvement referred to in subsection (1), and the AEC shall for the purposes of the Patents Act, 1978 (Act No. 57 of

1978), be regarded as the cessionary of the inventor.

(b) The chief executive officer may direct the registrar of patents to keep secret any such invention and the manner in which it is to be applied.

(4) The rights in any discovery, invention or improvement made by employees of the AEC in the course of work done on behalf of or for the benefit of another person or institution, shall vest in the AEC, unless otherwise agreed upon between the AEC and the person or institution concerned.

(5) The rights in any discovery, invention or improvement made in the course of work or during a special investigation done or carried out by any other person or institution on behalf of or for the benefit of the AEC shall vest in the AEC, or in the other person or institution, or jointly in the AEC and the other person or institution, as agreed upon in writing beforehand by the parties, and the party or parties in whom the rights in the invention or improvement are vested, may apply for a patent for such invention or improvement.

Proceedings in camera

75. In the case of-

(a) civil proceedings; or

(b) arbitration proceedings in terms of the Arbitration Act, 1965 (Act No. 42 of 1965),

in connection with any dispute arising out of this Act, the court or the arbitration tribunal, as the case may be, may, if it deems it necessary in the national interest, direct that the proceedings concerned be held in camera or that the public be excluded from attendance.

Application of and exemption from certain laws

76. (1) Subject to the provisions of subsection (2), the provisions of the Companies Act, 1973 (Act No. 61 of 1973), shall not apply in respect of the AEC or the CNS.

(2) The Minister may, by notice in the Gazette, apply to the AEC any provision of the Companies Act, 1973, or of another law not contrary to the provisions of this Act, with the amendments, adjustments and exceptions stated in the notice.

(3) In the same manner the Minister may exempt the AEC from the provisions of the laws referred to in the notice, to the extent so stated.

Regulations

77. (1) The Minister may make regulations as to-

(a) any matter required or permitted to be prescribed under this Act;
and

(b) in general, all matters in respect of which he may deem it necessary or expedient to make regulations to achieve the objects of this Act.

(2) Any regulation made under subsection (1) may provide that any person contravening such regulation or failing to comply therewith, shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding ten years, or to both a fine and such imprisonment.

Liquidation of AEC and CNS

78. The AEC or the CNS shall not be liquidated except by or in terms of an Act of Parliament.

Reproduction of documents of AEC and CNS

79. (1) The AEC or the CNS may reproduce or cause to be reproduced documents in its possession or under its control by microfilming or any other process which in its judgment reproduces such a document in a durable and accurate manner, and may keep or cause to be kept the reproduction instead of the original document in question.

(2) Any reproduction referred to in subsection (1) shall for the purposes of this Act be deemed to be the relevant original document, and a copy obtained by means of such a reproduction and which has been certified by the chief executive officer or the executive officer, or an officer authorized by the chief executive officer or the executive officer, as a true copy, shall be conclusive evidence in any court of law of the contents of the original document in question.

Exemption from duties and fees

80. The AEC and the CNS shall be exempted from the payment of any duties or fees which, but for the provisions of this section, would in terms of a provision of any law (except the Customs and Excise Act, 1964 (Act No. 91 of 1964), or the Value-Added Tax Act, 1991 (Act No. 105 of 1991)), have been payable to the State by the AEC or the CNS in respect of any act or transaction or in respect of any document connected with any act or transaction.

Disclosure of information

81. (1) Subject to the provisions of subsection (2), no employee of the AEC, a subsidiary company or the CNS or any person who is or was in any other way involved in the activities of the AEC or the CNS, or any other person, who has obtained information of the activities of the AEC or the CNS which is not yet public knowledge, may, except with the written authorization of the chief executive officer or the executive officer, as the case may be, make known, transmit or otherwise disclose to any person any such information so acquired.

(2) The provisions of subsection (1) shall not prohibit the disclosure or publication of information by any person referred to in subsection (1)-

(a) in so far as it is necessary for the purposes of the performance of his functions in terms of this Act or in so far as it is required of him by or under any other law; or

(b) to the Auditor-General.

(3) For the purposes of this section "information" shall include anything purporting to be information or containing or providing information.

Offences and penalties

82. (1) Any person who-

(a) (i) contravenes or fails to comply with any provision of section 20(3) or 31(1);

(ii) after the serving on him of any notice contemplated in section 23(1), without reasonable cause refuses to furnish the AEC with the return mentioned in such notice to the AEC in accordance with the instructions of such notice, or who deliberately or negligently furnishes an inaccurate return;

(b) hinders an authorized person referred to in section 24(1) or an inspector referred to in section 67 in the performance of his functions or the carrying out of his duties under any provision of this Act, or fails to comply with any order given to him by such authorized person or inspector under any provision of this Act;

(c) (i) contravenes or fails to comply with a provision of section 69;

(ii) contravenes or fails to comply with a provision of section

81;

