

UNOFFICIAL TRANSLATION

**Act (N:o 493/2005) amending the Nuclear Liability Act (N:o 484/1972)**

Issued in Naantali, 23 June 2005

Pursuant to the decision of Parliament,

sections 24 and 34 of the Nuclear Liability Act (484/1972) issued on 8 June 1972 shall be *repealed*;

sections 1 to 5; section 7, subsection 1; section 8, subsection 1; section 12, subsection 2; section 14; section 15, subsections 1 and 3; sections 15a, 16 and 18 to 21; section 22, subsections 1 and 2; sections 23, 29 to 33 and 35; section 36, subsection 2; sections 37 and 38; and section 39, subsections 1 and 2 shall be *amended*,

as they appear partly in section 1 of Acts 820/1989 and 588/1994; in section 3, section 15, subsection 1 and section 15a of said Act 820/1989; partly in sections 4, 16 and 32 of the last-mentioned Act; in section 15, subsection 3, sections 18 and 38 as well as section 39, subsection 1 of said Act 588/1994; partly in sections 20, 23 and 33 of said Act 89/1999; and partly in section 30 of Act 128/1977; and

a new subsection 4 shall be *added* to section 7 as follows:

**Section 1**

For the purposes of this Act:

1) *Nuclear fuel* means fissionable material consisting of uranium or plutonium in the form of metal, alloy or chemical compound;

2) *Radioactive product* means any radioactive material other than that referred to in paragraph 1 above, including waste, produced in or made radioactive by exposure to the radiation incidental to the process of producing or utilising nuclear fuel;

3) *Nuclear substance* means nuclear fuel other than natural uranium or depleted uranium, and radioactive products other than radioisotopes, which are used or have reached the final stage of fabrication so as to be usable for any industrial, commercial, agricultural, medical, scientific or educational purpose;

4) *Nuclear reactor* means any structure containing nuclear fuel in such an arrangement that a self-sustaining chain process of nuclear fission can occur therein without an additional source of neutrons;

5) *Nuclear installation* means:

- a) any nuclear reactor other than a reactor on board a ship or any means of transport for use as a source of power;
- b) any factory for the production or processing of nuclear substances;
- c) any factory for the separation of isotopes of nuclear fuel;
- d) any factory for the reprocessing of irradiated nuclear fuel;
- e) any facility where nuclear substances are stored with the exception of any facility intended exclusively for storage incidental to the carriage of such substances;
- f) any nuclear reactor, factory or storage facility referred to above which is being decommissioned;
- 6) *Installation State* means the Contracting State within the territory of which a nuclear installation is situated or, if it is not situated within the territory of any State, the Contracting State by which the nuclear installation is operated or which has authorised its operation;
- 7) *Operator* means, in relation to a nuclear installation situated in Finland, the party operating or in charge of the installation, whether authorised thereto or not, and, in relation to a nuclear installation outside Finland, the party recognised under the law of the Installation State as the operator of that installation;
- 8) *Nuclear damage* means any damage caused by ionising radiation emitted from any source of radiation inside a nuclear installation, ionising radiation emitted from nuclear fuel, radioactive product or waste inside a nuclear installation, ionising radiation emitted from any nuclear substance originating from or transported to a nuclear installation, or ionising radiation emitted from any nuclear substance transported in the manner referred to in section 8, subsection 3;
- 9) *Nuclear incident* means any occurrence or series of occurrences having the same origin which causes nuclear damage;
- 10) *Paris Convention* means the Convention on Third Party Liability in the Field of Nuclear Energy, signed in Paris on 29 July 1960 and amended by the Additional Protocol of 28 January 1964 and the Protocol of 16 November 1982; or said Convention as amended by the above-mentioned Protocols and the Protocol signed in Paris on 12 February 2004;
- 11) *Supplementary Convention* means the Convention Supplementary to the Paris Convention, signed in Brussels on 31 January 1963 and amended by the Additional Protocol of 28 January 1964, the Protocol of 16 November 1982, and the Protocol signed in Paris on 12 February 2004;
- 12) *Vienna Convention* means the Convention on Civil Liability for Nuclear Damage, signed in Vienna on 21 May 1963; or said Convention as amended by the Protocol signed in Vienna on 12 September 1997; and
- 13) *Contracting State* means any State Party to the Paris Convention and any State Party to the Vienna Convention, and also to the Joint Protocol, signed in Vienna on 21 September 1988, concerning the Application of the Vienna and Paris Conventions.

