### SPECIAL ISSUE

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##### REPUBLIC OF KENYA

***KENYA GAZETTE SUPPLEMENT***

### NATIONAL ASSEMBLY BILLS, 2018

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### NAIROBI, 19th November, 2018

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CONTENT

Bill for Introduction into the National Assembly-

PAGE

The Nuclear Regulatory Bill, 2018 939

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939

##### THE NUCLEAR REGULATORY BILL, 2018 ARRANGEMENT OF CLAUSES

*Clause*

PART I-PRELIMINARY

1. Short title.
2. Interpretation.
3. Object and purpose of the Act.
4. Application of the Act.

PART II-KENYA NUCLEAR REGULATORY COMMISSION

##### Establishment of the Commission.

..

1. Functions of the Commission .
2. Powers of the Commission.
3. Composition of the Commission.
4. Director General.
5. Staff of the Commission.
6. Conduct of business and affairs of the Commission.
7. Remuneration of Chairperson and Commissioners.
8. Protection from personal liability.
9. Liability of Commission for damages.
10. Common seal of the Commission.

PART ID - FINANCIAL PROVISIONS

1. Funds for the Commission
2. Financial year.
3. Annual estimates.
4. Accounts and audit.
5. Investment of funds.

940 *The Nuclear Regulatory Bill, 2018*

# PART IV -REGULATORY CONTROL: NOTIFICATIONS, AUTHORIZATIONS, INSPECTIONS AND ENFORCEMENT

##### Notifications.

1. Authorization.
2. Categories for authorization.
3. Suspension, revocation or modification of authorization.
4. Primary responsibility for safety.
5. Right of review of decision.
6. Inspection objectives and programme.
7. Appointment of inspectors.
8. Powers of inspectors.

31. Oversight role by the Commission. ..

30. Enforcement.

PART V-RADIATION PROTECTION

1. Regulatory control for radiation protection.
2. Radiation protection requirements.
3. Consumer products.
4. Medical exposure.
5. Intended radiological exposures with trans­ boundary effects.

PART VI-SAFETY OF RADIATION SOURCES AND FACILITIES

1. Control of radiation sources.
2. Responsibility for safety of radiation sources.
3. National register for radiation sources.
4. Report of loss of a radiation source.
5. Orphan sources.
6. Mining and milling licenses.

*The Nuclear Regulatory Bill, 2018* 941

# PART VII-SAFETY OF NUCLEAR FACILITIES AND DECOMMISSIONING

##### Authorization for nuclear facilities.

1. Responsibility for safety of facilities and activities.
2. Site evaluation.
3. Authorization for construction and operations.
4. Extended shutdown for nuclear reactors.
5. Decommissioning requirements.
6. Decommissioning plan.
7. Decommissioning responsibilities.
8. Finances for decommissioning.

PART vm-DECOMMISSIONING FUND

1. Establishment of the Fund.
2. Sources of funds to the Fund.
3. Administration of the Fund.
4. Functions of the Fund.
5. Other matters to be prescribed.

PART IX-EMERGENCY PREPAREDNESS AND RESPONSE

1. Role of the Commission.
2. Failure by an applicant to develop an emergency preparedness and response plan.
3. Emergency preparedness and response.
4. Implementation of emergency preparedness and response plan.
5. Trans-boundary nuclear or radiological emergency.
6. Information to public about plan.

PART X-TRANSPORTATION OF RADIOACTIVE MATERIAL

1. Transport of radioactive material.
2. Offences relating to transport.

942 *The Nuclear Regulatory Bill, 2018*

##### Duty to exercise reasonable care by carrier.

1. Radiation protection transport plan.
2. Emergency response in transportation.
3. Segregation of material.

**PART XI-EXPORT AND IMPORT CONTROLS**

1. Controlled Items.
2. Export Licensing Criteria.
3. Import Licensing Criteria.
4. Illicit trafficking.

**PART XII-RADIOACTIVE WASTE AND SPENT FUEL MANAGEMENT**

1. Scope of radioactive waste and spent fuel management.
2. Responsibility for radioactive waste and spent fuel management.
3. Classification of radioactive waste.
4. Waste management plan.
5. Offences relating to radioactive waste and spent fuel.
6. Collection, segregation and characterization of radioactive waste.
7. Discharge of radioactive waste.
8. Authorization to operate a radioactive waste and spent fuel management facility.
9. Radioactive waste imports.
10. Radioactive waste exports.

