

**Law 25/1964, of 29th of April, on Nuclear Energy  
Published in the Spanish Official State Gazette (BOE)  
number 107, of the 4th of May 1964**

*Preliminary note:*

The content of this law has been modified partially since its enactment, by means of successive norms of legal rank.

The express annulments or modifications are included as footnotes, quoting specifically those laws that are at the origin of such annulments or modifications in the texts, and the precepts that constitute their object.

Furthermore, the law has been affected by various posterior laws, among the more significant of which we can quote:

Royal Legislative Decree 1302/1986 (BOE 30-6-86) and Royal Decree-Law 9/2000 (BOE 7-10-00), on Evaluation of Environmental Impact; Law 6/1997, of the 14th of April, on the Organisation and operation of the General State Administration (BOE 15-4-97); Law 13/1986, of the 14th of April, on Promotion and General coordination of Scientific and Technical Research (BOE 18-4-86); Law 11/1986, of the 20th of March, on Patents for Inventions and Utility Models (BOE 26-3-1986); Law 15/1980, of the 22nd of April that creates the Nuclear Safety Council (BOE 25-4-80); Law 22/1973, of the 21st of July, on Mines (BOE 24-7-73); ratification of the Paris Convention, of the 29th of July 1960, the complementary Brussels Convention, of the 31st of January 1963, and the Additional Protocols of the 28th of January 1964, all of which are related to the concept of responsibility for nuclear damage; Treaty which created the European Atomic Energy Community on the 25th of March 1957, in its current version, as well as the regulations and European Community directives transposed into Spanish domestic law.

Independently of the Statutes of the Nuclear Safety Council, and of the statutes of the Autonomous Communities, and the royal decrees regarding the transfer of functions regarding second and third class radioactive installations, other sectorial and organisational provisions have also, partially, affected its application, such as the Royal Decrees 3322/1971, 2967/1979, 1611/1965, and 813/1988 (Enusa), and 1899/1984 (Enresa), the National Energy Plans 83 and 91/2000, and the Royal Decree 1464/1999 on the activities within the first part of the nuclear fuel cycle.

Similarly, the text of the law has been affected by the successive royal decrees on the organic structure of the ministerial departments. The latest being:

Royal Decree 557/2000 of the 27th of April (BOE of the 28th of April) on the Restructuration of Ministerial Departments, article 4, paragraph 1, letter b), "the competencies until now attributed to the Ministry of Industry and Energy...correspond to the Ministry of the Economy...through the Directorate-General of Energy...".

Royal Decree 689/2000, of the 12th of May (BOE of the 13th of May) that establishes the basic organic structure of the Ministry of the Economy, Single Additional Provision, paragraph 4, "...the Directorate-General of Energy and the Directorate-General of Mines

are abolished, and their functions assumed by the Directorate-General of Energy Policy and Mining".

Furthermore, this law has been the object of subsequent developments, by the following regulatory dispositions, among others:

Royal Decree 2177/67, of the 22nd of July (BOE 18-9-67) on Nuclear Risk Coverage; Royal Decree 53/1992, of the 24th of January (BOE 12-2-92), which approves the Regulation on Sanitary Protection against Ionising Radiations; Royal Decree 1891/1991, of the 30th of December (BOE 3-1-92), on the Installation and use of X-ray equipment for medical diagnosis, and the Royal Decree 1836/1999, of the 3rd of December, which approves the Regulation on nuclear and radioactive installations (BOE 31-12-99).

### **Law 25/1964, of the 29th of April, on Nuclear Energy**

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The peaceful applications of nuclear energy are acquiring, to the extent that techniques improve, a great impulse, and should contribute, progressively, to the development of our country. In the years to come, nuclear energy shall participate, with increasing importance, in the supply of the Spanish energy system, as a result of the almost complete utilisation of other national reserves of primary energy sources.

The State has, for some time now, been considering this future development, creating, when appropriate, the adequate organs. Thus, the Decree-Law, of the 22nd of October 1951, created the Nuclear Energy Junta, and charged it with specific missions. Further provisions regulate the tasks of development and training of personnel that pertain to it, as well as others of a general character, among which we can highlight mining and the protection against radiations.

From this point onwards, the Nuclear Energy Junta has projected its work as a research centre, as an organ that assists the Government, as an institute responsible for safety and protection issues, against the danger of ionising radiations, and as a promoter of industrial development, related to the applications of nuclear energy. The installation and development of its laboratories, of its pilot plants, and of its concentrates factory; its participation in International Organisations, its cooperation in technical and scientific programmes in other countries, have already produced excellent results and have allowed for the training of specialised personnel and of the techniques necessary for the next step in the incorporation of nuclear energy to the national supply.

Within this provident vision, and aiming at the near future, appears the convenience of a general provision, with the rank of law, that compiles the previous legislation, gives it flexibility and broadens it towards new sectors that the nation's development requires.

The International Covenants subscribed by Spain impose certain obligations whose applicability within the country require legal norms that must be incorporated into the regulatory Law for the peaceful use of nuclear energy.

Given that the Government has an Advisory Organ, such as the Nuclear Energy Junta, at its disposal, with technical capacity and responsible for those matters related to safety and protection against the threat of ionising radiations, it must be taken into account, and its decision must be required as a precondition for the operation of any nuclear or radioactive installation, in order to ensure uniformity in the application of the protection criteria.

Given the great degree of specialisation that is required to train personnel in specific matters regarding nuclear energy, it is useful to consider it as a process of advanced training, beyond the formative base that can be acquired in teaching centres, and for this the creation of an Institute of Nuclear Studies is contemplated, dependent on the Nuclear Energy Junta, and with the purpose of using its personnel and facilities for the specialisation of the future technicians in this field.

The regulation of prospecting, as well as the exploitation of radioactive mineral deposits and the authorisations for nuclear and radioactive installations must be contemplated in the Law, compiling what has been legislated to date, modifying it in an attempt to offer freedom in the exploitation of radioactive minerals, and highlighting the general principles for the awarding of authorisations, that will have to be further developed by the opportune regulations.

In provision for the future, and in accepting the International Covenants on this matter, must be included into Spanish legislation all those aspects that relate to civil responsibility in case of nuclear accidents, the risk coverage and the method for claiming compensations that may arise, awarding the greatest possible legal protection to the possible victims and favouring, on the other hand, the development of the nuclear industry by not demanding excessively costly responsibilities to private capital.

The principle of objective responsibility has already been incorporated into Spanish legislation in the field of occupational accidents, and the concept of limitation has already been admitted in the law of airborne and maritime transport, in terms of the responsibility of the owner. These principles also contemplate the regulation of the corresponding insurance, which must incorporate some special conditions.

It is becoming necessary to define and sanction specific criminal types, given the seriousness that an infraction in the field of nuclear energy can have. The penal sanctions contemplated in the Penal Code, have been taken into account, but, it is considered that their classification within the field of Nuclear Law is more convenient than the transfer of such infractions into the aforementioned Code, given the exceptional nature of these. The infractions and their corresponding sanctions, are also contemplated, within the administrative field, focusing, similarly, on the specific norms of the special laws, and admitting appeals in a similar manner.

For all this, this present Law constitutes the instrument that compiles the currently existing principles regarding nuclear energy and the protection against the threat of ionising radiations, and it develops and expands them to obtain greater flexibility in its application, and to contribute to the promotion of its peaceful applications.

