

Law Creating the Nuclear Safety Council

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Safety Council**





**Law 15/1980, of 22<sup>nd</sup>  
April, Creating the Nuclear  
Safety Council, amended  
by Law 33/2007, of 7<sup>th</sup>  
November**



### **Preliminary note**

The content of this Law has been partially amended since it was enacted, by means of successive legislative decrees, whose derogations, or express alterations, or rephrasing, are officially recorded through the inserted footnotes.

The last that entailed a true reform was, Law 33/2007 November, which amended articles 1, 2, 3, 4, 5, 6, 7, 8, and 11, giving them a new phrasing.

This Law had been previously modified by:

- Law 14/1999, of 4<sup>th</sup> May, on Fees and Public Prices for services rendered by the Nuclear Safety Council.
- Law 34/1998, of October 7 on the Hydrocarbons Sector.

On the other hand, it is worth mentioning that the Law has already been affected by the following regulations:

- Royal Decree 1339/1999, of 31<sup>st</sup> July, establishing the Regulation of the National Energy Commission, which develops the compensation package corresponding to the Chairman, Commissioners and Secretary General of the Nuclear Safety Council, as amended by Royal Decree 1204/2006, of 20<sup>th</sup> October.
- Royal Decree 1554/2004, of the Ministry of Industry, Trade, and Tourism (today the Ministry of Industry, Tourism and Trade), developing its basic organisational structure. Specifically, the fourth additional provision states that the Nuclear Safety Council interacts with the Government through the Ministry of Industry, Trade and Tourism.
- Royal Decree 562/2004, of 19<sup>th</sup> April, of the Government, approving the basic organizational structure of ministry departments.



**Law 15/1980, of 22<sup>nd</sup> April, Creating the Nuclear Safety Council, amended by Law 33/2007, of 7<sup>th</sup> November**

DON JUAN CARLOS I, KING OF SPAIN

Make known to all those who may have knowledge of the present.

That the Cortes Generales have passed, and I sanction the following Law:

**Foreword**

The creation of the Nuclear Safety Council, by means of Law 15/1980, of 22<sup>nd</sup> April, as the sole body competent in nuclear safety and radiation protection matters, independent from the Central Administration of the State, represented a fundamental milestone in the development of nuclear safety in Spain, and allowed to put the Spanish nuclear energy regulatory framework at level with the most advanced countries in this field.

Although some aspects of said Law have been modified – mainly, by Law 14/1999, of 4<sup>th</sup> May, on Fees and Prices Charged to the Public for Services Rendered by the Council for Nuclear Safety –, the time lapsed since it was enacted called for an update with the purpose of taking into account the experience built during this period of time, of incorporating specific article modifications which have been implemented over time, of adapting it to growing social sensitivity regarding environmental issues, and of introducing and developing some aspects with the aim of guaranteeing the preservation of its effective independence and reinforcing the transparency and efficacy of said Organization.

Taking into account the functions that the Nuclear Safety Council has been entrusted with, it is essential that its actions are allocated with

sufficient credibility and trust from the same society it has the mission to preserve from undesired effects of ionising radiations.

With such purpose, it is necessary to establish the appropriate mechanisms enabling Nuclear Safety Council operations to run under the transparent conditions needed as to promote said trust. In consonance with the stipulations of the so-called Aarhus Convention, ratified by Spain on 15<sup>th</sup> November, 2004, and in Law 27/2006, of 18<sup>th</sup> July, regulating information access rights, rights of public participation and rights to recourse to justice in environmental issues.

The definitions in the scope of the regulatory instruments of the Nuclear Safety Council are developed, its role regarding physical protection of materials and nuclear and radioactive facilities is reinforced, and, with the purpose of guaranteeing required independence levels, the requirements that have to be fulfilled when contracting external services are specified.

On the other hand, keeping in mind the essential objective of achieving nuclear and radioactive facility operations under the safest possible conditions, the obligation of workers to report any fact that could compromise safe operation thereof has been established, protecting them against possible reprisals.

Finally, this Law considers the set up of an Advisory Committee, as advisory and consulting body, open to the participation of representatives from institutional, territorial, scientific, technical, entrepreneurial, union and environmental fields, whose mission will be to issue recommendations to the Nuclear Safety Council in order to enhance transparency, information access, and public involvement in matters of its competence.

## Sole Article

*Modification of Law 15/1980, of 22<sup>nd</sup> April, Creating the Nuclear Safety Council*

### Article 1

1. The Nuclear Safety Council is created as a Public Law entity, independent from the Central State Administration, with its own assets and legal status, independent from those of the State, and as the only competent body in matters pertaining to nuclear safety and radiological protection.

It shall be governed by its own Statute, prepared by the Council and approved by the Government, whose text shall be presented to the competent Commissions of the Congress and the Senate before its publication, and for as many specific provisions as are entrusted to it, notwithstanding additional application of legal principles of common or special legislations.

2. The Council shall prepare the preliminary draft of its annual budget according to the provisions included in the General Budgetary Law, and shall remit it to the Government for its incorporation into the General State Budgets.

### Article 2

The functions of the Nuclear Safety Council shall be the following:

a) To propose the necessary regulations regarding nuclear safety and radiological protection to the Government, as well as the revisions that it considers advisable. Within this regulation, the objective criteria for the selection of sites for nuclear and first category radioactive installations shall be established, following the reports from the Autonomous Communities, in the manner and within the deadlines determined by regulations.

Similarly, it shall have the capacity to prepare and approve the Instructions, Circulars and Guides of a technical nature, relative to nuclear and radioactive installations and for those activities related to nuclear safety and radiological protection.

The instructions are technical standards on nuclear safety and radiological protection issues, which will be binding for the parties affected by their scope of application, once they are notified or, if such is the case, published in the Official State Gazette. Involvement of stakeholders and the public in the preparation process of Council instructions will be promoted in the terms provided by Law 27/2006, of 18<sup>th</sup> July, regulating information access rights, rights of public participation and rights to recourse to justice in environmental issues. The instructions will be submitted to the Congress of Deputies, before being passed by the Council.

Circulars are technical documents of informational nature which the Council shall address to one or more parties affected by their scope of application, in order to inform them of events of circumstances related with nuclear safety or radiological protection.

Guides are technical documents of recommendatory nature whereby the Council shall provide guidance to the affected parties in relation with effective regulations in nuclear safety and radiological protection issues.