## **Section 2**

It may be provided by a Government Decree that this Act shall not apply to such nuclear fuels or radioactive products in respect of which the associated risk of nuclear damage is minor in extent due to the small quantity, low enrichment or low radioactivity thereof, or to nuclear installations that only accommodate such nuclear substances.

## **Section 3**

Two or more nuclear installations operated by one and the same operator and located at the same site in Finland shall, for the purposes of this Act, be deemed to be one single installation together with the same operator's other premises which are located at the same site and in which a nuclear substance is being held.

## **Section 4**

The operator of a nuclear installation situated in Finland shall be liable for nuclear damage under this Act if the nuclear damage was suffered in a territory falling under the sovereignty or jurisdiction, as defined in international law, of Finland or other Contracting State, or in an equivalent territory of a non-Contracting State within the territory of which no nuclear installations exist at the time of the nuclear incident.

The provisions of subsection 1 also apply to any nuclear damage occurring in a ship or aircraft registered in a State referred to in said subsection, provided that the ship or aircraft was not in the territory of a State other than those referred to in subsection 1 or section 5 at the time when the damage occurred.

The maximum amount and territorial extent of the liability under this Act of an operator of a nuclear installation situated outside Finland shall be governed by the law of the Installation State.

## **Section 5**

Notwithstanding the provisions of section 4, the operator of a nuclear installation situated in Finland shall, under this Act, also be liable for nuclear damage suffered in a territory falling under the sovereignty or jurisdiction, as defined in international law, of a non-Contracting State within the territory of which a nuclear installation exists at the time of the nuclear incident, if the legislation of that State is consistent with the principles of the Paris Convention. The same applies to any nuclear damage occurring in a ship or aircraft registered in such a State, provided that the ship or aircraft was not in the territory of a State other than those referred to in section 4, subsection 1 or in this subsection at the time when the damage occurred.

The compensation payable under the insurance taken out by the operator of a nuclear installation situated in Finland for nuclear damage as defined in this section shall not exceed the amount that

would be payable under the legislation of the State concerned for an equivalent damage suffered in the territory of Finland.

## **Section 7**

The operator of a nuclear installation shall be liable to pay compensation for nuclear damage caused by a nuclear incident occurring in the course of carriage of nuclear substances from a nuclear installation situated in Finland or in the territory of another Contracting State. Where nuclear substances referred to above are sent to a non-Contracting State, the operator shall be liable for nuclear damage caused by any nuclear incident occurring before the nuclear substances being transported are unloaded from the means of transport by which it has arrived in the territory of said foreign State.

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A written contract concluded by the operator of a nuclear installation situated in Finland under which the liability for the damage caused by any nuclear incident shall rest with the operator of the receiving nuclear installation shall not be considered as a written contract within the meaning of this section if the nuclear substances being carried are manifestly of no immediate financial significance to the operator of that nuclear installation.

## **Section 8**

Where nuclear substances are sent from a non-Contracting State to a nuclear installation situated in Finland or in the territory of another Contracting State with the written consent of the operator of that installation, the latter shall be liable for nuclear damage caused by any nuclear incident occurring after the nuclear substances being carried have been loaded onto the means of transport by which it is to be carried from the territory of said foreign State.

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## **Section 12**

However, the operator of a nuclear installation situated in Finland shall not be liable under this Act for nuclear damage caused by a nuclear incident directly due to an act of war, armed conflict, civil war or insurrection. The law of the Installation State shall in such cases be applicable to the operator of a nuclear installation situated in the territory of another Contracting State.

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## **Section 14**

Compensation for nuclear damage shall be payable for:

- 1) personal injury or damage to property pursuant to chapter 5 and chapter 7, section 3 of the Tort Liability Act (412/1974);
- 2) economic loss that is not connected to personal injury or damage to property if the damage was incurred as a result of a significant impairment of the environment; and
- 3) the costs of reasonable measures of reinstatement of the environment impaired as a result of a nuclear incident, provided that such impairment was greater than negligible.

Compensation for nuclear damage shall also be payable for the costs of reasonable preventive measures, and the loss or damage caused by such measures, provided that the measures are used for preventing the damage referred to in subsection 1 following a nuclear incident or, notwithstanding section 1, subparagraph 8, following an incident that gives rise to the threat of a severe and imminent nuclear damage.

Where the party suffering damage has contributed thereto the compensation may be reasonably reduced where such person has acted or omitted to act with intent to cause damage or where there has been gross negligence on his part.

## **Section 15**

Claims for compensation of nuclear damage covered by the provisions of this Act relating to compensation for such damage or by the equivalent legislation of another Contracting State may not be brought against any instance other than the operator or the company providing insurance covering the liability of the operator.