By virtue of, and in conformity with the proposal prepared by the Spanish Cortes,

## I DISPOSE;

### ***Chapter one***

#### ***Object and definitions***

##### **Article 1**

The aims of this present Law are to:

- a) Promote the development of the peaceful applications of nuclear energy in Spain and to regulate their implementation within the national territory.
- b) To protect lives, health and properties against the dangers derived from nuclear energy and the harmful effects of ionising radiations.

##### **Article 2.**

Definitions:

For the purposes of this present Law the following definitions are established:

- One. "Ionising radiations" are those radiations capable of producing ions, directly or indirectly, as they go through matter.
- Two. "Radioactive material" is all that which contains substances that emit ionising radiations.
- Three. "Radioactive mineral" is a mineral that contains uranium or thorium.
- Four. "Concentrates" are all those products that proceed from the treatment of radioactive minerals and that present a content in uranium or thorium greater than that which is found originally in nature.
- Five. "Radioactive isotopes" are the isotopes of the natural, or artificial, elements that emit ionising radiations.
- Six. "Nuclear fuels" are all those substances that may generate energy by means of a self-maintained process of nuclear fission.
- Seven. "Radioactive products or waste" are all those radioactive materials that are created in the process of production or utilisation of nuclear fuels, or whose radioactivity originates in the exposure to radiations inherent to such processes. Are not included in this definition the radioactive isotopes that outside a nuclear installation, have reached the final stage in their elaboration and which may be used for scientific, medical, agricultural, commercial or industrial purposes.
- Eight. "Nuclear substances" are:
  - I) The nuclear fuels, except for natural uranium and depleted uranium, that in themselves, or combined with other substances can generate energy by means of a self-maintained process of nuclear fission outside of a nuclear reactor.

II) Radioactive products, or radioactive waste.

Nine<sup>1</sup>. "Radioactive waste", is any material or waste product, for which there is no expected use, and which contains, or is contaminated by radionuclides in concentrations, or levels of activity, greater than those established by the Ministry of Industry and Energy, following the report by the Nuclear Safety Council.

Ten. "Nuclear reactor" is any structure that contains nuclear fuels disposed in such a manner that within this structure a self-maintained process of nuclear fission can be carried out without the need for an additional source of neutrons.

Eleven. "Nuclear power plant" is any fixed facility for the generation of energy by means of a nuclear reactor.

Twelve. "Nuclear installations" are:

I) Nuclear power plants and nuclear reactors.

II) Those factories that use nuclear fuels to produce nuclear substances, and those factories where nuclear substances are treated, included those facilities for the regeneration of irradiated nuclear fuels.

III) The storage facilities for nuclear substances, except for those sites where the aforementioned substances are stored incidentally during their transport.

The Ministry of Industry can determine the consideration as a single nuclear installations of various nuclear facilities of one single operator that are located on the same site.

Thirteen. "Radioactive installations" are:

I) Any type of installations that contain a source of ionising radiation.

II) Any type of equipment that produces ionising radiations.

III) The premises, laboratories, factories and installations that produce, manipulate or store radioactive materials.

Are excluded from this classification, all those installations, equipment and materials when the intensity of the irradiation field they generate does not entail risk. Within the regulations for the application of this Law the standards for these exceptions shall be detailed.

Fourteen. "Operator" of a nuclear installation, of a radioactive installation or of a ship or nuclear aircraft is the person or legal entity that holds the necessary authorisation for the operation of any of the aforementioned activities.

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<sup>1</sup> New wording given by the Fourth Additional Provision of Law 54/1997, of the 27th of November, that regulates the Electricity Sector (BOE of the 28th of November).

Fifteen. "Controlled area" is the name given to any area in which, given the existence of a source of ionising radiation, the individuals that work in it may be exposed to receive radiation doses that are greater than one point five rems per annum.

Sixteen. "Nuclear damages" are:

I) The loss of human lives, physical injuries and material damages that are caused, directly or indirectly, by the radioactive properties, or their combination with the toxic, explosive, or other dangerous properties of nuclear fuels, or of radioactive products and waste, that may be found in a nuclear installation, or of those nuclear substances that proceed from, are originated in or sent to it.

II) All other injuries and damages that are produced or originated in this manner when they are declared as such by a competent court.

III) The loss of human lives, physical injuries and material damages caused as the direct, or indirect, result of ionising radiations that emanate from any other source of radiation.

Seventeen. "Nuclear accident" is any event, or succession of events with the same origin, cause nuclear damages.

Eighteen. "Nuclear ships or aircraft" are all those equipped to use nuclear fuel.

Nineteen. "Warship" is any ship that belongs to the naval forces of a state, and that bears the exterior signs that characterize warships of that nationality, that it be under the command of a duly authorised officer appointed by the government of that state and whose name figures in the promotion roster of the navy, and whose crew be under naval military discipline.

Twenty. "Military aircraft" is any aircraft whose mission is to ensure national defence, or that is commanded by a military person commissioned to this effect.

## ***Chapter two***

### ***On the authorities and administrative organs***

#### **Article 3.**

The execution of this present Law corresponds to the Ministry of Industry, especially through the Directorates-General of Energy, of Mines and of Fuels, as well as the Nuclear Energy Junta, without prejudice to the specific competencies of other Ministries.

#### **Article 4.**

The Directorate-General of Energy is fundamentally entrusted with:

a) The planning and co-ordination of energy policy, and the preparation in conjunction with the Nuclear Energy Junta, of the programs for the incorporation of nuclear energy into the national energy supply.

b) Processing the administrative authorisations.

**Article 5.**

The Nuclear Energy Junta depends directly from the Ministry of Industry and is a Public Law entity, which shall have its own legal status and full economic and administrative autonomy, according to what is contemplated within the Law on the Legal Status of Autonomous State Entities.

Its mission shall be to promote, guide and direct research, studies, experiences and tasks, which shall lead to the development of the applications of nuclear energy to further the national goals, and to promote an industry of nuclear materials and equipment.

To these effects, it shall be empowered to appoint the necessary personnel, and to carry out the distribution of funds that are assigned to it.

**Article 6.**

The Nuclear Energy Junta is specially charged with:

- a) Advising the Government, through the Minister of Industry, in matters that are within the scope of this present Law.
- b) The mandatory report to the Ministry of Industry within the process of considering the requests formulated by individuals or, public or private Law, legal entities that relate to matters linked to the peaceful applications of nuclear energy.
- c) The analysis of the risks and of the intrinsic safety, as well as the inspections in nuclear and radioactive installations, to this regard.
- d) Advising the Courts of Justice in matters of nuclear risk and damages.
- e) The promotion and execution of research, studies, projects, tasks, exploitations and installations that are necessary for its purposes.
- f) Mining prospecting in the sovereign national territories in search of deposits of radioactive minerals and of other minerals of nuclear interest.
- g) The exploitation of reserved mining areas, or that are reserved for the Nuclear Energy Junta, be it directly or through third parties.
- h) The acquisition, preparation, import, conservation and treatment of minerals or chemical products when they are necessary for the development of its mission.
- i) To promote and introduce radioactive isotope applications as well as supervising their distribution and use.

j) To promote and develop the fuel producing and nuclear materials industry, as well as the equipment for reactors, or other radioactive installations, together with providing assistance and technical help for the industry.

k) The specialised training of scientific and technical personnel, without prejudice to what may be carried out in universities and superior technical colleges regarding those problems specifically linked to nuclear energy, and to help and assist the educational centres.

l) To maintain, with an exclusive character in terms of its competences, official relations with similar foreign bodies.

m) To propose to the Minister of Industry regulations regarding protection against radiation and general measures for the promotion of the applications of nuclear energy.

n) To represent the State in the fulfilment of the precepts of this Law, when it does not fall upon the Minister of Industry, or specifically upon other authorities, organisms or entities.

