

FEDERAL LAW BY DECREE NO. 4 OF 2012
CONCERNING CIVIL LIABILITY FOR NUCLEAR DAMAGE

We, Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates,

- Having reviewed the Constitution;
- Federal Law No. 1 of 1972 Concerning the Jurisdictions of the Ministries and the Competences of the Ministers, and the amending laws thereof;
- Federal Law by Decree No. (6) of 2009 Concerning the Peaceful Uses of Nuclear Energy;
- Federal Decree No. 32 of 2012 Ratifying the Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage of 1997; and
- Federal Decree No. 33 of 2012 Ratifying the Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention of 1988; and
- Acting upon the proposal of the Minister of Energy and the consent of the Cabinet,

have issued the following Federal Law by Decree:

DEFINITIONS

Article (1)

In the implementation of the provisions of this Law by Decree, and regardless of provisions of any other legislation, the following terms and phrases shall have the meanings set forth below unless the context requires otherwise:

State: The United Arab Emirates.

Authority: Federal Authority for Nuclear Regulation.

IAEA: International Atomic Energy Agency.

Operator: The person licensed by the Authority to operate a Nuclear Installation pursuant to Federal Law by Decree No. (6) of 2009 and designated as the Operator in such license.

Nuclear Fuel: Any material which is capable of producing energy by a self-sustaining chain process of nuclear fission.

Radioactive Products or Waste: Any radioactive material produced in, or any material made radioactive by exposure to the radiation incidental to, the production or utilization of Nuclear Fuel, but does not include radioisotopes which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial or industrial purpose.

Nuclear Material:

1. Any Nuclear Fuel, other than natural uranium and depleted uranium, capable of producing energy by a self-sustaining chain process of nuclear fission outside a Nuclear Reactor either alone or in combination with other material.
2. Radioactive Products or Waste.

Nuclear Reactor: 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.

Nuclear Installation:

1. Any Nuclear Reactor other than one with which a means of sea or air transport is equipped for use as a source of power, whether for propulsion thereof or for any other purpose.

2. Any factory using Nuclear Fuel for the production of Nuclear Material, or any factory for the processing of Nuclear Material, including any factory for the re-processing of irradiated Nuclear Fuel.
3. Any facility where Nuclear Material is stored, other than those storehouses used to store Nuclear Material during carriage.
4. Other facilities in which there are Nuclear Fuel or Radioactive Products or Waste as the Board of Governors of the IAEA shall from time to time determine.

Several Nuclear Installations of one Operator which are located at the same site shall be considered as a single Nuclear Installation.

Nuclear Damage:

1. Loss of life or any personal injury;
2. Loss of or damage to property;
3. Economic loss arising from loss or damage not referred to in paragraphs (1) or (2) above, incurred by a person entitled to claim for compensation in respect of such loss or damage;
4. The costs of measures of reinstatement of impaired environment, unless such impairment is insignificant, if such measures are actually taken or to be taken, and insofar as not included in paragraph (2) above;
5. Loss of income deriving from an economic interest in use or enjoyment of the environment, incurred as a result of a significant impairment of that environment, and insofar as not included in paragraph (2) above;
6. The costs of preventive measures, and further loss or damage caused by such measures;
7. Any other economic loss, other than loss caused by the impairment of the environment,

to the extent that the loss or damages referred to in paragraphs 1-5 and 7 above have emerged from or resulted from ionizing radiation emitted from any radiation source within a Nuclear Installation, or emitted from Nuclear Fuel, Radioactive Products or Waste in a Nuclear Installation, or of Nuclear Material coming from, originating in or sent to a Nuclear Installation,, whether arising from the radioactive properties of such material or from a combination of radioactive properties with , toxic, explosive or other hazardous properties of such material.

The Cabinet may issue instructions related to the implementation of the provisions of paragraphs 1-7.

Nuclear Incident: Any occurrence or series of occurrences having the same origin which causes Nuclear Damage or creates a grave and imminent threat of causing such damage only with respect to preventive measures.

Special Drawing Right (SDR): The unit of account as defined by the International Monetary Fund and used by it for its own operations and transactions.

