

**Federal Decree-Law No. (4) of 2012
on Civil Liability for Nuclear Damage**

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

Having reviewed the Constitution,

And Federal Law No. (1) of 1972 on the Competencies of Ministries and the Powers of Ministers and its amending laws,

And Federal Decree-Law No. (6) of 2009 on the Peaceful Uses of Nuclear Energy,

And Federal Decree No. (32) of 2012 ratifying the Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage of 1997,

And Federal Decree No. (33) of 2012 ratifying the Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention of 1988,

And based on the proposal of the Minister of Energy, and the approval of the Council of Ministers,

We have issued the following Decree-Law:

**Article (1)
Definitions**

In the application of the provisions of this Decree-Law, and notwithstanding any provision in any other legislation, the following words and phrases shall have the meanings assigned to them below, unless the context otherwise requires:

The State: The United Arab Emirates.

The Authority: The Federal Authority for Nuclear Regulation.

The International Agency: The International Atomic Energy Agency.

Operator: The person licensed by the Authority to operate a nuclear installation and named in the license issued in accordance with the aforementioned Federal Decree-Law No. (6) of 2009.

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

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

Nuclear Material:

1. Any nuclear fuel—other than natural uranium and depleted uranium—capable of producing energy by a self-sustaining chain process of nuclear fission outside a nuclear reactor, either alone or in combination with some other material.
2. Radioactive products or waste.

Nuclear Reactor: Any structure containing nuclear fuel in such an arrangement that a self-sustaining chain process of nuclear fission can occur therein without an additional source of neutrons.

Nuclear Installation:

1. Any nuclear reactor other than one with which a means of sea or air transport is equipped for use as a source of power, whether for propulsion or for any other purpose.
2. Any factory using nuclear fuel for the production of nuclear material, or any factory for the processing of nuclear material, including any factory for the reprocessing of irradiated nuclear fuel.
3. Any facility where nuclear material is stored, other than storage incidental to the carriage of such material.
4. Such other installations in which there are nuclear fuel or radioactive products or waste as the Board of Governors of the International Agency may from time to time determine.

Several nuclear installations of one operator which are located on the same site shall be considered as a single nuclear installation.

Nuclear Damage:

1. Death or personal injury.

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

provided that the loss or damage referred to in items (1) to (5) and (7) above, arises out of or results from ionizing radiation emitted by any source of radiation inside a nuclear installation, or emitted from nuclear fuel or radioactive products or waste in, or of nuclear material coming from, originating in, or sent to, a nuclear installation, whether resulting from the radioactive properties of such matter, or from a combination of radioactive properties with toxic, explosive or other hazardous properties of such matter.

The Council of Ministers may issue instructions concerning the implementation of the provisions of items (1) to (7).

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

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

1997 Vienna Convention: The consolidated text of the 1963 Vienna Convention as amended and annexed to the Protocol to Amend the Vienna

Convention on Civil Liability for Nuclear Damage dated September 12, 1997.

Article (2)

Objectives of the Law

This Decree-Law aims to achieve the following:

1. Regulate the provisions and define the scope of civil liability and compensation for nuclear damage.
2. Determine the financial security that the Operator is obliged to maintain.
3. Apply the 1997 Vienna Convention on Civil Liability for Nuclear Damage in all matters for which no provision is made in this Decree-Law.

Article (3)

Scope of Application

The operator of a nuclear installation shall be absolutely liable for damage proved to have been caused by a nuclear incident as set out in Article II of the 1997 Vienna Convention.

The Authority may exclude any nuclear installation or small quantities of nuclear material from the application of the provisions of this Decree-Law, if the small size of the hazards involved so warrants, provided that:

1. The criteria for the exclusion of nuclear installations are established by the Board of Governors of the International Agency and the Authority issues a decision that the exclusion meets those criteria.
2. The maximum limits for the exclusion of small quantities of nuclear material are established by the Board of Governors of the International Agency and the Authority issues a decision that the exclusion is within the established limits.

Article (4)

Liability for Nuclear Damage

The Operator shall be solely liable for any nuclear damage resulting from a nuclear incident in accordance with the provisions of Article (2) of the 1997 Vienna Convention.

Article (5)

1. The liability of the Operator for compensation for nuclear damage for any single nuclear incident shall not exceed the amount of 450 million Special Drawing Rights.
2. The Authority may establish a lower limit for the Operator's liability for compensation for nuclear damage referred to in paragraph (1) of this Article for nuclear installations consisting of research reactors, low-power reactors, and facilities that process or store nuclear materials, taking into account the nature of the nuclear installation or nuclear material concerned and the likely consequences of an incident occurring thereat, provided that the amount of compensation so determined shall in no case be less than five million Special Drawing Rights, and the State shall cover the difference between the minimum limit set by the Authority in accordance with this paragraph and the maximum liability limit stipulated in paragraph (1) of this Article.

Article (6)

The Authority may, with the prior written consent of the Operator and upon the request of a carrier of nuclear material or a handler of nuclear waste, recognize or designate them as an operator instead of the operator specified by the Authority, solely for the purposes of Article II of the 1997 Vienna Convention, after fulfilling the requirements for insurance coverage and financial security stipulated in Article (8) of this Decree-Law.

In this case, the carrier or handler provided for in the first paragraph of this Article shall be considered an operator of a nuclear installation within the territory of the State.