Additionally, the Nuclear Safety Council shall forward directly to the licensees of the authorizations to which section b) of this Article makes reference, complementary technical instructions in order to guarantee that safety conditions and requirements are met.

b) To issue reports to the Ministry of Industry and Energy, on nuclear safety, radiological

protection, and physical protection issues, prior to the adoption of the resolutions that this body may approve on matters related to the award of authorisations for nuclear and radioactive installations, transport of nuclear substances or radioactive materials, the manufacture and official approval of pieces of equipment comprising radioactive sources or generating ionising radiation, the exploitation, restoration or closure of uranium mines, and in general, all activities related to the manipulation, processing, storage and transportation of nuclear and radioactive substances.

To issue reports, prior to the resolutions of the Ministry of Industry and Energy, regarding the authorisation for vendor companies and those that provide technical assistance for X-ray equipment and installations for medical diagnosis, and other equipment destined to radioactive installations, and to carry out the tasks of inspection and control.

To issue the reports prior to the resolutions that in exceptional cases and circumstances are enacted by the Ministry of Industry and Energy, on its own initiative or upon request by the Nuclear Safety Council, in relation to the removal and safe management of radioactive materials.

Such reports shall be mandatory in all cases, as well as binding when they be of a negative nature, or deny the authorisation for concessions, as well as in terms of the conditions that they establish if they are positive.

The procedures which require issuing the reports referred to in this section, may be suspended by the body competent for their resolution, exceptionally, and indefinitely, until they are issued or for the lapse of time considered appropriate for them to be issued, upon justification of the motives for suspension.

c) To carry out all types of inspections in nuclear or radioactive installations, during the different project, construction and commissioning stages, in transportation, production and certification of equipment comprising radioactive sources or generating ionising radiations, and the approval or validation of packages intended for use in the transport radioactive substances, with the purpose of guaranteeing the compliance with existing legislation and the conditions imposed in the corresponding authorisations, with the capacity to paralyse construction projects or activities in progress or activities when anomalies are detected that affect safety, and until these are corrected, and will be capable of proposing the annulment of the authorisation if these anomalies are not likely to be corrected

d) To carry out the inspection and control of nuclear and radioactive installations during their operation, and until their closure, with the aim of guaranteeing compliance with all established standards and conditions, both of a general and specific nature, established for the installation, in order to ensure that the operation of the aforementioned installation does not unnecessarily compromise persons or the environment. The Nuclear Safety Council has the authority to suspend the operations of installations or of the activities that they perform, for safety reasons.

e) To propose on the initiation of the disciplinary proceedings it considers pertinent within the scope of its competences, according to the existing legislation.

Furthermore, the Nuclear Safety Council, when initiating a disciplinary proceeding in matters relating to nuclear safety and radiological protection shall issue a report, of a mandatory nature, within two months, for the adequate determination of the events that are the object of the proceeding. This report shall be presented

when the proceeding is initiated at the instances of another body, or in the case where, having been initiated as a result of a reasoned request from the Nuclear Safety Council itself, data other than that released by this same entity are included in the aforementioned proceeding .

f) To collaborate with the competent authorities in the elaboration of the criteria to which the off-site emergency plans and those for the physical protection of nuclear and radioactive installations, as well as transportation, must be adjusted. Once these plans are formulated it shall participate in their approval.

To coordinate, in all those aspects related to nuclear safety and radiological protection, the measures for assistance and response to emergency situations, integrating and coordinating the different bodies and public or private companies whose participation is deemed necessary for the implementation of the functions attributed to this Body.

Furthermore, to carry out whatever other activities in emergency matters that are assigned to it in the applicable regulations.

g) To control the measures for the radiological protection of workers that are professionally exposed, and of the public and the environment. To monitor and control the doses of radiation received by the operating personnel and the off-site radioactive material discharges from nuclear and radioactive installations, as well as their incidence, specific or accumulative, in the areas of influence of these installations.

To assess the environmental radiological impact of nuclear and radioactive installations and of those activities that imply the use of ionising radiation, according to the stipulations of the applicable laws.

To control and monitor the radiological quality of the environment throughout the national territory, in compliance with the international obligations of the Spanish State in this matter, without prejudice to the competencies that the different public administrations may have been entrusted to.

Similarly, to co-operate with the competent authorities in matters relating to environmental radiological supervision beyond the areas of influence of the nuclear or radioactive installations.

h) To collaborate with competent authorities in issues related with radiological protection of the people subjected to medical diagnosis or treatment procedures with ionising radiation.

i) To award, and when necessary, revoke the authorisations that correspond to the entities or companies that offer services in the field of radiological protection, as well as being responsible for the inspection and control, in matters of nuclear safety and radiological protection, of the aforementioned entities, companies, services and authorised centres.

To collaborate with the competent authorities in relation to monitoring the health of those workers that are professionally exposed as well as in the medical attention for people potentially affected by ionising radiations.

To create and maintain the Register of External Companies, for the owners of nuclear or radioactive installations with workers classified as professionally exposed, and to monitor or inspect the aforementioned companies, in as far as it deems necessary.

j) To issue, upon request of an interested party, declarations of favourable assessment regarding new designs, methodologies, simulation models

or verification protocols related to nuclear safety and radiological protection.

k) To inform the Ministry of Industry, Tourism and Trade on concentration or activity levels, for their consideration as radioactive waste, of materials that contain or comprise radioactive substances, and for which no use has been provided.

l) To award and renew, by means of the performance of the tests established by the Council itself, the Licenses for Operators and Supervisors of nuclear or radioactive installations, the Diplomas for Heads of Radiological Protection Services, and the accreditations to manage or operate X-ray facilities intended for medical diagnosis.

Likewise, to award official approval for training and advanced training programmes and courses dealing specifically with matters of nuclear safety and radiological protection, qualifying people to manage or to operate radioactive installations and the equipment of the X-ray installations destined to medical diagnosis, and those that qualify for the performance of the functions of Head of Radiological Protection Services.

ll) To carry out the studies, evaluations, and inspections of the plans, programmes, and projects necessary in all the phases of radioactive waste management.

m) To advise, whenever it is required to do so, the courts and organs of the public administration in matters relating to nuclear safety and radiological protection.

n) To maintain official relationships with similar foreign bodies, and to participate in international organisations with competences in the

field of nuclear safety and radiological protection.