1997 Vienna Convention: The consolidated text of the 1963 Vienna Convention as amended and attached to the Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage dated 12 September 1997.

OBJECTIVES OF LAW

Article (2)

The objective of this Federal Law by Decree is to:

1. Regulate the provisions and determine the scope of the civil liability and compensation for Nuclear Damage.
2. Determine the financial security that the Operator must maintain.
3. Apply the 1997 Vienna Convention on Civil Liability for Nuclear Damage wherever no provision is made in this Law by Decree.

SCOPE OF APPLICATION

Article (3)

The Operator of a Nuclear Installation shall be absolutely liable for damages upon proof that such damage has been caused by a Nuclear Incident as described in Article II of the 1997 Vienna Convention.

The Authority may, if the small extent of the risks involved so warrants, exclude any Nuclear Installation or small quantities of Nuclear Material from the application of this Law by Decree, provided that:

1. With respect to Nuclear Installations criteria for such exclusion have been established by the Board of Governors of the IAEA and the Authority issues a resolution that such exclusion satisfies such criteria.
2. With respect to small quantities of Nuclear Material, maximum limits for the exclusion of such quantities have been established by the Board of Governors of the IAEA and the Authority issues a resolution that such exclusion is within such established limits.

LIABILITY FOR NUCLEAR DAMAGE

Article (4)

The Operator is solely liable for any Nuclear Damage caused by a Nuclear Incident, in accordance with the provisions of Article II of the 1997 Vienna Convention.

Article (5)

1. The liability of the Operator to compensate for Nuclear Damage for any one Nuclear Incident shall not exceed 450 million SDRs.
2. The Authority, having regard to the nature of the Nuclear Installation or the Nuclear Material involved and to the likely consequences of an incident originating therefrom, may establish a lower limit for the liability of the Operator for compensating for Nuclear Damage referred to in paragraph (1) of this Article in relation to Nuclear Installations consisting of research reactors, low-power reactors and facilities that process or store Nuclear Material, provided that in no event shall any amount so established be less than 5 million SDRs. The State shall ensure coverage of the difference between the lower limit which the Authority establishes pursuant this paragraph and the higher liability limit set forth in paragraph (1) of this Article.

Article (6)

Upon the request of a carrier of Nuclear Material or a person handling Radioactive Products or Waste, and with prior written consent of the Operator, the Authority may designate or recognize him as an Operator in place of the Operator identified by the Authority, solely for purposes of

Article II of the 1997 Vienna Convention and upon compliance with the insurance and financial security coverage requirements set forth in Article 8 of this Law by Decree.

In this event, such carrier or such person referred to in the first paragraph of this Article shall be considered as an Operator of a Nuclear Installation situated in the territory of the State.

Article (7)

If the Operator proves that the Nuclear Damage resulted wholly or partly either from the gross negligence of the person suffering the damage or from an act or omission of such person done with intent to cause damage, the court may relieve the Operator wholly or partly from the obligation to pay compensation in respect of the damage suffered by such person.

FINANCIAL SECURITY AND INSURANCE

Article (8)

1. The Operator shall obtain and maintain insurance and guarantees required by the Authority with respect to its liability for Nuclear Damage.
2. For the purposes of issuing a license to operate a Nuclear Installation, the Operator of the Nuclear Installation shall obtain and maintain insurance or other financial security up to 450 million SDRs, or up to the limit which the Authority may determine in accordance with the provisions of paragraph (2) of Article 5 of this Law by Decree, to cover his liability for any one Nuclear Incident, provided that this insurance or other financial security shall be of such type and on such terms as approved by the Authority.
3. The Operator may obtain the insurance or the financial security from any sources approved by the Authority within or outside of the State.
4. The provisions of this Law by Decree complies with the priority in the distribution of compensation given to claims for loss of life or personal injury set forth in paragraph (2) of Article VIII of the 1997 Vienna Convention.
5. If the Operator is not able, after exhausting all efforts, to obtain insurance coverage or any part thereof referred to in paragraph (2) of this Article, the Authority may determine that the required insurance under the provisions of this Law by Decree is not available in domestic or international insurance markets, or that the insurance coverage is not available or is temporarily suspended. In these cases, the risks covered under the

insurance coverage will be covered directly by the State, up to the limit provided for in paragraphs (1) or (2) of Article 5 of this Law, as the case may be, until such time as the Authority announces the availability of the insurance coverage and gives the relevant parties a period of time set by the Authority, upon its sole discretion, to obtain such insurance.