#### **Article 7.**

For the study and application of the matters regulated in this present Law, and which affect the competence of departments other than the Ministry of Industry, mixed commissions shall be created, of an advisory nature, in which the Nuclear Energy Junta shall always be represented.

In those matters with an international perspective, the Nuclear Energy Junta shall act in co-operation with the Ministry of Foreign Affairs.

In the study of safety criteria and the measures for protection against ionising radiations, the Directorate-General of Health shall co-operate with the Nuclear Energy Junta.

#### **Article 8.**

The Nuclear Energy Junta consists of the President and the Council, assisted by an Executive Commission, a Director General, Heads of Department and a Technical Secretary-General. It shall be subdivided into Departments, Divisions, Sections or Work Centres, as deemed necessary for the achievement of its goals and the exercise of the faculties that correspond to the aforementioned Junta.

#### **Article 9<sup>2</sup>.**

The President of the Nuclear Energy Junta shall be appointed by the Head of State through a Decree endorsed by the Minister of Industry.

The Council, whose composition, and number of Counsellors shall be determined by Decree, shall be composed of representatives from the State Administration, or of Official Organisms, by scientific, technical or industrial

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<sup>2</sup> New wording given by Law 25/1968, of the 20th of June, (BOE of the 21st of June).



personalities, of recognised competence in the life of the nation. In performing the duties of Secretary, the Technical Secretary-General of the Nuclear Energy Junta shall participate, but is not entitled to vote.

The members of the Council shall be appointed by the Minister of Industry, following the proposal of the respective organisms and departments, for those that carry with them representative duties, and freely in the rest of cases.

The Minister of Industry, following the proposal from the President of the Junta, and having heard the Council's opinion, shall appoint two Vice-presidents from among the Counsellors and the Director General.

#### **Article 10.**

The Council, as supreme decision-making and executive organ of the Nuclear Energy Junta, has as fundamental duties to:

- a) Establish the general programmes for research, development, and other activities.
- b) Propose the income and expense budgets that must be taken up to the Government for their approval.
- c) Deliberate and inform on those matters that due to their nature and importance are submitted to it.
- d) Designate the Executive Commission and to establish its functions.
- e) Approve, following the proposal made by the Director General, the appointments of the Heads of Department and the Technical Secretary-General.

#### **Article 11.**

The President shall be the official, and external, representative of the Nuclear Energy Junta, and as such it is within the competence of the position to preside over the Council and the Executive Commission, as well as representing the Junta in all those official and legal acts that take place, and which refer specifically to the Junta.

#### **Article 12.**

The Nuclear Energy Junta, in the performance of the functions that are assigned to it in this present Law, is generically empowered, to the effects of article 12 of the Law on the Legal Status of Autonomous Entities, to carry out all those operations deemed necessary, such as the awarding of guarantees or securities, the agreements on credit operations with Banks or legally authorised institutions, the opening of current accounts, the constitution, transmission, modification, extinction and cancellation of real estate mortgage guarantees on acquired land, buildings or installations of its own property, as well as pledges and pledges without transference.

#### **Article 13.**

The assets of the Nuclear Energy Junta shall comprise the following goods and economic resources:

- a) The yearly allocation established in the General State Budgets.
- b) The extraordinary allocations that are awarded to it, according to the provisions that regulate them.
- c) The goods and rights acquired by the Junta.
- d) The contributions or incomes from covenants and agreements concluded with any other official national or international entity.
- e) The products obtained from the sales made by the Junta in the exercise of its faculties, as well as the price for the services rendered of a technical nature, that may be agreed upon with third parties that require its services on a voluntary basis.
- f) Those funds proceeding from other autonomous bodies that, in such cases, are handed over to it by the Government.
- g) The subsidies, contributions or donations that are awarded in its favour by, national or foreign, entities or individuals,.
- h) Any other resources not included in the previous paragraphs and which may be attributed to the Junta by a legal provision or agreement.

**Article 14.**

The Nuclear Energy Junta, for the performance of the preliminary operations of mining prospecting that are of its competence, or to obtain the implantation of sanitary measures that are related to its attributions and the protection of public health, shall be entitled to occupy, temporarily, private properties and terrains, subject to the regulations and prescribed process established within the existing legislation on expropriations by force.

**Article 15.**

Through the Nuclear Energy Junta a Regulation for the personnel that offer their services within it shall be proposed to the Minister of Industry, which shall be submitted to the Council of Ministers for its approval.

The working personnel shall be regulated according to the dispositions of Labour Law, adapted to the special character of the nuclear and radioactive activities, which shall be detailed in the corresponding Regulation, with the agreement of the Ministry of Labour.

For the better performance of the functions that this present Law confers upon the Nuclear Energy Junta, it shall be entitled to hire the technical, scientific and administrative personnel that it requires, on a temporary basis, and according to the corresponding condition stipulations.

### ***Chapter three***

#### *On nuclear research and education*

##### **Article 16<sup>3</sup>**

With the aim of coordinating the investigative and the educational tasks related to nuclear energy the Institute of Nuclear Studies is created, within the Nuclear Energy Junta. This Institute shall be governed by a President, a Board in which the different Organisms involved in nuclear research and education shall be adequately represented, as well as those industries linked to nuclear energy, and a Director who shall be a member of the Board, and who will be able to participate but who will not be entitled to vote.

The President shall be appointed by the Government, following the proposal from the Minister of Industry. The Minister of Industry, in agreement with the Minister of National Education, shall appoint the members of the Board, and the Director, following the proposal of the Board.

The Board shall prepare the project for this Institute's Regulations, which shall be presented to the Minister of Industry.

##### **Article 17.**

The Minister of Industry, together with the Minister of National Education, and whichever other interested ministerial Departments or institutions, shall establish the standards for the development of scientific programmes by nuclear research and education centres, within the frame of the safety measures that are required in this field of science.

The Nuclear Energy Junta is entitled to create scholarships, in Spain as well as outside Spain, and to subsidise the aforementioned research and national education centres.

##### **Article 18.**

The Ministry of Industry is entitled to limit, whenever necessary, the quantities of radioactive substances that the research and education centres can use, as well as to carry out as many inspections as it considers necessary regarding safety measures, the protection mechanisms and the quantity of radioactive materials in the aforementioned centres.

### ***Chapter four***

#### *On the prospecting, research and exploitation of radioactive minerals and their commerce and of concentrates*

##### **Article 19.**

The prospecting, investigation and exploitation of radioactive minerals and the obtainment of concentrates is declared free, throughout the national territory, except in those areas reserved by the State.

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<sup>3</sup> New wording given by Law 25/1968, of the 20th of June, (BOE of the 21st of June).

In the requests for research permits, or for exploitation concessions, formulated by individuals or legal entities, it is obligatory to earmark the radioactive material in question. These requests shall be processed and awarded according to the existing Law of Mines and the Regulations for its application. In both cases the prior report of the Nuclear Energy Junta is mandatory.