**PART XIII-SAFEGUARDS**

1. Peaceful uses.
2. Application of safeguards.
3. Safeguard inspections.
4. Designation of inspectors.

*The Nuclear Regulatory Bill, 2018* 943

##### State system of accounting and control for nuclear material.

1. Information requirements for research and development activities related to the nuclear fuel cycle.

PART XIV-NUCLEAR SECURITY AND PHYSICAL PROTECTION

1. Threat assessment processes.
2. Primary responsibility for physical protection.
3. International cooperation and assistance.
4. Restrictions.
5. Protection of confidential information.
6. Offences relating to nuclear facilities.

PART XV- MISCELLANEOUS PROVISIONS

1. Offences by employees and agents.

##### General penalty.

..

1. Appointment of Prosecutors.
2. Regulations .

PART XVI- TRANSITIONAL PROVISIONS

1. Repeal of Cap. 243.
2. Commission to be successor of the Radiation Protection Board.
3. Transfer of Staff.
4. Secondment of Staff.

SCHEDULE- PROVISIONS AS TO THE

CONDUCT OF THE BUSINESS AND AFFAIRS OF THE COMMISSION

944 *Th e Nu clea r Re g*: *u*-*latory Bill, 2018* --------

THE NUCLEAR REGULATORY BILL, 2018

A Bill for

AN ACT of Parliament to provide for a comprehensive framework for the regulation of safe, secure and peaceful utilization of atomic energy and nuclear technology; the ·production and use of radiation sources and the management of radioactive waste; the repeal of the Radiation Protection Act and for connected purposes.

ENACTED by the Parliament of Kenya as follows- PART I-PRELIMINARY

1. This Act may be cited as the Nuclear Regulatory Act, 2018.
2. In this Act, unless the context otherwise requires

Shon title.

Interpretation.

### "activities" means the production, use, import and export of radiation sources for industrial , research and medical purposes; the transportation of radioactive material; the siting, construction, commissioning, operation, and decommissioning of facilities; radioactive waste management activities and site remediation;

"applicant" means a person making an application for an authorization under this Act;

"authorization" means the granting by the Commission of a written permission for an authorized person to perform a specified activity and includes a licence, permit, registration and approval;

"authorized person" means a holder, whether natural or corporate, of a valid authorization for a specified activity;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to interior security;

"carrier" means any person, organization or government, undertaking the carriage of radioactive material by any means of transport and includes both carriers for hire or reward and carriers on own account;

"Commission" means the Kenya Nuclear Regulatory Commission established under section 5;

*The Nuclear Regulatory Bill, 2018*

945

### "consignment" means any package or packages, or load of radioactive material, presented by a consignor for transport;

"consumer product" means a device or manufactured item into which radionuclides have been deliberately incorporated or produced by activation, or which generates ionizing radiation, and which can be sold and made available to members 'of the public without special · surveillance or regulatory contr.ol after sale;

"containment" means the methods or physical structures that prevent the . dispersion of radioactive substances;

"contamination" means the presence of radioactive substances in or on a material or the human body or other place where they are undesirable or could be harmful or the process giving rise to their presence in such places;

### "clearance" means the removal of radioactive material or radioactive objects within authorized activities from any further regulatory control by the Commission;

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"clearance levels" means values established by the Commission and expressed in terms of . activity

*I* concentrations or total activity, at or below which sources

of radiation may be released from regulatory control by the Commission;

"decommissioning" means all steps leading to the release of a facility, other than a disposal facility, from regulatory control other than confirming the decommissioned status of a facility and includes the processes for decontamination and dismantling

"Director General" means the chief executive officer

of the Commission appointed under section 9;

"discharges" means planned and controlled releases into the environment, as a legitimate practice, within the limits authorized by the Commission, of liquid or gaseous radioactive material that originate& from regulated nuclear facilities during normal operations