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In the event of nuclear damage which is outside the scope of the compensation provisions of this Act or the equivalent provisions in the legislation of another Contracting State, no claim for compensation shall be brought in Finland if the nuclear damage has been caused by a nuclear incident that has occurred during the carriage of nuclear substances on a ship or otherwise by the operation of the ship, and if the operator of a nuclear installation is liable for the damage according to the legislation of a non-Contracting State that is Party to the Vienna Convention, or according to the legislation on liability for nuclear damage that is applied in some other foreign State, provided that the legislation is in all respects as favourable to injured parties as the Paris Convention or the Vienna Convention. If in these cases the operator of a nuclear installation is liable for the nuclear damage, the provisions laid down in this Act on the liability of an individual for nuclear damage caused with intent are applied, as well as the provisions laid down in this Act on the liability of an individual for nuclear damage referred to in section 12 and section 13, subsection 1 and for damage caused to the means of transport. These provisions are applied even when the operator of the installation is not liable for the damage under an applicable special provision in the Vienna Convention or an equivalent law given by a foreign State within the meaning of this subsection.

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## **Section 15a**

The provisions of section 5, subsection 2 and section 15 shall not be applied insofar as they conflict with the obligations of any international agreements binding on Finland concerning the carriage of nuclear substances or the applicable provisions elsewhere in the law.

## **Section 16**

Anyone who has been held liable to pay compensation for nuclear damage under any international agreement binding on Finland concerning the carriage of nuclear substances or provisions based on such an agreement, or under any other provision that is in force in a foreign State and principally equivalent to a provision of such an agreement, shall, notwithstanding the provisions of sections 4 and 5, acquire by subrogation the rights of the injured party against the operator liable for the damage under this Act. Where the compensation paid relates to nuclear damage referred to in section 5 hereof, the party liable shall have a right of recourse against the operator notwithstanding the provisions of section 5, subsection 2.

A person who is himself liable for nuclear damage pursuant to section 21 hereof shall have no right of subrogation or recourse under this section.

## **Section 18**

Under this Act, the liability of an operator of a nuclear installation situated in Finland in respect of nuclear damage caused by any single nuclear incident and suffered in Finland shall be unlimited.

Under this Act, the liability under of an operator of a nuclear installation situated in Finland in respect of nuclear damage caused by any single nuclear incident and suffered outside Finland shall not exceed EUR 700 million.

The Government may, in response to an application, determine for a single carriage of nuclear substances a maximum amount of liability lower than that referred to in subsection 2 if the risk arising from any nuclear event caused by the nuclear substances being carried is low considering the quantity and quality of these nuclear substances and the circumstances of the carriage as a whole. However, the maximum amount of liability so determined shall in no case be reduced to less than EUR 80 million. The proportion of the maximum amount referred to in this subsection used for compensating nuclear damage other than nuclear damage to the means of transport shall in no case be reduced to less than EUR 80 million.

The operator's maximum amount of liability shall not include any interest or any costs awarded by a court.

## **Section 19**

Where nuclear damage gives rise to the liability of two or more operators, they shall be jointly and severally liable to pay compensation, provided that the liability of each operator shall be limited to the maximum amount of liability established with respect to the nuclear installation concerned.

Where the damage has arisen in the course of carriage of more than one consignment of nuclear substances carried on one and the same means of transport or while more than one consignment have been stored in one and the same nuclear installation incidentally to their carriage, the aggregate liability of the operators shall not exceed the highest amount established with respect to any of these nuclear installations.

Where any nuclear installation held liable pursuant to subsection 1 is situated in Finland, the operator of this nuclear installation shall be liable for any nuclear damage occurring in Finland for its own behalf without any limitation of liability.

The apportionment of the aggregate liability as between the operators liable shall be determined with due regard to the extent to which the damage caused is attributable to each of the nuclear installations involved as well as to any other relevant circumstances.

## **Section 20**

If the maximum amount of liability applicable to the owner of a nuclear installation situated in Finland or in the territory of another Contracting State, or the maximum amount of the aggregate liability pursuant to section 19, subsection 1, is not sufficient to fully satisfy the claims of those who are entitled to compensation for the nuclear damage incurred, the compensation and any interest accruing thereto payable to the injured party under the operator's insurance shall be reduced proportionally.

If, following a nuclear incident, there are reasons to believe that a reduction pursuant to subsection 1 of this section will prove necessary, the Insurance Supervision Authority may decide that until further notice the compensation payable shall be reduced to a fixed percentage.