**Article 20.**

The Nuclear Energy Junta shall carry out the task of monitoring the research and exploitation activities in places where radioactive materials are present, and can propose to the Ministry of Industry the measures that it considers pertinent, without prejudice to the attributes that the laws in force confer to the Services of the Directorate-General of Mines.

**Article 21.**

The Nuclear Energy Junta shall also perform the task of supervising research, mineral exploitations and concentration plants when such minerals are accompanied, regardless of the proportion, with other radioactive ones.

The determination of a deposit of radioactive minerals, or of other different minerals that accompany it, shall be made by the Ministry of Industry, with prior reports from the Nuclear Energy Junta and the Council of Mining and Metallurgy. In any case, those radioactive minerals that are obtained shall be subject to the same supervision and registering regime as those proceeding from radioactive mineral deposits.

**Article 22.**

The free trade and commerce of radioactive minerals of national origin among Spanish buyers and sellers is authorised, as long as the mineral does not leave the country. Regarding the import and export of radioactive minerals, and the trade and commerce of the same minerals with the participation of foreign persons or companies, this shall require the authorisation of the Ministry of Industry, as well as the compliance with those requirements demanded by other governmental provisions.

**Article 23.**

The Ministry of Industry shall be responsible for the maintenance of a register of the quantities of radioactive minerals extracted, both for those that have been subject to internal trade as well as for those whose export or import has been authorised, depending on the case.

All those who investigate or exploit radioactive mineral deposits, within the national territory, as well as those who transport, buy, sell, export or import them, are obliged to inform the Ministry of Industry of their activities or their commercial operations.

Likewise, the Ministry of Industry shall keep a Register on the production of concentrates, their sale, transportation and storage. The declaration of the relevant data is compulsory for those persons or companies that own concentrates factories.

**Article 24.**

Upon the proposal of the Ministry of Industry, the Executive Commission of Economic Affairs shall establish the laws on the minimum content of oxide per tonne of mineral, the characteristics of concentrates, as well as the conditions and prices that must govern the acquisitions that the Nuclear Energy Junta carries out in each period, to promote and assist in the exploitation of radioactive minerals on behalf of individuals.

**Article 25.**

The Nuclear Energy Junta shall acquire, and hence receive in its concentrates factories, according to the conditions expressed in the previous article, and without the need for a prior contract, an annual quota of radioactive minerals, whose maximum quantity will be set by the Ministry of Industry, following the proposal of the Nuclear Energy Junta.

The annual acquisitions that go beyond the quota mentioned in the previous article, shall be subject to free trade between the operator and the aforementioned Junta. In any case, the prices and conditions cannot be greater than those mentioned in the previous article.

**Article 26.**

The Nuclear Energy Junta shall reserve the right to not accept those minerals that due to the interference of non-radioactive elements make them uneconomical in terms of their purity. In this case, and also when the title-holders for radioactive mineral concessions consider their exploitation uneconomical given the application of the prices and conditions that are established, in accordance with the norms that this present Law establishes, these shall be able to request that the Ministry of Industry declare their exemption from the obligation of maintaining their operation active, as regards what is referred to on this matter in the current Law of Mines. The Ministry of Industry, prior report from the Nuclear Energy Junta, shall decide what it considers best in each case.

**Article 27.**

The radioactive concentrates proceeding from factories located on national territory can be sold to the Nuclear Energy Junta or, following a prior mandatory report from the Nuclear Energy Junta, can be sold to third parties or entities expressly authorised to do so by the Ministry of Industry. In any case, the Nuclear Energy Junta, when presenting the aforementioned report, can exercise its right of preferential admission, in the same conditions as expressed in the sale application, within a fifteen-day deadline.

***Chapter five***

*On the authorisations for nuclear and radioactive installations, and the possession and use of radioactive materials*

**Article 28.**

The construction and assembly of nuclear or radioactive installations, shall require the authorisation of the Ministry of Industry, with a mandatory report from the Nuclear Energy Junta. Shall be exempted from this procedure the X-

ray equipment for medical use, whose regulation shall be established by the Ministry of the Interior, with the consent of the Ministry of Industry.

**Article 29.**

During the construction of nuclear or radioactive installations, the Nuclear Energy Junta shall be responsible for the supervision of the construction with the aim of ensuring that it is carried out according to the project that served as a basis for the authorisation, in order to carry out the risk analysis.

Before the aforementioned installations start to operate, the Nuclear Energy Junta shall perform an inspection, from a safety perspective.

Once the Nuclear Energy Junta presents a favourable safety assessment statement, the operator can request the extension of the certification to start operations to the Ministry of Industry.

**Article 30.**

The transfer, of construction authorisations, as well as for the start up of operations in nuclear or radioactive installations, shall require the authorisation of the Ministry of Industry, with the mandatory report from the Nuclear Energy Junta.

Through the Ministry of Industry, the basic requisites and procedures to be followed shall be determined, according to the previous standards, for the awarding or transfer of the authorisations regulated in the previous articles.

**Article 31.**

Radioactive materials and nuclear fuels cannot be stored or used within the national territory by persons or entities that are not expressly authorised to do so by the Ministry of Industry, with a prior, mandatory, report from the Nuclear Energy Junta. These same conditions shall be imposed for their transfer or resale.

**Article 32.**

The authorisations regulated in this present chapter shall expire by the non-compliance with the conditions and deadlines included in the authorisation.

They can also lose their effects by an agreement of the Council of Ministers, at the request of the Ministry of Industry, when exceptional reasons of national interest converge, compensating the operator, in this case, according to what is established in the current Law of Expropriation by Force.

**Article 33.**

The commercial companies, must report to the Ministry of Industry, all matters regarding the sale or installation of equipment or mechanisms capable of producing ionising radiation, in order to verify the conditions of the installations and the suitability of the persons who operate with such equipment or facilities.

**Article 34.**

The authorisations for the manufacture in Spain of machines, equipment or accessories, destined to be specifically nuclear or radioactive shall be granted by the Ministry of Industry, with the prior, mandatory, report from the Nuclear Energy Junta.

**Article 35.**

Independently of what is established in articles 28 and 29 of this present Law, the Ministry of Industry shall inspect all nuclear and radioactive installations before they start to operate, and periodically as many times as it considers necessary to verify the construction, operation, safety and other conditions imposed on them.

*Chapter six*

*On the measures for safety and protection against ionising radiation*

**Article 36.**

The exploitations of radioactive minerals, the nuclear and radioactive installations must operate without risk, and must fulfil all the provisions established in the respective regulations regarding protection against ionising radiations.

Such provisions shall relate to the working conditions as well as to the danger that ionising radiations represent for those persons professionally dedicated to activities of a nuclear nature, as well as third persons and living creatures that may be affected by such radiations and activities.

**Article 37.**

The personnel of the nuclear and radioactive installations must fulfil the conditions of suitability that shall be established in the corresponding Regulations.

In all nuclear installations, there will be a head of operations, which must fulfil the conditions that are established in the corresponding regulations and who shall be responsible for the supervision of all the labour operations and the exploitation of the installations, being technically responsible of their operation.

The Head of Operations shall have the capacity to suspend the operations of the installation when it is considered adequate or necessary.

**Article 38.**

The nuclear and radioactive installations that operate with radioactive substances are obliged to have special facilities for the storage, transportation and manipulation of radioactive waste.