"disposal" means the emplacement of spent fuel or radioactive waste in an appropriate facility without the intention of retrieval;

946 *· The Nuclear Regulatory Bill , 2018*

##### "dose" means a measure of the radiation received or absorbed by a target;

"dose limit" means the value of the effective dose or the equivalent dose to individuals from controlled activities that may not be exceeded;

"exemption" means the determination by the Commission that a source or activjty need not be ·subject to some or all aspects of regulatory control on the basis that the exposure (including potential exposure) due to the source or activity is too small to warrant the application of those aspects or that this is the optimum option for protection irrespective of the actual level of the doses or risks;

"export" means the physical transfer, originating from an exporting State, into an importing State, of nuclear or other radioactive material, including sources;

"exposure" means the act or condition of being subject to irradiation;

"facilities" means - .

1. nuclear facilities or any other location that the

authorized person has control over; \

1. radiation source facilities;
2. radioactive waste management facilities and any other premises where radioactive material is produced, processed , used, handled, , stored or disposed of, on such a scale that consideration of protection of safety is required;
3. a reactor, critical facility , a conversion plant, a · fabricatiqn plant, a reprocessing plant, an isotope

separation plant or a separate storage installation; or ·

1. any lqcation where nuclear materials in amount greater than one effective kilogram is customarily used;

"fissile material" means uranium-233, uranium-235, plutonium-239, plutonium-241 , or any combination of these radionuclides with the exception of -

1. natural uranium or depleted uranium which is unirradiated; and

*The Nuclear Rexulatory Bill , 2018* 947

1. natural uranium or depleted urani um . which has been irrad iated in thermal reactors only;

"Fund" means the Decommissioning Fund established under section 52;

"import" means the physical transfer, into an importing State or to a recipien of an importing State, originating from the exporting State, of nuclear or other radioacti ve material including sources;

"incident" means any uni ntended event, including operating errors, equ rpment failures, initiati ng events, accident precursors, near rpisses or other mishaps, or unauthorized acts, malicious or non-malicious, the consequences or potential consequences of which are not negligible from the point of view of protection or safety;

"intervention" means any action intended to reduce or avert exposure or the l ikel ihood of exposure to sources hich are not part of a controlled practice or which are out

of control as a consequence of an accident;

"fonizing rad iation" for the purposes of radiation protection, means radiation capable of producing ion pairs in.biological materials;

"inspection" means a set of activities -

1. carried out by the International Atomic Energy Agency inspectors at a facility or a location to verify · that the nuclear material subject to safeguards remains in peaceful nuclear activities or is otherwise adequately accounted for, or as may be prescri bed by the Commission; or
2. carried out by the Commission for the purposes of verifying compliance with the provisions of this Act;

"management" means the administrati ve and operational activities that are invol ved in the manufacture, supply, receipt, possession , storage, use, transfer, import, export , transport, maintenance, recycling or disposal of radioacti ve sources and other radioacti ve material;

"naturally occurring radioactive material" means radioactive material containing no significant amounts of rad ionuclides altered from natural settings, or present in

*The Nudear.8egulatory ,Bi/J , 2018*

,tt.Ch@logically ,enhanced .concentrations above background

11:ation 1ev.els .due .to 'human ,activities that may result j11. a

;rel.tiy ncrease ·ra.diation \exposures .and insks ..to the

*pµ* -'.th.e ,environment ·

:..no..:iodizin\_g :radiation" :means optical radiation,

.frequency · ·radiation, :}ow.-frequen y electric and

*mgnetic* fields, .ultrasonic radiation and any other radiation

,W:iib :$mi.laj" :biologicaLeffets;

''flOtificati.on" means .a ,document submitted to the

.ion hy a 'legal 'person to notify an intention to

.carcy .(}\_tit :an·activity .or.other use .of;a source;

"1,1ucleilf energy" means any form of .energy released

*m*

;the ..course .of :nuclear .fission or nuclear fusion or of any

other JlUc).e:ar

transmutation;

.· ''.nu.clear :facility" :means any civilian facility where

* 1. mari is produced; ·processed, used, handled or

c:l ,of,. luding :a ·nuclear installation, premises, nuclew :power plant, ·research reactor, fuel fabrication plant, fl storage facility, .enrichment plant, reprocessing