Similarly, it shall collaborate with international bodies or organisations in programs of assistance on matters of nuclear safety and radiological protection, taking part in their execution, either directly, or by contracting third parties or entities for this end, always in compliance with the conditions determined by these organisations.

ñ) To keep the public opinion informed on matters of its competence, to the extent and with the periodicity that the Council determines, without prejudice to the publicity of its administrative actions, within the legally established terms.

o) To learn from the Government, and to assist the Government, regarding engagements with other countries or international organisations in nuclear safety and radiological protection issues, which shall be taken into account in the exercise of the functions that are attributed to the Council by this Law.

p) To set-up and monitor research plans within the field of nuclear safety and radiological protection.

q) To gather accurate information, and to assist when needed, regarding health conditions that could affect people due to ionising radiations derived from the operation of nuclear or radioactive installations.

r) To inspect, assess, control, propose, and adopt, if necessary, keeping competent authorities informed, as many preventive and corrective measures as they are considered to be necessary in exceptional or emergency situations that arise and which could compromise nuclear safety and radiological protection, whose root cause is

found in facilities, equipment, companies or activities that are not bound to the scheme of authorisations established by nuclear legislation.

s) To file and custody the documentation which nuclear facility operation license holders are to forward to the Nuclear Safety Council, upon definitive suspension of activities, and prior to ownership transfers, and to the award of the facility decommissioning authorization.

t) To collaborate with competent authorities in undertaking nuclear safeguard inspections pursuant to the commitments assumed by the Spanish State.

u) Any other that in the field of nuclear safety and radiological protection, is legally entrusted to it.

### Article 3

One. The processing of the proceedings and the concession of the necessary authorisations for nuclear and radioactive installations, for the transportation of nuclear substances or radioactive materials, and for the production of nuclear or radioactive components corresponds to the Ministry of Industry and Energy, without prejudice, if the case arises, to whatever is established in the respective statutes of the Autonomous Communities.

Two. The prior authorisation, or the authorisation for the site, the construction and the provisional and final operating permits for nuclear and first category radioactive installations, as well as their dismantling, shall be awarded by the Minister of Industry and Energy, and the remainder by the Director General of Energy, without prejudice, if the case arises, of whatever is established in the respective statutes of the Autonomous Communities.

Three. Regarding site authorisations, the Ministry of Industry and Energy shall require, for its ulterior delivery to the Nuclear Safety Council, the report of the Autonomous Communities, preautonomous bodies, or in their defect, the interested provinces, prior to the request for the Council's report. These bodies' report shall pronounce itself on the suitability of the proposal in terms of the existing standards and regulations, and in their case, regarding the competencies that have been attributed to them, incorporating the prior reports of the affected municipalities relating to their competencies with respect to the regulation of land and the environment.

Four. In the cases that the present article contemplates, the Government shall be entitled to make use of the faculties foreseen in paragraph 2 of article 180 of the Law on the Legal Status of Land Use and Urban Planning. The authorisations or licences whose award corresponds to any of the Public Administrations cannot be denied or conditioned for safety reasons whose appreciation corresponds to the Council.

### Article 4

1. The Nuclear Safety Council shall consist of a Chairman and four Commissioners.

2. The legal framework of the Nuclear Safety Council will comply with provisions of its Statute and additional provisions in Chapter II, Title II of Law 30/1992, of 26<sup>th</sup> November, on the Legal Regime of Public Administrations and Common Administrative Procedure, as regards the agreement adoption regime.

3. The relationships between the Plenary Meeting of the Nuclear Safety Council, as managing collegiate body thereof, and the Presidency, is of competence, and none of them shall be hierarchically subordinated to the other. Relationships between the two managing bodies

shall be ruled by principles of cooperation, deliberation, and respect to the legitimate exercise of the competences of the other body.

4. The Council, upon recommendation of any of its members, shall appoint a Vice-chairman among the Commissioners, who shall substitute the Chairman in case of absence, vacancy or illness.

5. The Council shall be assisted by a General Secretariat, on which the administrative and legal working organs required for the accomplishment of its goals shall depend, as well as those internal or external technical bodies provided by the Statutes. The Secretary General will act as Council secretary.

#### **Article 5**

1. The Chairman and Commissioners of the Nuclear Safety Council shall be chosen among people of renown capacity within the matters entrusted to the Council and in specialities of nuclear safety, technology, radiological and environmental protection, medicine, law or whatever other related field related, as well as within the energy sector in general or in industrial safety, being their independence and objectivity of criteria especially valued.

2. They shall be appointed by the Government, at the suggestion of the Minister of Industry, Tourism and Trade, upon appearance of the person proposed for the position before the corresponding Commission of the Congress of Deputies, in the terms provided by Congress Regulations. The Congress, through the competent Commission and with the agreement of three-fifths of its members, shall manifest its acceptance or reasoned veto, within a calendar month, starting from the date of reception of the corresponding communication. Once this deadline has elapsed, without an express decision from the Congress, the corresponding appointments shall be deemed as accepted.

The period of tenure shall be of six years, with the possibility of being nominated, through the same procedure, for a second six-year period at the most. Persons over seventy years of age shall not be appointed as Chairman or Commissioners.

3. The Secretary General of the Council, and the people responsible for any other technical body foreseen by the Statutes shall be appointed by the Government, at the suggestion of the Minister of Industry, Tourism, and Trade, following favourable Council Report. No person over 70 years of age shall be eligible for the position of Secretary General of the Council, or any other Secretary General position foreseen in the Statutes.

#### **Article 6**

The positions of Chairman, Commissioners and Secretary General of the Nuclear Safety Council, and any other technical body provided by the Statute, are incompatible with any other position or function, remunerated or not, and shall perceive exclusively, for the entire duration of their mandate or position, the remuneration established in accordance to the significance of their function. Upon resigning to their position, and for the two following years, they shall not engage in any professional activity related to nuclear safety and radiological protection. The economic compensation that corresponds to this limitation shall be determined by regulation.

#### **Article 7**

1. The Chairman and Commissioners of the Nuclear Safety Council shall resign for the following reasons:

- a) Once they reach seventy years of age.
- b) Once the period that they were appointed for terminates.
- c) At their own request.

d) For incurring in any one of the incompatibilities established in this Law.

e) By a decision of the Government, following the same procedure established for their nomination, when they be considered incapable of carrying out their functions or for ceasing to attend to the duties of their position diligently.