**Article 39.**

Those persons that work in nuclear activities, within "controlled areas", shall be subjected to, before starting to work in such areas, to a medical examination, which from then on shall be periodical, up to ten years after they cease working in these areas.

**Article 40.**

The loss, abandonment or removal of radioactive materials or waste, or of contaminated objects must be immediately communicated to the competent Authorities.

The stored or deposited radioactive materials must be manipulated with all the precautions laid down in the relevant Regulation. The accidents, and other irregularities that affect the stored or deposited materials, that generate a risk of damages from ionising radiations must immediately communicated to the competent Authorities.

**Article 41.**

The transportation of radioactive materials shall be as expedient and direct as possible, and can be carried out by any means, excepting postal services.

The sent items or packages that contain radioactive material shall be duly protected and can not be opened during transit without the consent of the responsible sender or addressee, and in the presence of a person authorised by them. The Authorities and Inspectors who are competent to intervene in the transportation, including the Customs Service, shall respect this previous norm, and shall remit the item with the greatest diligence and with preferential treatment regarding other merchandise, without prejudice to demanding posterior information and checks to the addressee, as are required for the fulfilment of their mission.

It is obligatory to verify the radioactive harmless of the vehicles and means employed and their total decontamination if they were to register any activity.

Given the specialised nature of this transportation, the Nuclear Energy Junta has the capacity to organise its own fleet of vehicles.

**Article 42.**

The simultaneous storage, and in the same location, of inflammable, toxic, corrosive or explosive materials whose potential danger makes the conditions for the storage of radioactive materials even more critical is forbidden.

**Article 43.**

The nuclear fuels and radioactive materials used or in possession of unauthorised persons or entities shall be intervened, without prejudice to the rest of responsibilities that may be incurred.

The initiation of an administrative procedure for infractions against the precepts of this present Law or of the Regulations that develop it, shall lead to, given the prior agreement of the Ministry of Industry, to the immediate intervention of the nuclear fuel or the radioactive materials, and the following prohibition for the acquisition of new quantities of fuels or materials, until the causes that motivated this intervention have disappeared.

**Article 44.**



The premises or sites where X-ray equipment is installed, or is going to be installed, whatever the use that they are going to be given, must fulfil the minimum safety conditions according to what is established in the respective Regulation.

### ***Chapter seven***

#### ***On the civil responsibility deriving from nuclear damages***

##### **Article 45.**

The operator of a nuclear installation, or of whatever other installation that produces or operates with radioactive materials or which includes apparatus that could produce ionising radiations, shall be responsible for the nuclear damages. This responsibility shall be objective, and its quantity will be limited by the cover limit established in this present Law.

If the operator proves that the person who suffered the nuclear damages caused them, or contributed to them by fault or negligence, the competent court may exonerate the operator, totally or partially, from the obligation to pay compensation for the damages suffered by this person.

The nuclear damages caused by a nuclear accident due directly to an armed conflict, hostilities, civil war, insurrection or natural catastrophe of an exceptional character shall not generate any responsibility for the operator.

##### **Article 46.**

To the effects of the application of the present Law, a distinction must be made between:

- a) Nuclear damages produced by accident in a nuclear installation.
- b) Nuclear damages produced by accident in the rest of those activities that employ radioactive materials or equipment that can produce ionising radiation.

In both cases the distinction between immediate and deferred damage is admitted, depending on whether it occurs, threatens to occur, or the responsible party is known within ten years, starting from the date in which the accident took place, or beyond this deadline, respectively.

##### **Article 47.**

When the nuclear accident occurs during the transportation of nuclear substances through national territory and towards another country, or from one point to another of this territory, the operator of the nuclear facility, from whence the merchandise departed from, shall be deemed responsible for the damages if it is based on national territory and if another operator has not expressly assumed this responsibility.

##### **Article 48.**

If the accident is due to nuclear substances originating from outside the national territory, and destined to a nuclear installation situated within national territory, the addressee to whom the delivery is addressed will be deemed responsible for

the damages caused, from the moment in which they take charge of the aforementioned substances, unless existing international conventions, ratified by the Spanish State say otherwise. These same conventions shall be applicable in cases of transit of nuclear substances through Spanish territory.

**Article 49.**

In any other case of nuclear accident that takes place outside a nuclear installation, the responsible party for the damages is the operator of the installation or activity that last possessed the matter that caused the damage, except for what is referred to in the following article.

**Article 50.**

The carriers of nuclear substances, or the persons that manipulate nuclear waste, can be considered operators, in terms of nuclear substances or radioactive waste, respectively, substituting themselves to the interested operators, whenever this substitution is permitted by the competent authority.

**Article 51.**

The payment of compensation as a result of a damage caused by a nuclear accident shall be subjected to the following order of preference:

Firstly.- Injury to persons, which shall be compensated, depending on the cases, at least, with the quantity that would correspond by the application of the Industrial Insurance tables. The individual compensations shall in no case be liable to apportionment, and in case the coverage is not sufficient to bring satisfaction, the State shall arbitrate the legal methods to cover the difference.

Secondly.- Damages to the estate of persons, shall be compensated for, once all the personal injury claims have been satisfied. In case the coverage should not be sufficient an apportionment shall be carried out, taking into account the extent of the injuries suffered by each estate.

In the amount paid in concept of compensation, the interests or the judicial costs, shall not be included.

**Article 52.**

The operator that is responsible for the nuclear accident shall only be obliged to satisfy the compensations up to the limit of coverage signalled in this present Law. If the total quantity should go beyond the legal cover, the case referred to in article 51 shall apply.

If the responsibility for the nuclear damage falls on several operators, these shall respond jointly to the damages, up to the established cover limit.

**Article 53.**

The fact that the operator of a nuclear or radioactive installation, or of whatever other activity that works with radioactive materials or apparatus that can produce ionising radiations, shall be declared responsible for nuclear damages, does not suppose the exemption from ulterior civil responsibility derived from motives

different to the nuclear damage, nor from the possibility that a third party should be declared responsible for the damages.

The operator shall have the right to demand restitution to a third party who is obliged to do so, whenever this be expressly stipulated in the relevant contract.

**Article 54.**

To the effects of what is established in the present Law on the responsibility for nuclear accidents, the State shall be considered as an operator with respect to those installations, ships and aircraft, and the activities that produce ionising radiations, that carry out their functions by means of budgetary allocations approved by the Government and whose exploitation is not rented out or handed over to private entities.

***Chapter eight***

***On the nuclear risk coverage***

**Article 55.**

All operators of a nuclear installations or of any other installation that may produce or work with radioactive materials, or which includes apparatus that could produce ionising radiations for the development of any activity of a nuclear type, beyond obtaining the prior authorisation, must establish coverage for the risks that could be generated in relation to the responsibility derived from nuclear accidents.

**Article 56.**

The coverage for nuclear risk, referred to in the previous article, destined to cover the immediate damages, as defined in article 46 of the present Law, must be established by any of the following mechanisms:

Firstly.- Contracting an insurance policy that guarantees the demanded coverage.

Secondly.- Constitution in the Spanish Government Depository of a cash deposit, in pledge values or whatever other financial guarantees, approved by the Ministry of the Treasury, up to a quantity equivalent to the required cover.

Regarding deferred damages, the Government shall adopt the opportune measures for their compensation.