Article (7)

The court may exonerate the Operator, wholly or partly, from the obligation to pay compensation for the damage suffered by the person injured if the Operator proves that the nuclear damage resulted, wholly or partly, either from the gross negligence of the person suffering the damage or from an act or omission of such person done with intent to cause damage.

Article (8)

Financial Security and Insurance

1. The Operator shall be obliged to provide and maintain such insurance and guarantees as the Authority may require in respect of his liability for nuclear damage.
2. For the purpose of issuing a license to operate a nuclear installation, the operator of the nuclear installation must maintain insurance or provide other financial security up to the amount of 450 million Special Drawing Rights or up to the limit of the amount determined by the Authority in accordance with the provisions of paragraph (2) of Article (5) of this Decree-Law, to cover his liability for a single nuclear incident, and such insurance or other financial security shall be in the form and on the terms approved by the Authority.
3. The Operator may obtain this insurance or financial security from any sources approved by the Authority, whether from within or outside the State.
4. The provisions of this Decree-Law are consistent with the priority given to the distribution of compensation due in claims for death or personal injury as stipulated in paragraph (2) of Article (8) of the 1997 Vienna Convention.
5. If the Operator, after exhausting all efforts, is unable to obtain the insurance coverage or any part thereof stipulated in paragraph (2) of this Article, the Authority may decide that the insurance required under the provisions of this Decree-Law is not available in the domestic or international insurance market or that the insurance coverage is unavailable or temporarily suspended. In such cases, the risks covered under the insurance coverage shall be directly covered by the State up to the maximum limit stipulated in paragraph (1) or (2) of Article (5) of this Law, as the case may be, until the Authority announces the availability of insurance coverage and grants the relevant parties a period of time, determined by the Authority in its sole discretion, to obtain such insurance.

Article (9)

1. The Operator shall furnish the carrier with a certificate issued by or on behalf of the insurer or other financial guarantor providing

- financial security under the provisions of Article (8) of this Decree-Law.
2. The certificate referred to in the first paragraph of this Article must comply with the requirements stipulated in this Decree-Law and Article III of the 1997 Vienna Convention.
 3. Transport that takes place entirely within the territory of the State is excluded from the provision of this Article.

Article (10)

Claims for Compensation

1. Actions for compensation for nuclear damage shall be brought exclusively against the Operator or against the person who has provided insurance or financial security under the provisions of paragraph (1) of Article (8) of this Decree-Law.
2. Claims for compensation against the Operator shall be extinguished upon the expiration of the effective insurance or financial security period if it remains in force for a period longer than that stipulated in paragraph (1/a) of Article (VI) of the 1997 Vienna Convention.
3. The rights of claim for compensation of any person who has suffered nuclear damage shall be extinguished if an action is not brought within three years from the date on which the person suffering damage had knowledge, or ought reasonably to have had knowledge, of the damage and of the Operator responsible for it, provided that the period established in paragraph (1/a) of Article (VI) of the 1997 Vienna Convention or paragraph (2) of this Article is not exceeded.

Article (11)

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

1. If this is expressly provided for by a contract in writing.
2. If the nuclear incident results from an act or omission done with intent to cause damage, in which case action shall be brought against the individual who has acted or omitted to act, or has participated in acting, with such intent.

The right of recourse provided for under this Article may also be extended to benefit the State insofar as it has provided public funds under the 1997 Vienna Convention.

Article (12)

Jurisdiction

1. The federal courts in the Emirate of Abu Dhabi shall have exclusive jurisdiction to hear actions arising under this Decree-Law.
2. The provisions of this Decree-Law shall apply to actions relating to civil liability for nuclear damage, and the provisions of the 1997 Vienna Convention shall apply in matters for which no provision or rule is made in this Decree-Law.
3. When an action for compensation for nuclear damage is brought before the court provided for in the first paragraph of this Article, the court may appoint one or more experts or specialists to assist it in accordance with the applicable laws and regulations.

Article (13)

Competent Authority

The Authority shall be the competent authority for the implementation of the provisions of this Decree-Law, including:

1. Deciding on the exclusion of small quantities of nuclear material or nuclear installations from the application of the provisions of the 1997 Vienna Convention and Article (3) of this Decree-Law.
2. Determining the minimum limit of liability in the case of nuclear installations consisting of research reactors, low-power reactors, and facilities that process or store nuclear materials under paragraph (2) of Article (5) of this Decree-Law.
3. Determining whether the civil liability insurance or any other financial security of the applicant or Operator satisfies the required financial protection provisions in accordance with paragraph (1/a) of Article (VII) of the 1997 Vienna Convention and paragraphs (1) and (2) of Article (8) of this Decree-Law.
4. Issuing regulations and by-laws for the application of the provisions of this Decree-Law.

General Provisions

Article (14)

1. No provision in this Decree-Law shall be construed as limiting or restricting any right or obligation of any person arising under any health insurance, workers' compensation, or occupational disease compensation scheme or program.
2. The beneficiary of any insurance or compensation scheme or program referred to in paragraph (1) of this Article may benefit from the compensation provided for in this Decree-Law when its conditions are met.

Article (15)

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

Issued by us at the Presidential Palace in Abu Dhabi:

On: 25 /Ramadan/ 1433 H.

Corresponding to: 13 /August /2012 AD.

Khalifa bin Zayed Al Nahyan
President of the United Arab Emirates