The Congress of Deputies, through the competent Commission and with the agreement of three-fifths of its members, shall urge the Government to dismiss the Chairman and Commissioners at any point in time.

When Chairman and Commissioners are relieved from their duties upon completion of the period for which they were appointed, they shall continue to undertake their duties until their successors take up on their functions. The Congress, through the corresponding Commission, shall confirm the extension in case it exceeds six months in time.

Two. When a Commissioner resigns for one of the causes listed above, except for that referred to in letter b) of the previous number, a new Commissioner shall be appointed, according to the established procedure, for the period remaining until the end of the mandate of the resigned Commissioner.

#### **Article 8**

1. The technical personnel of the Nuclear Safety Council shall be made up by civil servants of the Nuclear safety and Radiological protection Agency. The regime for joining, filling vacancies, professional promotion, mobility and other rights and duties of the civil servants of this special Body will be the same as that for civil servants of the Central State

Administrations, taking into account the functional scope of said body.

2. The Council, in compliance with the regulations established in the Statute, shall contract the services of staff, companies and organizations for specific works or studies, provided that they are not related in any way to the people affected by the services contracted. Workers that do not belong to the Nuclear Safety Council shall in no case take direct part in the decision making process regarding ongoing administrative proceedings. The Nuclear Safety Council will establish the means necessary to ensure that contracted external staff, companies, and organizations always comply with the independence obligations required while rendering their services.

#### **Article 9**

The assets and economic resources which the Council shall have at its disposal for the accomplishment of its functions, shall be the following:

- a) Those proceeding from the collection of the fee created by this present Law.
- b) The assignments that are established annually in the General State Budgets.
- c) Whatever others, can legally be attributed to it.

#### **Article 10<sup>(1)</sup>**

#### **Article 11**

The Nuclear Safety Council shall keep the Government, the Congress of Deputies and the Senate timely informed of any circumstance or event affecting safety at nuclear and radioactive

<sup>(1)</sup> Single repealing provision of Law 14/1999, of 4<sup>th</sup> May, on Public Prices and Fees for services rendered by the Nuclear Safety Council, states that "Any provision that contravene that established in the present Law is repealed and, in particular, Article 10 of Law 15/1980, creating the Nuclear Safety Council, and Royal Decree 3229/1982, of 12<sup>th</sup> November, regulating the fee for the services rendered by the Nuclear Safety Council".

facilities, or environmental radiological quality at any location in the national territory, along with any Autonomic Government and Parliament affected.

As regards the Congress of Deputies and the Senate, this information shall be channelled through an ad hoc parliamentary board or committee, before which compliance with all resolutions enacted by the Chambers for whose execution the Nuclear Safety Council is responsible, shall also be answered for. This parliamentary board or committee shall request as many appearances of Council responsible persons as it deems appropriate. The Plenary Meeting of the Council shall also request to appear before the same board or commission to report any issue within its scope of competence that it deems of interest for the Chambers.

The Nuclear Safety Council shall submit a report on the development of its activities, on a yearly basis, to both Chambers of the Spanish Parliament, and to the autonomic Parliaments of those Autonomous Communities whose territory hosts nuclear facilities.

#### **Article 12**

The information access and public involvement rights in relation to Council competences referring to nuclear safety and radiological protection, shall be governed by the provisions of Law 27/2006, of 18<sup>th</sup> of July, regulating information access rights, rights of public participation and rights to recourse to justice in environmental issues.

#### **Article 13**

1. Physical or legal persons in service at nuclear and radioactive facilities, whatever labour and contractual relationship binds them to the latter, shall notify license holders of any known event affecting, or which might potentially affect safe operations thereof, and the fulfilment of

effective regulations in nuclear safety or radiological protection issues.

Should license holders fail to undertake corrective measures diligently, they shall notify the Nuclear Safety Council.

2. Employers taking reprisals against workers reporting any safety related event to the Nuclear Safety Council shall be sanctioned in accordance to provisions of nuclear energy legislation.

3. The administrative mechanisms needed to provide for the exercise of this right shall be developed by regulations.

4. The exercise of this right shall not yield adverse consequences for the worker in his/her position, unless in the event that he/she is proven to have acted in bad faith.

Any decision made by the licensee detrimental to, or to the prejudice of any labour right assisting the workers which have exercised the right provided in this article, shall be deemed as null and void.

#### **Article 14**

The Nuclear Safety Council shall provide information access and facilitate involvement in its operational issues to citizens and the civil society. For said purpose:

1<sup>st</sup> It shall keep citizens informed on all relevant facts related with nuclear and radioactive facility operations, especially on all issues related with safe performance, radiological impact on people and the environment, events and incidents taking place therein, as well as the corrective measures implemented to prevent event reiteration. In order to facilitate access to the information, the Nuclear Safety Council shall employ information and communications technologies.

2<sup>nd</sup> It shall provide information on all Council agreements, clearly stating the subjects and motives for the agreement, and the results of the voting held.

3<sup>rd</sup> It shall subject instructions and technical guides to public discussion, while they are being prepared, using the corporate Nuclear Safety Council Website in an extensive manner, in order to facilitate citizen access.

4<sup>th</sup> It shall promote and take part in information forums in the surrounding areas of nuclear facilities, in which issues related with the operation thereof are addressed, especially in relation with preparedness in emergency situations and the analysis of the events that take place.

#### Article 15

1. An Advisory Committee for public information and involvement regarding nuclear safety and radiological protection shall be created, presided over by the Chairman of the Nuclear Safety Council, whose mission will be to issue recommendations for the Nuclear Safety Council in order to increase transparency, public information access and involvement in matters of its competence.

The recommendations of the Advisory Committee shall not be binding for the Nuclear Safety Council.