Such guarantees must be reconstituted by the operator in the case of having to pay compensation on account of these.

**Article 57.**

In case of nuclear installations, the required cover, according to article 55 of this present Law, shall be of 25.000 million pesetas. Nevertheless, the Ministry of Industry and Energy shall be able to impose another limit, never beneath 1.000 million pesetas, when dealing with the transportation of nuclear substances, or any other activity whose risk, according to the Nuclear Safety Council, does not require greater coverage. These figures shall be increased by the Government,

upon the request of the Ministry of Industry and Energy, when the international covenants accepted by the Spanish State make this compulsory, or when the passage of time, or the variation in the consumer price index require it, in order to maintain the same level of coverage<sup>4</sup>.

When the matter relates to nuclear ships the minimum guarantee that is required shall be established by decree, taking into account the international agreements ratified by Spain.

For radioactive installations, the minimum required cover shall be established in the Regulations that develop this Law.

**Article 58<sup>5</sup>.**

The civil responsibility deriving from nuclear accidents can be covered by the insurance entities inscribed in the Special Register of the Directorate-General of Insurance for the practice of insurance on civil responsibility and that include policies, technical stipulations and prices for premiums to this respect that comply with the legal conditions. The Insurance Compensation Consortium shall participate in the coverage of such risks, in those cases in which the minimum level of civil responsibility contemplated in this Law is not achieved by the conjunction of such Entities, by assuming the difference up to the established level, as well as reinsuring in the manner and amounts that the Ministry for the Economy and the Treasury determines.

**Article 59<sup>6</sup>.**

**Article 60<sup>7</sup>.**

**Article 61<sup>8</sup>.**

**Article 62<sup>9</sup>.**

**Article 63.**

Given the special characteristics of this civil responsibility risk, it shall be compulsory in the insurance operations that are agreed on, to establish a franchise, to be deducted in any case from the accounts of those insured, the amount of which shall be established in the corresponding Regulation.

**Article 64.**

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<sup>4</sup> New wording given by the Fourth Additional Provision of Law 54/1997, of the 27th of November, that regulates the Electricity Sector.

<sup>5</sup> New wording given by the Third Additional Provision of Law 21/1990, of the 19th of December on Insurance Societies.

<sup>6</sup> Articles repealed expressly by the Repeal Provision of Law 21/1990, of the 19th of December, on Insurance Companies.

<sup>7</sup> Articles expressly repealed by the Repeal Provision of Law 21/1990, of the 19th of December, on Insurance Companies.

<sup>8</sup> Articles expressly repealed by the Repeal Provision of Law 21/1990, of the 19th of December, on Insurance Companies.

<sup>9</sup> Articles expressly repealed by the Repeal Provision of Law 21/1990, of the 19th of December, on Insurance Companies.

The State is not obliged to arrange any insurance that guarantees the coverage of the nuclear risks of its own installations or activities that produce ionising radiation, obliging itself to satisfy all corresponding compensations, according to what is established in this present Law, and what is stipulated in the international conventions and according to the procedures included in article 40 and following of the Law on the Legal Status of the State Administration.

### ***Chapter nine***

#### *On the claims for compensation for nuclear damage*

##### **Article 65.**

The action that is derived from article 45 of this present Law shall be exercised before the Courts of ordinary Jurisdiction according to the procedure that corresponds to the amount of the claim.

The action shall have to be directed as well, jointly, against the insurance entity or entities. When the guarantee has been established according to the formula mentioned in paragraph 2 of article 56, the claimants can request the implementation of the opportune precautionary measures.

##### **Article 66.**

The courts of the place where the damage has occurred, shall be deemed competent, in the terms established by article 62 of the Law of Civil Prosecution, and according to what is established in article 65 of this present Law.

A technical report on the nuclear accident, its causes and effects shall be required, and shall be prepared by the Nuclear Energy Junta. This report shall be included in the proceedings at the request of one of the parties or as a diligence for better exercise on behalf of the Court.

##### **Article 67.**

The right to claim compensation by virtue of this present Law shall extinguish itself, if the corresponding action is not taken, within a deadline of ten years, if the damage be immediate, and within twenty years if the damage is considered to be deferred, according to what is declared in the last paragraph of article 46. To these effects, the relevant expert reports shall be requested, regarding the nature and the type of damages claimed.

Those who have formulated a compensation claim within the legally established deadlines will be able to present a complementary claim in case the damage worsens once these deadlines expire, and as long as the competent court has not presented its definitive sentence.

### ***Chapter ten***

#### *On the State's intervention in the compensation of nuclear damages*

##### **Article 68.**

The Ministry of Finance shall arbitrate the systems or procedures that it considers opportune to satisfy the amounts that are to be settled in favour of the State within the concept of compensations for nuclear damages and

independently from the civil responsibility in the cases foreseen in this Law and in the international conventions ratified by Spain.

## ***Chapter eleven***

### ***On nuclear ships and aircraft***

#### **Article 69.**

Are subject to what is established in this present chapter, all nuclear ships and aircraft, including warships and military aircraft and those that possess the same legal status; nevertheless, for these, what is established in article 74 shall be applicable.

#### **Article 70.**

Shall be considered an exception to the right of "innocent passage" the passage through territorial waters by nuclear ships or the over flight over national territory by nuclear aircraft.

#### **Article 71.**

The Government of the country under whose flag the ship sails, or where the nuclear aircraft is registered, and who has awarded the corresponding licence to the operator of these, must:

a) Accredited, through an adequate report, the safety of all the nuclear devices or facilities on board the ship or aircraft.

This report shall refer to:

I) Guarantees on the normal operation of the device, facility or generating mechanism of the ship or aircraft's motive power.

II) Guarantees on the nuclear fuels used in these ships and aircraft and on the evacuation of radioactive waste and refuse.

III) Official approval of the operating manual of the nuclear generators of the motive power.

b) Verify and ensure the protection against ionising radiations with respect to those persons on board and those that may be next to the ship or aircraft during its stay or passage through territorial waters or the national airspace.

This requirement shall include:

I) Official approval of the protection measures that must be observed in the nuclear ship or aircraft.

II) Demonstration that the installation guarantees and those regarding the safety regime are fully operational, according to periodic verification, and as is established or recommended internationally.

c) To guarantee, in a manner considered sufficient, the coverage for civil responsibility that could arise from any damage or nuclear accident.

This guarantee shall relate to:

I) The acceptance by the Government of the country under whose flag the ship sails, or where the nuclear aircraft is registered, of all responsibilities derived from accidents or nuclear damages produced in or by the ship or aircraft.

II) The existence of a nuclear risk coverage, not inferior to the quantity established in the international conventions subscribed by Spain, or even of a greater quantity when it be so agreed upon between the Spanish government and that of the country under whose flag the ship sails, or where the nuclear aircraft is registered.

III) The adoption of measures by the country under whose flag the ship sails, or where the nuclear aircraft is registered, to ensure that the insurance compensation and other financial guarantees are effectively available in its own jurisdiction.

**Article 72.**

The responsibility that is alluded to in the previous article shall be fully incurred when it is demonstrated that the damage was caused by a nuclear accident in which the nuclear fuel of the ship or aircraft intervened, or the radioactive waste produced by these. This provision is extendable to those cases where nuclear projectiles or nuclear fuels are being transported, even when these are not being used to generate motive power.