Article (9)

1. An Operator shall provide the carrier with a certificate issued by or on behalf of the insurer or any other financial guarantor furnishing financial security pursuant to Article 8 of this Law by Decree.
2. The certificate referred to in the first paragraph of this Article shall comply with the requirements set forth in this Law by Decree and with Article III of the 1997 Vienna Convention.
3. This Article shall not apply to transportation which occurs wholly within the territory of the State.

ACTIONS FOR COMPENSATION

Article (10)

1. Actions for compensation for Nuclear Damage shall be brought only against the Operator or the person furnishing insurance or financial security pursuant to paragraph (1) of Article 8 of this Law by Decree.
2. Action for compensation against the Operator shall lapse on the expiry of valid insurance or financial security if it continues to be valid for a period longer than the period set forth in paragraph 1(a) of Article VI of the 1997 Vienna Convention
3. The rights for claiming compensation of any person who suffered Nuclear Damage shall expire if an action is not brought within three years from the date on which the person suffering damage had knowledge, or ought reasonably to have had knowledge of the damage and of the Operator liable, provided that the periods established pursuant to paragraph 1(a) of Article VI of the 1997 Vienna Convention or paragraph (2) of this Article have not been exceeded.

Article (11)

The Operator shall have the right of recourse in the following two cases:

1. If this is expressly provided for in a contract in writing.
2. If the Nuclear Incident results from an act or omission done with intent to cause damage. In such case the action shall be brought against the person who acted or participated in causing the act or omitted to act with such intent.

The recourse provided for under this Article may extend to benefit the State insofar as it has provided public funds pursuant to 1997 Vienna Convention.

JURISDICTION

Article (12)

1. The Federal Courts in the Emirate of Abu Dhabi shall have exclusive jurisdiction over actions arising pursuant to this Law by Decree.
2. The provisions of this Law by Decree shall apply to actions related to civil liability for Nuclear Damage. The provisions of the 1997 Vienna Convention shall apply wherever no provisions are made in this Law by Decree.
3. Upon the submission of an action for compensation for Nuclear Damage under the jurisdiction of the court referred to in the paragraph 1 of this Article, the court may appoint one or more specialists or experts to assist the court in accordance with the applicable laws and legislation.

COMPETENT AUTHORITY

Article (13)

The Authority shall be the competent authority with respect to implementation of the provisions of this Law by Decree, including:

- (1) Determining whether to exempt small quantities of Nuclear Material or Nuclear Installations from application of the provisions of the 1997 Vienna Convention and Article 3 of this Law by Decree;
- (2) Determining the lower limit of liability in the case of Nuclear Installations consisting of research reactors, low-power reactors and facilities that process or store Nuclear Material, pursuant to paragraph (2) of Article 5 of this Law by Decree; and
- (3) Determining whether the civil liability insurance or any other financial security of the applicant or the Operator is in accordance with the terms of financial protection required by paragraph 1(a) of Article VII of the 1997 Vienna Convention and paragraphs (1) and (2) of Article 8 of this Law by Decree.
- (4) Issuing rules and regulations relating to the application of provisions of this Law by Decree.

GENERAL PROVISIONS

Article (14)

1. Nothing in this Law by Decree shall be construed as limiting or restricting any right or obligation of any person arising under any scheme or system of health insurance, employees' compensation or occupational disease compensation.
2. A beneficiary of any scheme or system of insurance or compensation referred to in paragraph (1) of this Article shall be eligible for the compensation provided in this Law by Decree in accordance with its terms.

Article (15)

This Law by Decree shall be published in the Official Gazette and shall come into force on the date of its publication.

**Khalifa bin Zayed Al Nahyan
President of the United Arab Emirates**

**Issued at the Presidential Palace in Abu Dhabi
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