{ ili$y or any other facility determined by the

# ommissioo;

* + - lear fuel cycle" means . all operations associated w tbe production of nuclear energy, including mining, ffl:illln,g proc.essing and enrichment .of uranium or thorium;

.alµre of nuclear fuel; .'operation of nuclear reactors;

1eptQieessing of spent fuel; decommissioning; and any

·vity for radioactive waste management and any research

.0£ V.d<>pment activity .related to any of the foregoing;

"nµclear matmal" · means nuclear fuel, other than

, ;11ral urium and ·depleted uranium, capable of

mg ergy by a self-sustained chain process of

·nflSSWµ. outside a nuclear reactor, either alone or in

oqibination with some other material and· radioactive

r.94s.or waste; /

nucl or radiological emergency" means an

.e:n y in which there is, or is perceived to be, a hazard

qtO. .,.....,·

-(a) .the energy resulting from nuclear chain reaction · or frQ'ID the decay of the products of a chain

# .r tion·; or

*The Nuclear Regulatory Bill. 2018* 949

##### (b) radiation exposure;

"nuclear power plant0 means a nuclear power reactor and related facilities;

"nuclear science and technology" means nuclear applications, including use of nuclear energy, for exclusively peaceful purposes;

"optimize" means the process of determining what level of protection and safety makes exposures, and the probability and magnitude of potential exposures, as low as reasonably achievable, as required by the International Commission on Radiological Protection System of Radiological Protection, taking into account economic and social factors;

"orphan source" means a radioactive source which is not under regulatory control, either because it has never been under regulatory control or because it has been abandoned, lost, misplaced, stolen or transferred without proper authorization;

"physical protection" means measures for the protection of nuclear material or authorized facilities,

1. designed to prevent unauthorized access or removal of fissile material or sabotage with regard to safeguards;

"radiation" means and shall include, both ionizing and

non..ionizing radiation;

"radiation protection" means the protection of people from the effects of exposure to radiation, and the means for achieving this;

"radiation source'' means a radiation generator, or a radioactive source or other radioactive material outside the nuclear fuel cycles of research and power reactors and includes naturally occumng radiation sources, orphan sources and radioactive material exempt from regulatory control; ·

"radioactive material'' means material designated •as such by the Commission and subject to·regulatory control because of its radioactive nature;

"radioactive waste" means material, in whatever physical form, remaining from activities or interventions and for which no further use is foreseen -

950 *The Nuclear Regulatory Bill , 2018*

1. that contains or is contaminated with radioacti ve

. substances and has an activity or activity concentration higher tµan the level set for Clearance from regulatory requi rements; and

1. exposure to which 1s not exduded under applicable regulations;

"radioactive waste management" means all activities, including decommissioning activities that relate to the handling, pre-treatment, treatment , conditioning, storage, or disposal of radioacti ve waste, excluding off-site transportation and may invol ve di scharges;

"radioactive waste managemen\_t faci lity" means a facility and its associated land , buildings and equipment in which radioactive waste is managed;

"research reactor" means a nuclear reactor used mainly for generation and utilization of neutron flux and ionizing radiation for research and other purposes, includi ng experimental facilities associated with the reactor and storage, handling and treatment facilities for radioacti ve materials on the same site that are directly related to safe operation of the research reactor;

"sabotage" means any deliberate act directed against a nuclear facility or nuclear material in use, storage or transport which could directly or indirectly endanger the health and safety of W('.')rkers, the public or the environment by exposure to radiation or release of radioacti ve substances;

"safeguards Agreement" means an agreement between Kenya and the International Atomic Energy Agency for the application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons and the Additional Protocol as entered into force on l 8th September, 2009;

"safety" means the protection of people, property and the environment against rad iation risks, and the safety of facilities and activities that give rise to radiation risks;

"security" means the prevention and detection of , and response to, theft, sabotage, unauthorized access, illegal transfer or other malicious acts involving nuclear or other radioactive material , or their associated facilities;