**Article 73.**

The national maritime or air authorities can refuse to allow the stay in port or airport of a nuclear ship or aircraft when the provisions that these authorities contemplate in the application of what is included in this present chapter are not fulfilled, or for whatever other cause that justifies this refusal.

**Article 74.**

The national maritime authorities shall have the power to carry out inspections on nuclear ships inside their territorial waters, and to verify their safety and operational conditions, before authorising these to enter port or to pass through the aforementioned waters.

The national air authorities shall carry out the inspection and verification tasks, once the nuclear aircraft has landed and before it approaches the airport's normal traffic area.

**Article 75.**

The Nuclear Energy Junta shall offer its collaboration to the maritime or air authorities of the national territory for the verification of guarantees, the monitoring of protections and the establishment of safety measures in ports and airports.

**Article 76.**

The nuclear ships or aircraft shall remain within the areas of ports or airports that the competent authorities establish, with the prior advice of the Nuclear Energy Junta, and in any case all the precautions and safety measures that are established in chapter six of this present Law, regarding "controlled areas", must be observed.

**Article 77.**

In case of unscheduled stops or emergency landings, the ships and aircraft must subject themselves to the designation of the place where they must stay whilst the circumstances that motivated their unexpected arrival persist. This designation shall be carried out by the competent national authority that may adopt, on its own, the measures that will lead to place the ship or aircraft in the indicated spot.

Nuclear ships must cast anchor in an area of tranquil waters, and far from inhabited or industrial centres.

Nuclear aircraft must land in areas of aerodromes or airports with little traffic, and far from the facilities and areas with important flows of travellers and personnel.

What is established in this present article also obliges warships or military aircraft with nuclear generators of motive force or which carry nuclear weapons.

**Article 78.**

In the cases of nuclear ships or aircraft of Spanish nationality, the Nuclear Energy Junta, shall advise the competent authority on the suitability of the concession, removal or suspension of the authorisation and respect towards the guarantees that must be demanded of the operators, in compliance with what is stated in the present Law.

**Article 79.**

The operator of a nuclear ship or aircraft shall be given the same consideration as an operator of a nuclear installation, and therefore will be subject to what is established in chapter seven regarding civil responsibility, regarding the coverage of nuclear risk the provisions of chapter eight shall be applicable if these nuclear ships and aircraft have Spanish nationality.

Nevertheless, the application of the provisions included in the aforementioned chapters shall not extend to the compensations for rescue or the contribution for ordinary damages.

**Article 80.**

Nuclear ships or aircraft shall be obliged, furthermore, to comply with the international regulations concerning passage through territorial waters and the contiguous zone, and for the over flight over the national territory of states, respectively.

***Chapter twelve***



*On patents, brand names and inventions related to nuclear energy*

**Article 81.**

Bearing in mind the particularities determined in this present chapter, the inventions of a nuclear character or with nuclear applications can be registered in any one of the categories of protection included in the legislation on industrial property, and according to the procedures established in the aforementioned legislation.

**Article 82.**

If from the study of the descriptions of a request it is considered by the Register of Industrial Property that the invention that is to be protected is of a nuclear character or application, it shall be compulsory to request a report from the Nuclear Energy Junta, which will deal with the following issues:

Firstly. On the patentable nature of the invention within the category in which it is trying to be registered under, and were the case to arise, if it can be included into any one of the exceptions included in article 48 of the current Statute of Industrial Property, as well as on the sufficiency and clarity of the descriptions and claims.

Secondly. On the nature or nuclear application of the invention and whether it should be kept secret.

Once this report has been received, having heard the interested party, and were it necessary, hearing the Nuclear Energy Junta, once again, the Industrial Property Register shall grant or refuse the patent according to the specific legislation on this matter.

The Industrial Property Register shall not award any distinctive sign (mark, commercial name, or establishment logo) that refers to nuclear terminology without the report from the Nuclear Energy Junta.

**Article 83.**

Whenever general interest requires that an invention that benefits the progress of research or of the nuclear industry in Spain, be made public, or its exclusive use by the State, or which for special reasons must be kept secret or restricted, the respective patents can be expropriated according to what is established in the current Law on Expropriation by Force.

The holders of patents, of every kind, on inventions of a nuclear character or application can make a request to the Industrial Property Register to be exempted from the justification of implementation and exploitation required by the current Statute of Industrial Property. This exception shall be granted by the Ministry of Industry, with a prior report from the Nuclear Energy Junta, within this agreement the scope of the exception shall be determined.

***Chapter thirteen***<sup>10</sup>  
*On crimes and punishment*

**Article 84.**

**Article 85.**

**Article 86.**

**Article 87.**

**Article 88.**

**Article 89.**

**Article 90.**

***Chapter fourteen***<sup>11</sup>  
*On infractions and sanctions in nuclear matters*

**Article 91.**

Without prejudice to the civil and penal responsibilities or of other types that may be incurred by those companies that carry out activities regulated by the present Law, shall be considered as administrative infractions those actions and omissions that suppose the non-compliance or non-observance of what is established in the aforementioned Law, and in Law 15/1980, of the 22nd of April, that creates Nuclear Safety Council, and the provisions that develop this.

a) Shall be considered as very serious infractions:

1. Carrying out, without the required authorisation, any activity that requires such an authorisation, according to this present Law or with the norms that develop it.
2. To continue carrying out an activity when the corresponding authorisation is suspended or has expired, or to not halt or immediately suspend, upon the request of the Nuclear Safety Council, the operations of the installation when there be a probability of serious risk for the life and health of persons or the security of things.
3. To carry out any activity regulated by this Law without having any civil responsibility cover for the damages that it may cause in the manner and within the legal or regulatory limits established, except in what refers to second and third category radioactive facilities.
4. To not comply with the terms, requirements, obligations, limits, conditions or prohibitions imposed in the authorisations and licenses, or in the official operation documents, when this non-compliance implies a serious risk for the life and health of persons or the security of things.

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<sup>10</sup> Paragraph f) of the Single Repeal Provision of the existing Penal Code, approved by Organic Law 10/1995, on the 23rd of November (BOE of the 24th of November), repeals articles 84 to 90 of Law 25/1964, whose types are now substantially incorporated into the new Penal Code.

<sup>11</sup> New wording of the entire chapter, articles 91 to 95, from the Fifth Additional Provision of Law 54/1997, of the 27th of November, regulating the Electricity Sector.

5. The absolute refusal, reiterated resistance to collaborate, or serious voluntary obstruction of the inspection and control functions that correspond to the Nuclear Safety Council.

6. The deliberate concealment of relevant information, or giving false information to the Administration, or to the Nuclear Safety Council, when such behaviour implies a serious risk for persons or things.

7. The non-application of the technical or administrative measures, that with a general or particular character, are imposed on an activity, the non-compliance with the deadlines for their implementation and the omission of the requirements or corrective measures necessary for the fulfilment of the legal or regulatory precepts when there be a serious risk for the life and health of persons, and the security of things.

8. The non-compliance, or unjustified tardiness regarding the obligatory communications in cases of emergency, that suppose a serious risk for persons or goods.

9. The manipulation, transfer or disposal in any form of intervened radioactive substances or devices that produce ionising radiations.

b) Shall be considered as serious infractions:

1. The non-compliance with the legal or regulatory precepts applicable or of the terms and conditions of the authorisations or official operation documents, when they do not constitute a very serious infraction, except for those cases of minor importance.