- (iii) in a place envisaged in section 71(1) is in possession of an object contemplated in section 71(2)(b)(ii) without lawful reason; (d) (i) contravenes or fails to comply with a provision of section 21, 22 or 26 or of a condition imposed on him under section 21(2), 22(2) or 26(2); (ii) contravenes a provision of section 25, or refuses or fails to comply with a direction contemplated in section 60;
- (e) (i) contravenes or fails to comply with a provision of section 51 or of a condition imposed on him in terms of section 54;
- (ii) as a master of any vessel referred to in section 52(1) contravenes or fails to comply with any provision of that section or a condition imposed on him under section 55, shall be guilty of an offence, and liable on conviction-
 - (aa) in the case of an offence referred to in paragraph (a), to a fine or to imprisonment for a period not exceeding five years;
 - (bb) in the case of an offence referred to in paragraph (b), to a fine or to imprisonment for a period not exceeding three years;
 - (cc) in the case of an offence referred to in paragraph (c), to a fine or to imprisonment for a period not exceeding seven years;
 - (dd) in the case of an offence referred to in paragraph (d), to a fine or to imprisonment for a period not exceeding 10 years;
 - (ee) in the case of an offence referred to in paragraph (e), to a fine or to imprisonment for a period not exceeding 10 years; or
 - (ff) in the case of any conviction of an offence in terms of any provision of this Act for which no penalty is expressly determined, to a fine or to imprisonment for a period not exceeding six months.

(2) Any person who is guilty of an offence by virtue of a contravention of section 21 or 26, shall be deemed to have committed such offence in the Republic, and may be charged in any appropriate court in the Republic designated by the Minister or his assignee.

(3) Any person who contravenes or fails to comply with a provision of this Act or any condition, notice, order, instruction, prohibition, authorization, permission, exemption, certificate or document determined, given, issued, promulgated or granted by or under this Act by the Minister, the council, the Board of Directors, the executive officer or the chief executive officer shall, if any such contravention or failure is not declared an offence elsewhere, be guilty of an offence.

Provisos

83. (1) On the fixed date anything done before such date in terms of the provisions of the Nuclear Energy Act, 1982, and which can be done in terms of the provisions of this Act, shall be deemed to have been done in terms of the latter provisions.

(2) If any matter has not been completed on the fixed date by the Atomic Energy Corporation of South Africa, Limited, established by section 2 of the Nuclear Energy Act, 1982, or the Council for Nuclear Safety established by section 24 of the said Act, or by a committee thereof, the AEC or the CNS may continue with the completion of that matter in accordance with the stipulations of this Act, and anything done by the former corporation or council in connection with that matter, shall be deemed to have been done by the AEC or CNS, as the case may be, in terms of this Act.

(3) A regulation or notice issued in terms of the Nuclear Energy Act, 1982, and which could be issued under this Act shall remain in force until it is replaced by a regulation or notice issued under this Act.

(4) The person who occupied the post of chief executive officer of the Atomic Energy Corporation of South Africa, Limited, immediately before the fixed date, shall from that date be deemed to have been appointed in terms of section 11 of this Act, and he shall be deemed to have been appointed according to such conditions of service and with such remuneration as were applicable to him immediately before the above-mentioned date.

(5) The persons who, before the fixed date, were appointed as members of the management board by the board of directors referred to in section 8(9) and who served as such at that date, shall be deemed to have been appointed in terms of section 12 of this Act.

Amendment of section 1 of Act 15 of 1973, as amended by section 1 of Act 16 of 1976, section 1 of Act 31 of 1981 and section 1 of Act 53 of 1992

84. Section 1 of the Hazardous Substances Act, 1973 (Act No. 15 of 1973), is hereby amended by the substitution for the definition of "Group IV hazardous substance" of the following definition:

“Group IV hazardous substance' means **fabricated radio-isotopes contemplated in the definition of 'nuclear-hazard material' in section 1 of the Nuclear Energy Act, 1982 (Act No. 92 of 1982), which are radioactive material which is outside a nuclear installation as defined in the said Act Nuclear Energy Act, 1993, and is not a material which forms part of or is used or intended to be used in the nuclear fuel cycle, and-**

(a) **have** has an activity concentration of more than 100 becquerels per gram *and a total activity of more than 4 000 becquerels*; or

(b) **have** has an activity concentration of 100 becquerels or less per gram *or a total activity of 4 000 becquerels or less* and which the Minister has by notice in the Gazette declared to be a Group IV hazardous substance,

and which **are** is used or intended to be used for medical, scientific, agricultural, commercial or industrial purposes, *and any radioactive waste arising from such radioactive material;*”.

Repeal of laws

85. The laws mentioned in the Schedule are hereby repealed.

Short title and commencement

86. This Act shall be called the Nuclear Energy Act, 1993, and shall come into operation on a date fixed by the State President by proclamation in the Gazette.

Schedule

LAWS REPEALED (SECTION 85)

No. and year of law	Short title
Act No. 92 of 1982	Nuclear Energy Act
Act No. 21 of 1985	Nuclear Energy Amendment Act
Act No. 43 of 1987	Nuclear Energy Amendment Act
Act No. 56 of 1988	Nuclear Energy Amendment Act
Act No. 20 of 1991	Nuclear Energy Amendment Act