2. This Advisory Committee shall be comprised by the following members, which shall be appointed by the Chairman of the Nuclear Safety Council:

a) A representative at the suggestion of the Ministry of Industry Tourism and Trade.

b) A representative at the suggestion of the Ministry of Health and Consumer Affairs.

c) A representative at the suggestion of the Ministry of the Interior.

d) A representative at the suggestion of the Ministry of the Environment.

e) A representative at the suggestion of the Ministry of the Education and Science.

f) A representative at the suggestion of each of the Autonomous Communities hosting nuclear facilities within their territory, or which have established entrustment agreements with the Nuclear Safety Council.

g) A representative at the suggestion of the Spanish Federation of Municipalities and Provinces and a representative at the proposal of the Association of Municipalities Affected by Nuclear Power Plants.

h) Two representatives at the suggestion of the Spanish Electricity Industry Association.

i) A representative at the suggestion of ENRESA and another at the suggestion of ENUSA.

j) A representative at the suggestion of each of the two largest nationwide labour organizations.

k) A representative at the suggestion of each of the two largest nationwide non-governmental organizations, whose object is to protect the environment and the sustainable development

l) Five national or foreign experts, who shall be independent and of acknowledged prestige in scientific, technical, economic or social spheres, or in information and communications matters.

Ministry representatives shall at least have the category of General Deputy Director, or equivalent.

3. The Advisory Committee shall collect all information deemed as necessary for the development of its function from the Nuclear Safety Council.

4. The operating agreement and regulatory framework of the Advisory Committee shall be regulated by the Nuclear Safety Council Statute.

5. The Government is authorized to modify the composition of this Advisory Committee, by means of a royal decree.

#### First Additional Provision<sup>(2)</sup>

For the purposes of the present Law, the definitions included in article 2 of Law 25/1964, of 29<sup>th</sup> of April, on Nuclear Energy, shall apply, as well as the following:

One. First category radioactive installations are:

- a) Factories for the production of uranium, thorium and their compounds.
- b) Factories for the production of natural uranium fuel elements
- c) Facilities using radioactive sources with industrial irradiation purposes.
- d) Complex facilities handling very large inventories of radioactive substances, or where radiation beams of very high energy fluency are produced, to an extent such that the potential radiological impact of the facility is significant.

Two. Second category radioactive installations are:

a) Installations where radioactive nuclides are handled or stored, which can be used for scientific, medical, agricultural, commercial or industrial use, and whose total activity is equal or exceeds a thousand times the exemption activity established by regulations.

b) Installations that use X-ray generating machines that can function with a peak tension superior to two hundred kilowatts

c) Particle accelerators and installations where neutron sources are stored

Provided that there are no grounds for their classification as first-class radioactive installations.

Three: Third category radioactive installations are:

a) Installations where radioactive nuclides are manipulated or stored, whose total activity exceeds the exemption activity established by regulations and is lower than a thousand times said exemption activity.

b) Those installations that use X-ray generating machines, whose peak tension is less than two hundred kilowatts.

#### Second Additional Provision<sup>(3)</sup>

#### Third Additional Provision

The Nuclear Safety Council can assign to the Autonomous Communities the performance of the functions that are attributed to it, according to the general principles that the Council agrees on for their implementation.

<sup>(2)</sup> Phrasing granted by the Third Additional Provision of Law 33/2007, of 7<sup>th</sup> November.

<sup>(3)</sup> Its content has been tacitly repealed by articles 89 and 91 of Law 25/1964, of 29<sup>th</sup> April, on Nuclear Energy, by the new phrasing given thereto by Law 33/2007, of 7<sup>th</sup> of November, which comes to add a New Additional Provision, the fifth, to Law 15/1980 of 22<sup>nd</sup> April.

#### Fourth Additional Provision<sup>(4)</sup>

The functions and faculties attributed to the Nuclear Safety Council by this Law, in reference to nuclear and radioactive facilities, shall be carried out in the same terms with respect to the experimental devices and facilities defined in article 2 of the Nuclear Energy Act, Law 25/1964, of 29<sup>th</sup> April, unless a more specific regulation were legally established for such experimental devices and facilities.

#### Fifth Additional Provision

##### *Amendment of Chapter XIV of the Nuclear Energy Act*

Chapter XIV of Law 25/1964, of 29<sup>th</sup> April, on Nuclear Energy, reads as follows:

#### **Chapter XIV**

Regarding infringements and sanctions in nuclear matters

##### **Article 85. *Liabel Parties***

Notwithstanding eventual civil or penal liabilities, or any other type of liability, and the material responsibility resulting from the commission of punishable acts, the facility license holder or party responsible for the activity shall be deemed as responsible of fulfilling its activity surveillance and control duties.

##### **Article 86. *Infringements***

Any action or omission representing non-fulfilment or non-performance of the provisions of this Law, of Law 15/1980, of 22<sup>nd</sup> April, creating the Nuclear Safety Council, and its developing provisions, as well as in treaties and conventions entered into and ratified by Spain,

shall be construed as an administrative infringement.

Attending to their gravity, infringements are classified as very grave, grave, and minor.

a) The following are very grave infringements:

1. The exercise of any activity regulated by this Law or its development regulations without having obtained the mandatory qualification, or after it expires, it is suspended, or revoked, provided that it severely compromises safety or health of people, or gravely harms things or the environment.

2. Non compliance with the request of the Nuclear Safety Council, its agents or other competent authority, to cease in any ongoing activity, or to shutdown operations in the nuclear or radioactive facility concerned.

3. Non fulfilment of the terms, limits or conditions attached to the authorizations, as well as the lack of application of technical, administrative, or any other type of measures imposed on an activity or facility operation, or non-compliance with the deadlines set for its implementation, severely compromising safety or health of people, or threatening things or the environment.

4. Non compliance with the content of the instructions issued in development of the aforementioned authorizations or licenses, severely compromising safety or health of people, or threatening things or the environment.

5. Lack of adoption of technical, administrative or any other type of measure required to correct

<sup>(4)</sup> Phrasing provided by article 74 of Law 61/2003, of 30<sup>th</sup> December, Fiscal, Administrative and Social Measures (BOE – Spanish Official Gazette 31-12-03).

activity deficiencies that licensee is aware of, severely compromising safety or health of people, or threatening things or the environment.

6. Operation of nuclear or radioactive facilities, or handling of radioactive materials lacking the required licensed, diploma-certified, or accredited personnel for managing or executing the operations, severely compromising safety or health of people, or threatening things or the environment.

7. Lack of compliance with the duties required from licensed workers, as well as with the terms and conditions attached to said license, severely compromising safety or health of people, or threatening things or the environment.

8. The operation of facilities or the conduction of activities that could entail radiation exposure, of artificial or natural origin, without adopting the necessary measures for their development in compliance with the principles, limits, and procedures established in health protection against ionising radiations issues, both in normal situations, and in the case of accidental exposure or emergencies, severely compromising safety or health of people, or threatening things or the environment.