2. The omission of the corrective measures necessary for the compliance with the legal precepts or the terms and conditions of the authorisations, as well as the non-application of the technical or administrative measures that with a general, or particular character, may be imposed on an activity, or the non-compliance with the established deadlines for their implementation, when none of these situations supposes a very serious infraction.

3. To maintain in operation those radioactive facilities that require the pertinent declaration, when this has not been formulated.

4. The lack of communication to the authority that granted the authorisation, or to the Nuclear Safety Council, of the temporary non-compliances regarding the terms and conditions of the aforementioned authorisation.

5. The operation of second and third category radioactive installations, without the cover for civil responsibility for damages that these may cause in the established form and legal or regulatory limits.

6. Concealing information, or offering false information to the Administration, or the Nuclear Safety Council, when it does not suppose a very infraction fault or a minor infraction.

7. To prevent, obstruct or delay the inspection activities by actions and omissions, as long as such behaviour does not warrant the consideration as a very serious infraction or a minor infraction.

8. The non-compliance or unjustified delay in the obligatory communications in cases of emergency, as long as they do not suppose a serious risk for persons or goods.

c) Shall be considered as minor infractions:

1. Delays in the fulfilment of the administrative measures that do not suppose a very serious or a serious infraction.

2. The lack of information offered to the authorities that granted the authorisations or licences, and to the Nuclear Safety Council, or its incomplete, inexact, incorrect or delayed communication, that hinder the correct control of the installations or activities, as long as they do not constitute another infraction and are not of great importance.

3. To not facilitate the inspection activities, when this is due to a mere delay in the fulfilment of the information, communication or summons obligations.

4. Those committed by simple negligence, as long as the generated risk was not of great importance.

5. Those simple irregularities or any merely formal non-compliance, with the legal or regulatory precepts, when they be of minor importance.

#### **Article 92.**

In the classification of the different infractions, the following circumstances shall be taken into account:

1. The resulting danger from the infraction to the life and health of persons, and the safety of things and the environment.

2. The importance of the damage or injury caused to persons or things.

3. The degree of participation and benefit obtained.

4. The non-compliance with prior warnings or requests by the competent authorities.

5. The intention or negligence in the commission of the infraction and reiteration.

6. Fraud and connivance in its execution.

7. The diligence in identifying the infraction and in communicating it to the competent authorities, as long as the opportune corrective measures are adopted.

8. Active recidivism within of a year of more than one infraction of the same nature, when this has been declared by a final resolution.

**Article 93.**

1. In the case of nuclear installations, and of first category radioactive installations, the infractions in matters of nuclear energy shall be sanctioned as follows:

- a) Very serious infractions, with a fine of up to 500.000.000 pesetas,
- b) Serious infractions, with a fine of up to 100.000.000 pesetas.
- c) Minor infractions, with a fine of up to 10.000.000 pesetas.

2. Very serious, and serious infractions can also give rise, together with the expected fines, to the revoking or temporal suspension of the permits, licenses or authorisations.

The quantity of the sanctions shall be graduated attending to the criteria of proportionality and to the circumstances specified in the previous article.

The fines can be reiterated over time until the faulty conduct ceases.

3. In the case of second and third category radioactive installations, the economic sanctions shall be reduced to a maximum level of half those mentioned previously.

**Article 94.**

1. The procedure for the imposition of the sanctions shall adjust itself to the principles of the procedure laid out in articles 127 to 138 of Law 30/1992, of the 26th of November, and what is included in Royal Decree 1398/1993, of the 4th of August.

2. The Nuclear Safety Council shall propose the initiation of the corresponding sanction proceedings, regarding those facts that may be constitutive of an infraction in matters of nuclear safety and radiological protection, informing of its actions to the organ to whom the initiation of the filing corresponds, both in terms of the observed infraction as to the relevant items for its evaluation and shall present the reports that may be necessary for the adequate determination of the events that are the object of the proceedings.

Nevertheless, when the circumstances of the case warrant it, if there be no direct damage or injury to persons or the environment, the Nuclear Safety Council can reprimand the title-holder of the activity and propose the corresponding corrective measures. In case this request is not attended to, the Nuclear Safety Council can impose coercive fines up to a maximum amount that cannot be greater than 20% of the established fine for the corresponding infraction, and propose, in this case, the initiation of the sanction proceedings. In any case the

competent organ for the initiation of the sanction proceedings shall be informed of these activities.<sup>12</sup>

3. In the realm of the State Administration, the sanctions for very serious infractions committed by the title-holders of nuclear or first category radioactive installations shall be imposed by the Council of Ministers, the sanctions for serious infractions shall be imposed by the Minister of Industry and Energy. The sanctions for minor infractions shall be imposed by the Director General of Energy.

When the case regards sanctions for infractions committed by the title-holders of second and third category radioactive installations, these shall be imposed by the Minister of Industry and Energy if they constitute very serious infractions, and by the Director General of Energy in the case of serious or minor infractions.

Within the realm of the autonomous communities, their own regulations shall regulate these matters.

4. In all that is not contrary to the types of sanctions described in the preceding articles, and that complements these, the regime for infractions and sanctions that is in force, shall be maintained for matters of health protection against ionising radiations and the installation and use of X-ray equipment for diagnostic purposes.

5. In no case shall various sanctions be imposed against one event, although other responsibilities can be demanded that emanate from other events or concurring infractions.

#### **Article 95.**

The infractions referred to in the present Law shall expire: the very serious ones in five years; the serious ones in three; and the minor ones in one year. The time of expiry shall start to run from the day in which the infraction was committed, and shall be interrupted at the moment in which the corresponding proceedings are initiated against the alleged infraction, and communicated to the interested party.

The sanctions shall expire: those imposed against very serious faults, in five years; those imposed against serious faults in three years; and those imposed against minor faults in one year. The time of expiry shall start to run from the day in which the sanction resolution became final, and shall be interrupted at the moment in which the corresponding proceedings are initiated, and communicated to the interested party.

### ***Chapter fifteen***

#### ***Final dispositions***

#### **Article 96.**

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<sup>12</sup> Paragraph added by the Fifth Additional Provision of Law 14/1999, of the 4th of May, governing Public Prices and Fees for services rendered by the Nuclear Safety Council (BOE of the 5th of May, rectified in BOE of the 2nd of June).

This present Law shall become effective on the day after its publication in the Official State Gazette. The Government is authorised to establish the necessary regulations for its application and development.

**Article 97**

The following provisions are repealed:

Decree-Law of the 29th December 1948 (BOE of the 19th January 1949), on sanctions against infractions committed against the law regarding research, exploitation, possession, etc. of radioactive minerals.

Decree of the 29th December 1948 (BOE of the 19th January 1949), reserving, in favour of the State, the radioactive mineral deposits; prohibiting their export and declaring them of national interest.

Decree-Law of the 22nd October 1951 (BOE of the 24th of October), that creates the Nuclear Energy Junta.

Law of the 17th of July 1958, which modifies the Decree-Law of the 22nd of October 1951, and establishes norms for the investigation and exploitation of radioactive minerals (BOE number 171).

Decree of the 14th November 1958, on the constitution and appointment of the Council of the Nuclear Energy Junta (BOE number 289).

And all those other, of equal or inferior rank, that are contrary to what is established in this present Law.

Signed in the Palace of El Pardo, on the 29th of April 1964.

FRANCISCO FRANCO