*The Nuclear Regulatory Bill, 2018*

951

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##### "source" means anything that may cause rad\_iation exposure by emitting ionizing radiation or by releasing radioactive substances or material and can be treated as a single entity for protection and safety purposes;

"source material" means -

1. uraniu m containing the mixture of isotopes occurring in nature;
2. uranium depleted in the isotope 235;
3. thorium or any of the foregoing in the form of metal , alloy, chemical compound, or concentrate; and
4. any other material containing one or more of the foregoing in such concentration as determined by the International Atomic Energy Agency from time to time;

"spent fuel" means nuclear fuel that has been irradiated and permanently removed from a reactor core;

"spent fuel management" means all activities that relate to the handling or storage of spent fuel, excluding · off-site transportation and may involve discharges;

"spent fuel management facility" means any facility or installation the primary purpose of which is spent fuel management;

"storage" means the holding of spent fuel or radioactive waste in a facility that provides for its containment with the intention of retrieval; and

"transport" means all operations and conditions associated with and involved in the movement of nuclear or other radioactive material including the design, manufacture, maintenance and repair of packaging, and the preparation, consigning, loading, carriage including in­ transit storage, unloading and receipt at the final destination of loads of such material and packages.

3. The objects and purposes of this Act are to -

1. regulate the safe, secure and . peaceful development, production , possession, use, storage, transport, transfer, disposal or handling of nuclear and radioactive materials, activities and facilities

Objects and purposes of the Act.

952 *The Nuclear Regulatory Bill, 2018*

and.other apparatus gene.rating ionizing radiation; and

1. protect persons, property and the environment in relation to nuclear and radioactive material, activities and facilities and other apparatus generating

ionizing radiation.

1. ( I ) This Act shall apply to any person dealing with nuclear or rndioactive material , activities or facilities and other apparatus generating iodizing radiation.

(2) The Commission may, subject to the provisions of this Act, exempt any activity', facility or source from the application of this Act.

# PART II-KENYA NUCLEAR REGULATORY COMMISSION

1. ( I ) There is hereby established a Commission to be known as the Kenya Nuclear Regulatory Commission.
2. The Commission shall be a body corporate with perpetual succession and a common seal , and shall in its corporate name be capable of -
   1. suing and being sued;
   2. taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
   3. borrowing money and lending money;
   4. entering into contracts; and
   5. perfonning all other acts for the furtherance of the provisions .of this Act.

(3) Except as otherwise provided in this Act, the Commission shall be independent in the perfonrtance

of its functions and duties and exercise of its powers and shall not be subject to the direction or control of any person or authority.

(4) The headquarters of the Commission shall be in Nairobi or such other place as the Commission may, by resolution, determine.

6. The objects and functions of the Commission shalt

be to -

Application of the Act.

Establishment of the Commission.

Functions of the Commission.

*The Nuclear Ref? Ulatory Bill, 2018*

##### ensure the safe, secure and peaceful use of nuclear science and technology;

1. provide for the protection of persons, property and the environment ·against the harmful effects of ionizing radiation through the establishment of a system of regulatory control;
2. exercise regulatory control over -
   1. sitting, design construction, operation, manufacture of component parts and decommissioning of facilities;
3. nuclear and rad ioactive materials and facilities; and
4. any other activities which the Commission may seek to exercise regulatory control over;
5. ensure compliance with the conditions of authorization through the implementation of a system of inspections and enforcement;
6. co-ordinate the fulfillment of national obligations in respect of nuclear safety, security and safeguards;

(t) co-operate with any relevant international agency by providing any assistance or information required;

1. establish appropriate awareness methods and procedures for informing and consulting the public and other interested parties about the regulatory process and the safety, health and environmental aspect of regulated activities including incidents, accidents and abnormal occurrences; and
2. perform any other functions in the furtherance of the provisions of this Act.
3. (1) The Commission shall have all the powersnecessary for the execution of its functions under this Act and any other written law.
4. Without prejudice to the generality of subsection

( I), the Commission shall have powers to -

* 1. control , supervise and administer all assets in such manner and for such purpose as best promotes the purpose of its establishment;

953

Powers of the Commission.