9. Handling, transporting, or disposing of radiological material or equipment producing ionising radiations, which have been sealed or seized for nuclear safety or radiological protection reasons.

10. The abandonment or discharge of radioactive materials, whatever their physical condition or chemical formulation, to the atmosphere, water, soil, subsoil, when due to the magnitude and characteristics thereof, safety or health of people are severely compromised or things or the environment gravely harmed.

11. Deliberate addition of radioactive material in the production of foodstuffs, toys, personal and cosmetic ornaments, severely compromising safety or health of people, or threatening things or the environment.

12. The supply or transfer of radioactive materials to persons or entities who lack the required authorizations for their possession and use, or when those substances or materials fail to fulfil established identification and marking requirements, severely compromising safety or health of people, or threatening things or the environment.

13. The lack of required systems for storage, processing, and, if needed, effluent or radioactive waste evacuation, provided that said conduct severely compromises safety or health of people or threatens things or the environment.

14. Failure to proceed with the decommissioning and closure of nuclear and radioactive facilities once the operation thereof is concluded, or failure to have a safely conditioned destination for disused radioactive materials, severely compromising safety or health of people, or threatening things or the environment.

15. The exercise of any activity regulated by the present Law, or by Law 15/1980, of 22<sup>nd</sup> April, Creating the Nuclear Safety Council, and its developing provisions, without having civil liability coverage for the damage that might arise thereof, in the terms established in specific applicable regulations.

Should the infringement be referred to transport of a radioactive material, the present section shall only be applicable if it affects the transport of nuclear fuel, irradiated or not, or of radioactive waste with a concentration of radionuclides such that it requires considering

the generation of thermal energy during its storage and evacuation.

16. Blocking access to medical staff appointed by legally empowered national and international authorities, and their accompanying staff, accredited by said authorities, to nuclear and radioactive facilities or other dependencies or places, whatever the activity developed therein might be, if needed for the development of the inspecting activity.

17. The obstruction of inspections, assessments or controls carried out by medical staff appointed by legally empowered authorities, and their accompanying staff, accredited by said authorities, by preventing them from taking samples or measurements, or hiding or refusing to disclose documents or information, or furnishing false or deliberately incomplete documents or information, whether it is or it is not required by the former, whenever by nature or content said documentation is necessary for establishing inspection, assessment or control conclusions, severely compromising safety or health of people, or threatening things or the environment.

18. Non compliance with the obligations stipulated in information and notification matters, in time and form, to the authorities legally empowered or to their agents, severely compromising safety or health of people, or threatening things or the environment.

19. Deliberate non compliance with information submission obligations, provision of false or incomplete information, loss of control over special fissile matter, provided that said material can have a direct application as part of a nuclear explosive device and is not retrieved, obstruction of inspections, assessments or controls carried out by medical staff appointed by legally empowered authorities, and the development of

activities regulated nuclear non-proliferation systems, when they are voluntarily developed with the purpose of contributing to the fabrication of a nuclear explosive device, even if nuclear materials are not handled, provided that any of these non-compliances make it impossible to fulfil the obligations in nuclear non-proliferation matters deriving from the international agreements entered into by Spain.

20. Inadequacy or non-compliance with the measures required to prevent the presence of non-controlled materials in vital or protected areas of a nuclear and radioactive facility, provided that, due to their nature and location, they severely compromise safety or health of people or gravely harm things or the environment.

21. Inadequacy or non-compliance with the measures destined to prevent the presence of non-authorized personnel in vital or protected areas of a nuclear and radioactive facility, provided that, said presence severely compromises safety or health of people or gravely harms things or the environment.

b) The following are grave infringements:

1. Actions or omissions specified in epigraph a) of this article, with the exception of numbers 2, 9, 15, 16, 19 and 21, provided that they do not severely compromise safety or health of people nor gravely harm things or the environment, and that said conduct is not categorized as minor infringement.

2. Failure to adopt measures necessary for safely disposing of radioactive materials found in out of control situations, either because they have never been controlled, or because they have been abandoned, lost, misplaced, stolen, or transferred in irregular conditions, except for

those cases which barely compromise people safety, or threaten things or the environment.

3. Non compliance with the obligations related to the generation, filing and custody of the registries required for the development of the activity or controlling radioactive materials, provided that said non-compliance entails loss of affected information.

4. Failure to furnish workers with the training or information required for the development of their duties in compliance with the standards and procedures established on nuclear safety, ionising radiological protection, physical protection, or emergency procedures, except when people safety or health are barely compromised, or things or the environment are barely threatened.

5. Actions or omissions which prevent or hinder organization personnel or workers from foreign companies rendering services to the facility, onsite or offsite, from exercising the right to communicate deficiencies or dysfunctions which might compromise nuclear safety or radiological protection, or their involvement in the clarification of facts, or which apply discriminatory measures on those who have exercised such right.

6. Transport of radioactive materials, without considering the civil liability for the damages that might result from the activity, in the terms established in specific applicable regulations.

Should the transport affect nuclear fuel, whether irradiated or not, or radioactive waste with a concentration of radionuclides such that it requires considering the generation of thermal energy during its storage and evacuation, the very severe type of infringement specified for section 15 of article 86.a) will be applied.

7. Deliberate non compliance with information submission obligations, deliberate provision of false or incomplete information, loss of control over special fissile matter if it is recovered, and obstruction of inspections, assessments or controls carried out by medical staff appointed by legally empowered national or international authorities, provided that any of these non-compliances hinders the fulfilment of the obligations in nuclear non-proliferation matters deriving from the international agreements entered into by Spain.

8. Insufficiency or lack of observance of measures aimed at preventing the presence of non authorized staff in vital or protected areas of a nuclear or radioactive facility.

c) The following are minor infringements:

1. Actions or omissions specified in epigraph a) of this article, with the exception of those included in numbers 2, 9, 15, 16, 19 and 21, provided that they do not severely compromise safety or health of people nor gravely harm things or the environment, or that they are considered of minor significance.

2. Failure to adopt measures necessary for safely disposing of radioactive materials found in situations out of control, either because they have never been controlled, or because they have been abandoned, lost, misplaced, stolen, or transferred in irregular conditions, in those cases which do not compromise safety or health of people, do not harm things or the environment, or said harm is of minor significance.