## **Section 21**

In respect of any sum that the operator of a nuclear installation has been held liable to pay as compensation under this Act or under the equivalent legislation of another Contracting State, the operator shall have a right of recourse against any individual who has caused the damage by an act or omission done with intent to cause damage or against any person who has assumed liability for the damage under the express terms of a written contract with the operator. Except as otherwise provided in section 17, subsection 2, and in section 19, subsection 3, the operator of a nuclear installation shall in no other case have a right of recourse against any person in respect of any sum he may have paid as compensation under this Act or under the corresponding legislation of another Contracting State.

## **Section 22**

Anyone wishing to bring an action for compensation for nuclear damage under sections 6 to 10 or 16 hereof against the operator of a nuclear installation or against the insurer providing insurance to cover such liability shall file a claim for compensation with the operator within three years from the date at which he had knowledge or by observing due diligence ought reasonably to have known both of the fact that he has suffered damage entitling him to compensation under this Act and of the operator liable or, in cases referred to in section 16, subsection 1, from the date at which the claim for compensation was made against him.

Notwithstanding the provisions of subsection 1, the right to bring an action shall also be extinguished in the event that no action for damages is brought against the operator or the insurer:

- 1) as regards personal injury, within 30 years from the date of the nuclear incident; and
  - 2) as regards other nuclear damage, within 10 years from the date of the nuclear incident.
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## **Section 23**

The operator of a nuclear installation situated in Finland is required to take out and maintain insurance to cover the operator's liability for nuclear damage under this Act or the equivalent legislation of another Contracting State, as referred to in section 18, subsections 1 to 3, up to the maximum amount referred to in section 18, subsection 2 or 3. The insurance shall be approved by the Insurance Supervision Authority.

Insurance may be taken out:

- 1) to cover the maximum liability for each nuclear incident that may occur; or
- 2) to cover at any time the nuclear installation by the maximum amount.

Liability for damage arising during the course of carriage of nuclear substances referred to in sections 6 to 8 above may be covered by a separate insurance.

## **Section 29**

If a party that is, under this Act or the equivalent legislation of another Contracting State, entitled to compensation for nuclear damage from the operator of a nuclear installation situated in Finland shows that it has been unable to recover the compensation due from the operator's insurer within the limits of the maximum amount of liability referred to in section 18, subsection 2, the outstanding compensation shall be paid by the State.

The State's liability for compensation under subsection 1 ceases when the aggregate amount of compensation paid under the insurance and out of public funds totals EUR 700 million.



### **Section 30**

Where liability for nuclear damage under the Paris Convention lies with the operator of a nuclear installation that is situated in Finland or in the territory of another State Party to the Supplementary Convention and used for peaceful purposes, and jurisdiction over actions for compensation lies with Finnish courts in accordance with the provisions of section 37 hereof, compensation out of public funds shall be afforded for the proportion of the nuclear damage in excess of EUR 700 million in the event that the damage was suffered:

- 1) in Finland or in the territory of another State Party to the Supplementary Convention;
- 2) on or over the sea areas outside the territorial waters of Finland or another State Party to the Supplementary Convention, and the nuclear damage is suffered by a national of Finland or another State Party to the Supplementary Convention;
- 3) on or over the sea areas outside the territorial waters of Finland or another State Party to the Supplementary Convention on board a ship or aircraft registered in said State, or in an artificial island, facility or building under the jurisdiction of said State; or
- 4) on or over the economic zone of Finland or another State Party to the Supplementary Convention, or on the continental shelf of said State, in connection with the exploitation or research of the natural resources in the economic zone or continental shelf.

Where the provisions of subsection 1, paragraphs 2 and 3 are applied, no compensation shall be paid if the nuclear damage occurred on or over the territorial waters of a State other than Finland or another State Party to the Supplementary Convention.

By application of the provisions of subsection 1 of this section the term "national of a State Party to the Supplementary Convention" shall include this State itself or a part of it, any company, whether under public or private law, association or other society, foundation or other similar body, whether corporate or otherwise, established in the territory of such State. Any person who under the law of a State Party to the Supplementary Convention is considered to have his habitual residence in that State and in respect of his right to compensation under the Supplementary Convention is under that law assimilated to the nationals of that State shall under this Act be considered to be a national of a State Party to the Supplementary Convention.

### **Section 31**

Compensation out of public funds pursuant to section 30 shall be determined in accordance with the principles laid down in section 12, subsection 1, sections 13 and 14, and section 18, subsection 4.

The provisions of section 16 regarding rights of recourse against an operator shall apply, *mutatis mutandis*, to rights of recourse against the State in respect of any sum paid as compensation for nuclear damage and for which compensation is payable out of public funds under section 30.