'

954 *The Nuclear Regulawry Bill , 2018*

##### determine the provisions to be made for its capital and recurrent expenditure and for its reserves;

* 1. receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;
  2. levy such fees as it may determine necessary;
  3. enter into association with other bod ies or organizations within or outside·Kenya as may be desirable or appropriate in furtherance of the purpose for which it is established;

. (f) open bank accounts for its funds;

1. invest any of its funds not immediately required for its purposes in the manner provided under section 20;
2. hold inquiries and gather any relevant information including requisition of reports, records, documents and any information from any source including any state organ and to compel the production of such information where it considers

. necessary; and

1. undertake any other activity that may be necessary for the fulfillment of any of its functions under this Act.

q) The Commission shall, in discharging i ts mandate under this Act, be guided by the following principles -

1. protection of persons, property and the environment;
2. national security;
3. independence;
4. responsibility and accountability;
5. transparency;
6. cooperation; and
7. need not be bou nd by the strict rules of evidenC'e.
8. ( 1) The Commission shall consist of -
9. a non-executive Chairperson who shall be appointed by the President;
10. the Principal Secretary of the Ministry responsible for Interior or his representative;

Composition of the Commission.

*The Nuclear Regulator\_\' Bill , 20 / X* 955

1. the Principal Secretary of the National Treasu ry or his representati ve;
2. the Princi pal Secretary of the Ministry responsi ble for Energy or his representati ve;
3. the Pri ncipal Secretary of the Ministry responsi ble for Health or his representati.ve;
4. the Principal Secretary of the Ministry responsi ble

for Education or his representati ve;

1. the Attorney-General or his representati ve;
2. the Director-General , National Intell igence Service;
3. ) a representati ve of the Kenya Defence Forces;

U) the Commi ssioner-General , Kenya Reven ue A uthority;

1. seven other comm1ss10ners appointed by the Cabinet Secretary by virtue of thei r knowledge and possession of a mini mum of ten years experience i n matters relati ng to engineeri ng, law, rad iation or nuclear related science , environ mental or pu blic safety, or finance; and
   1. the Director-General , who shall be an *ex-o.fficio*

mem ber of the Commission .

(2) The Commission shall appoint its own secretary .

9. ( I )There shall be the Director General who shall Di nxtor-CicneraL

be the chief executi ve officer of the Commission appoi nted by the Commission and who terms and cond itions of service shall be determined by the Commission i n the instru ment *o(* appointment or otherwise i n wri ting from time to time.

1. No person shall qual ify for appoint ment under th is section u nless such person -
2. has at least a degree in either, physical science, engineeri ng, law, social sciences or any other relevant field; and
3. has at least ten years experience at management level

*The Nuclear Rcgu/otury Bill, 2018*

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1. The Director General 5hall. subject to the . directions of the Commission. be resprinsible for the day to day management of the affairs and staff of the Commission.
2. The Commission may appoint $0Ch professional and technical staff f0r the proper discharge of the functions of the Commission under this Act. on such terms and cOnditiom of service as the Commission may determine on the advice *of* the Sa1aries and Remuneration Commission.
3. The conduct and regulation of the business of the Commi"ion shall be as provided in the Schedule, but subject thereto, the Commission shall regulate its own procedure and the procedure of any of its committees therwf .

12.The Commission shall pay the Chairperson and its

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conunimoners such remuneration, fees or allowances as it cum1rus1tio11£n..

may determine in consultation with the Cabinet Secretary.

1. No matter or thing done by a member of the Protecticn fr'!1

Commission or any officer, employee or agent of the . persooarTD!rility.

Commission shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Commission, render the member, officer, employee or agent or any person acting by his directions personally liable to any action..claim or demand whatS'()ever.

1. The provisions for this Act shall not relieve the Commission m the liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by the exercise of any power conferred by this Act or by the failure, whether wholly or partially. Of any works.

15.(J ) The common seal of the Commission shall be kept in such custody as the Commission may direct and shall not be affixed to any instrument or document e,,;cept as authorized by the Commission.