3. Non compliance with the obligations related to the generation, filing and custody of the registries required for the development of the activity or controlling radioactive materials, provided that said information can be recovered.

4. Failure to furnish workers with the training or information required for the development of their duties in compliance with the standards and procedures established on nuclear safety, ionising radiological protection, physical protection, or emergency procedures, when people safety or health are not compromised, or things or the environment are not harmed.

5. Mere formal non compliance with the obligations in non-proliferation matters, provided that it does not hinder compliance with any of the obligations in nuclear non-proliferation matters deriving from the international agreements entered into by Spain, or loss of control over basic material.

#### **Article 87. Qualification**

1. As regards this Chapter, people safety or health shall be deemed as having been severely compromised when safe operation of the activity is degraded to such an extent that all devices, mechanisms or remainder safety barriers, or available administrative measures, fail to provide guarantees regarding the prevention of exposure to ionising radiations, with doses corresponding to the appearance of determinist effects.

2. For the purposes of this Chapter, things or the environment will be considered to have suffered severe damage when, as a consequence of their exposure to ionising radiations, present or future use of things or the environment is affected.

3. For the purposes of this Chapter, people safety or health shall be deemed as not having been exposed to danger, or that said danger is of minor significance when operation or facility safety are not significantly affected, and no situation takes place which results in improper exposure to ionising radiations, or, were said situations to take place, doses remain under limits established by the regulations.

4. For the purposes of this Chapter, damage of minor significance shall be deemed to have existed, when present or future use of things or the environment are not affected.

#### **Article 88. Classification of sanctions**

1. Sanctions shall be classified, attending to the principles of proportionality and the circumstances specified in number 2 of this article, in three degrees: maximum, medium and minimum.

2. To classify the corresponding sanctions, the following circumstances shall be taken into account:

a) The magnitude of the harm brought upon persons, things, or the environment.

b) The duration of the danger situation caused by an infringement.

c) Impact of the infringing conduct on the safety of the activity.

d) Existence or lack of previous cases of working staff or public overexposure to ionising radiations, within a two year period.

e) Safety management background in the activity within a two year period.

f) Non compliance with previous notices, requests or warnings issued by competent authorities.

g) Lack of consideration provided to communications issued by the working staff, their legal representatives, or third parties relating to nuclear safety or radiological protection.

h) Profit obtained as a result of the commission of the infringement.

i) Existence or lack of intentionality or negligence in the commission of an infringement, provided that these circumstances are not considered in the classification of the infringement and the reiteration.

j) Diligence in the detection and identification of the constituting facts of the infringement and in their communication to competent authorities.

k) Immediate rectification of the causes and effects resulting from the infringement by the responsible person on his/her own initiative.

l) Collaboration with the competent authority in the clarification of the events.

m) Reoffending, by commission within a two year period, of more than one infringement of the same nature, when it is declared so by final unappealable decision.

n) The amount of nuclear material out of control, and its recovery or lack of recovery, when this latter circumstance is not foreseen in the classification of the infringement.

#### **Article 89. Sanctions**

1. When nuclear power plants are concerned, standardized infringements in this Law shall be sanctioned:

Very grave infringements, with a fine ranging, in minimum degree from 9,000,001 up to 15,000,000 euros, in intermediate degree from 15,000,001 up to 20,000,000 euros, and in maximum degree, from 20,000,001 up to 30,000,000 euros.

Grave infringements, with a fine ranging, in minimum degree from 300,001 up to 1,500,000 euros, in intermediate degree from 1,500,001 up to 4,500,000 euros, and in maximum degree, from 4,500,001 up to 9,000,000 euros.

Minor infringements, in minimum degree with a fine of 15,000 euros, in intermediate degree from 15,001 up to 150,001 euros, and in maximum degree, from 150,001 up to 300,000 euros.

2. When nuclear facilities are concerned, other than nuclear power plants, standardized infringements in this Law shall be sanctioned:

Very grave infringements, with a fine ranging, in minimum degree from 3,000,001 up to 5,000,000 euros, in intermediate degree from 5,000,001 up to 7,000,000 euros, and in maximum degree from 7,000,001 up to 10,000,000 euros.

Grave infringements, with a fine ranging, in minimum degree from 100,001 up to 500,000 euros, in intermediate degree from 500,001 up to 1,500,000 euros, and in maximum degree, from 1,500,001 up to 3,000,000 euros.

Minor infringements, in minimum degree with a fine of 12,000 euros, in intermediate degree from 12,001 up to 50,000 euros, and in maximum degree, from 50,001 up to 100,000 euros.

3. When second and third category radioactive facilities are concerned, Radiation Protection Technical Units, Radiological protection Services, Dosimetry Centres, Medical X-Ray Equipment Vendors and Technical Support Companies, radioactive material transport, or any other activity and entity regulated by this law and its developing regulations, the infringements standardized by this Law will be sanctioned:

Very grave infringements: From 150,001 up to 200,000 euros in minimum degree, from 200,001 up to 400,000 euros in intermediate degree, and, from 400,001 up to 600,000 euros in maximum degree.

Grave infringements: From 6,001 up to 15,000 euros in minimum degree, from 15,001 up to 30,000 euros in intermediate degree, and, from 30,001 up to 150,000 euros in maximum degree.

Minor infringements: 1,200 euros in minimum degree, From 1,201 up to 3,000 euros in intermediate degree, and, from 3,001 up to 6,000 euros in maximum degree.

4. When first category radioactive facilities are concerned, or transports of radioactive sources corresponding to the main activity of said facilities, fines shall be reduced, for all infringement degrees, to one third of those established by section 2 of this article.

5. In case of transports of nuclear fuel, whether irradiated or not, or radioactive waste with a concentration of radionuclides such that it requires considering the generation of thermal energy during storage and evacuation thereof, fines shall be reduced, for all infringement degrees, to two thirds of those established in section 2 of this article.

6. Very grave infringements shall, along with the fines provided, result in the revocation, withdrawal, or temporary suspension of the authorizations, licenses or registrations in Registers. Effectiveness of these measures may be ensured by the intervention or sealing of nuclear substances, radioactive materials, or equipment units producing ionising radiations, or the implementation of any applicable provisional measure.