### **Section 32**

The aggregate amount of compensation for nuclear damage caused by a single nuclear incident payable pursuant to sections 6 to 15, 15a, 16 to 22, 30 and 31 by an operator and the State, and payable pursuant to any such agreement as referred to in Article 15 of the Supplementary Convention, shall total a maximum of EUR 1,500 million or any amount in excess thereof arrived at when applying Article 12a of the Supplementary Convention. The amount shall not include any interest or costs awarded by a court.

If the amount referred to in subsection 1 that is available for compensation out of public funds pursuant to sections 30 and 31 is not sufficient to fully satisfy the claims for compensation due, the amounts of compensation paid out of public funds and any interest accruing thereto shall be reduced proportionally. The provisions of section 20, subsection 2 shall apply, *mutatis mutandis*; however, the decision referred to therein shall be issued by the State Treasury.

### **Section 33**

If a nuclear incident in respect of which liability rests with the operator of a nuclear installation situated in Finland has caused personal injury in Finland or personal injury to a national of Finland during his stay elsewhere, and such nuclear damage comes to light before the cessation of the operator's liability pursuant to section 22 or the equivalent provisions of the legislation of another Contracting State, the compensation shall be paid out of public funds even if the person entitled to it has failed to bring an action within the specified period or take other appropriate measures to freeze the period of limitation but has had reasonable excuses for not bringing such action or taking such measures.

If a decision has been issued to reduce the compensation payable to other injured parties pursuant to section 20, subsection 1 or the compensation payable out of public funds pursuant to section 32, subsection 2 or the equivalent provisions of the legislation of another Contracting State, the compensation payable out of public funds under the subsection 1 shall be reduced accordingly. In other respects, the liability to pay compensation shall be determined as if the operator had been liable for the damage. The claim for compensation shall be filed with the State Treasury within the period specified in section 22, subsection 1.

### **Section 35**

Compensation pursuant to sections 29 or 30 shall not be payable for nuclear damage caused by such nuclear incidents as referred to in section 12, subsection 2.

### **Section 36**

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With regard to any other sums paid out by the State pursuant to sections 30 to 32 or otherwise paid out in accordance with the provisions of the Supplementary Convention in respect of a nuclear incident giving rise under the law of another Contracting State to the liability of the operator of a nuclear installation situated in Finland, the State shall have a right of recourse only against a person against whom the operator has a right of recourse under section 21. The provisions of this subsection shall apply, *mutatis mutandis*, in respect of any compensation paid out by the State pursuant to section 33.

### **Section 37**

Jurisdiction over actions under this Act shall lie with the courts of the State set out in Article 13 of the Paris Convention as amended by the Protocol signed in Paris on 12 February 2004 referred to in section 1, subsection 10.

### **Section 38**

Where jurisdiction over an action brought under this Act lies with Finnish courts, the competent court shall be the Helsinki District Court.

### **Section 39**

Where in accordance with the provisions of the Paris Convention or the Vienna Convention jurisdiction over actions for compensation for nuclear damage lies with the courts of another Contracting State, any judgment entered by such court in such action shall, as soon as the judgment has become enforceable under the law of that State, on request be enforceable also in Finland, without the merits of the claim being subject to any further proceedings. This provision shall, however, not entail any obligation to enforce a judgment to the extent that the applicable maximum amount of liability of the operator would thereby be exceeded.

An application for enforcement shall be made before the Helsinki Court of Appeal. The application shall be accompanied by:

- 1) the original judgment or a copy thereof certified by the competent public authority;
  - 2) declaration issued by the competent public authority of the State where the judgment was entered that the judgment relates to compensation due under the Paris Convention or the Vienna Convention and that it is enforceable in that State; and
  - 3) if the relevant documents are in a language other than Finnish or Swedish, an officially certified translation into Finnish or Swedish shall be attached to the document.
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This Act shall enter into force as provided by a Government Decree.

The competent court between Finland and another Contracting State which has signed the Protocol made in Paris on 12 February 2004 referred to in section 1, subsection 10 but has not ratified it or become Party to it shall nonetheless be determined according to the wording in force at the moment of entry into force of this Act. The provisions of section 1, subsection 1, paragraph n and section 1, subsection 2, repealed by this Act, shall also apply to said Contracting State.

Upon entry into force of section 18 of this Act, the Government Decision (333/1994) on the maximum amount of liability under the Nuclear Liability Act issued on 5 May 1994 shall be repealed.

Naantali, 23 June 2005

President of the Republic of Finland  
**TARJA HALONEN**

Minister of Trade and Industry  
**Mauri Pekkarinen**

HE 2/2005  
TaVM 8/2005  
EV 50/2005