Likewise, they shall result in temporary or definitive barring of access to the condition of licensee of any type of authorization or license regulated by this Law, by Law 15/1980, of 22<sup>nd</sup> April, Creating the Nuclear Safety Council, and by its developing provisions.

#### **Article 90. Other Measures**

Initiation of a proceeding for infringement of any of the precepts of this Law or the Regulations developing it, will determine, if appropriate, following the agreement of the Ministry of Industry, Tourism and Trade, the immediate intervention of nuclear fuel or radioactive materials, and subsequent prohibition for purchasing new amounts of fuels and materials in as far as the causes that prompted said intervention do not disappear.

#### **Article 91. Procedure and competences**

1. The procedure for imposing sanctions shall be adjusted to the principles of articles 127 through 138 of Law 30/1992, of 26<sup>th</sup> November, on the Legal Regime of Public Administrations and Common Administrative Procedure, and provisions of Royal Decree 1398/1993, of 4<sup>th</sup> August, approving the procedure for exercising sanctioning powers, with the exception of the maximum period for processing and notifying the resolution thereof, which will be of one year.

2. The Nuclear Safety Council will propose, if needed, the initiation of the corresponding disciplinary proceeding with regards to those facts that might constitute an infringement of nuclear safety, radiological protection, or physical protection matters, reporting to the authority responsible for initiating the proceeding both the events constituting the infringement noticed, and the relevant circumstances necessary for its appropriate classification.

Furthermore, the Nuclear Safety Council, once a disciplinary proceeding in matters relating to nuclear safety and radiological protection is initiated, shall issue a report, of a mandatory nature, within a three month period, for the adequate classification of the events that are the object of the proceeding. This report shall be issued when the proceeding is not initiated at

the proposal of the Nuclear Safety Council, or in the event that, having been initiated at its proposal, the proceeding includes other data apart from those reported on by said entity.

The Nuclear Safety Council report will carry the suspension of the disciplinary proceeding resolution period, until it is issued, and, in any case, for a maximum three month period since it was requested.

3. In the event of alleged commission of infringements that could be qualified as minor, the Nuclear Safety Council, alternatively to the disciplinary proceeding initiation proposal, shall warn the activity licensee and require the corresponding corrective measures, provided that case circumstances so advise it, and that no direct damages are brought upon people or the environment.

Should this request fail to be fulfilled, the Nuclear Safety Council shall impose enforcing fines for a sum that will be, the first time, ten per cent, and, second and successive times, twenty per cent of the corresponding average sanction value, in intermediate degree, with the purpose of achieving the cessation of active or omissive conducts which conflict with the prescriptions of the present Law, of Law 15/1980, of 22<sup>nd</sup> of April, Creating the Nuclear Safety Council, and their developing provisions.

4. Regardless of the sanction that might correspond to the licensee, the Nuclear Safety Council shall admonish in writing the physical person who, by grave negligence, is responsible for the execution of a bad practice resulting in the material commission of punishable acts.

5. In the scope of the State Administration, the competence for initiating and instructing the disciplinary proceedings provided in this chapter shall correspond to the organizations

and units comprising the Directorate General for Energy Policy and Mines.

6. In the scope of the State Administration, sanctions resulting from very grave infringements by first class nuclear or radioactive facility licensees shall be imposed by the Council of Ministers, from grave infringements by the Ministry of Industry, Tourism and Trade, and from minor infringements, by the Chairman of the Directorate General for Energy Policy and Mines

Regarding sanctions resulting from very grave infringements by second and third class radioactive facility licensees, and the remaining activities regulated by this Law or its developing regulations, they shall be ruled by the Ministry of Industry, Tourism and Trade, and by the Chairman of the Directorate General for Energy Policy and Mines, in the case of grave and minor infringements.

7. In the scope of Autonomous Communities, the provisions of their specific regulations will be complied with.

8. The Government, by means of a Royal Decree, shall update the amounts corresponding to the fines established in this Law, in compliance with consumer price index changes.

9. Regarding transport of radioactive materials, this sanctioning table shall be applicable in any aspect specifically regulated by this Law or its developing regulations, regardless of the infringements and sanctions established in basic transport planning laws.

#### **Article 92. *Cautionary Measures***

The competent body for imposing sanctions shall establish, upon Nuclear Safety Council proposal, among other, the following cautionary measures:

- a) Corrective, safety or control measures preventing continuity of in the infringement, or in the production of the risk or damage.
- b) Sealing of devices or equipment units.
- c) Confiscation of materials or equipment units.
- d) Temporary, partial, or total suspension of facility operations, or of activity execution.

The measures specified in the previous paragraph shall be agreed upon prior to initiating the, or during the, disciplinary administrative procedure, pursuant to the conditions established in articles 72 and 136 of Law 30/1992, on the Legal Regime of Public Administrations and Common Administrative Procedure.

**Article 93. Prescription**

1. The infringements and sanctions provided in this chapter shall prescribe:

- a) Very grave infringements, after five years, grave infringements, after three years, and minor infringements, after one year.
- b) The sanctions imposed for very grave faults, after five years, those imposed for grave faults, after three years, and those imposed for minor faults, after one year.

2. The infraction prescription period shall be counted starting on the day the infringement is carried out. For infringements resulting from an activity sustained over time, the start date for the calculation shall be that in which the activity ended, in which the infringement took place, or in the moment in which the competent Administration detected the existence of the infringement.

Initiation of a disciplinary proceeding shall interrupt the prescription period, upon notice to the interested parties, and the prescription period shall start counting again if the disciplinary proceeding is brought to a halt for more than a month for causes not attributable to the alleged responsible party.

3. The prescription period of sanctions shall begin from the date in which the disciplinary resolution is final and unappealable, and the prescription shall be interrupted when the corresponding procedure is initiated, being the interested party fully aware of said initiation.

**Sole Repeal Provision**

All those provisions that are contrary to what is established in this present Law are repealed.

**First Final Provision**

The Government, in a maximum period of nine months, counted from the effective date of this Law, will pass the modification of the Statute of the Nuclear Safety Council.

**Second Final Provision**

This law will become effective on the day following its publication in the Official State Gazette.

Wherefore,

We order all Spaniards, whether individuals or authorities to observe this Law and ensure that it is observed.

Madrid, 7<sup>th</sup> November, 2007  
**JUAN CARLOS R**

The President of the Government,  
**JOSÉ LUIS RODRÍGUEZ ZAPATERO**