1. All instruments or documents is.sued under the common seal of the Commission shall be authenticated under the hand of the Director:-General.
2. The common *seal* of the Commission, when affJ.Ud to a document and duly authenticated shall be judicially and officially noticed and unless and unti1 the contrary is proved, any necessary order or authorization by the Commission under this section shaft be presomed to
   * have been duly given.

Liability of Commis!OOn fur da.m.

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*Nuckar llegulatmy Bill. 1.018* ·

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### PART ID-FINANCIAL PROVISIONS

u;.(I ) The funds of the Commimoo shall rompri£e of

* 1. IJ10Die5 a.Uoc.ated by Parliament for the puJPOSC' of

the Commission;

(b) .such monies or Msets ail may accrue *w* the Commission in the course of execcise of its poweis. or in the perf0nnaoce of its functioM under dUs Act; and

(c) monies from other sour including loam. gram.,.

##### 0£ dooatioM to ibe Commission.

(2) The Commission .shall open a bank acrount for itti funds and its balaooe:s at the close of each financial year ma11 not be paid into the eomo•idatoo Fund but man be retained for the of dlls Act in accmdaoce with Adicle 1n6(t) (a) and (b) of die c.omtirutioo..

17.The Fmancial year *of* die Commimoo shall be the F.manciit1¥eBr­

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period of twelve months' ending on lbe dllrtiab. of Jame ot'

every year.

Ut(t) At lie:aR dlree momm bet the Anu&d at-.

commencemmt of eadl fin;mcial year the oo shall amic to be prepared of die - reveooe and expeoddure of she Commi-ssion fur tlJat year.

1. The anma;al estim:atffl iba!I makie pnwKioo. for all the esrimatM expmd;tu,-e of the for- fimmcial year roncemod and in particular .sla.Uft provide for
   1. the p.aymem of sabria. anoes and odla"

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(d) impkmrnt1tioD *ot.*- dire coauol

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(e) any oda' apnn@finan;e as may be f« die

CID)'lng out of die Ol.i.i)td:i -fwn.L'i:Jom of dhe Commitiioo mDlb" dnis Ad..

* 958 *The Nuclear Re!{11 /atory Bill, 20 IR*

1. The annual est imates shall be approved by the Commission before the commencement of the financial year to which they relate and shall be submi tted to the Cabinet Secretary for approval . .
2. No expendi ture shall be incu rred for the purposes of the Commi ssion except i n accordance with the annual esti mates approved under subsect ion (3), or pu rsuance to an authorizat ion of the Commission given with prior written approval of the Cabinet Secretary.
3. ( l ) The Comm ission shall cause to be kept all proper books and records of account of the income, expend iture. assets and l iabil ities of the Commission .
4. Withi n a period of three months after the end of a financial year, the Commission shalf submit <to the Auditor- General the accounts of the Com mission for that year fr)°gether with -
5. a statement of income and expend iture duri ng the year; and
6. a statement of the assets and l iabi l it ies of the Commission as on the last day of that ye.ar.

Accou nts and A udi i.

.

1. The annual accounts of the Commi ssion shall be No. J4 of 20 J 5.

prepared , aud i ted , and reported· upon in accordance with the Public Aud it Act , 201 5.

1. The Commi ssion may i n vest any of i ts funds i n securities, trust funds or banks which the Nat ional Treasury may from time to time; ap,prove for that purpose.

**PART IV -REGULATORY CONTROL:**

. **NOTlFICATIONS, AUTHORIZATIONS, INSPECTIONS AND ENFORCEMENT**

**21.** ( 1 ) A person who intends to engage i n any activity shall submi t a notificat ion to the Commission of h is intention to carry out such act ivity.

(2) The Commission shall prescri be by 'regulations a notification regi me prescri bi ng the form, man ner and t ime l imits withi n which the noti fication shall be made.

In vest ment of fu nds.

Notificat ions.

**22.** ( I ) A person shall not carry out an activity unless Authorii.ation.

the activity has been -

(a) ·specifically authori zed by the Commission; or

*The Nuclear Regulatory Bill , 2018*

(b) exempted, wholly or partially from regulatory control , by the Commission.

1. An application for authorization under this section shall be in the prescribed form and manner and shall include any information and documents as required by the Commission, including -
   1. a detailed description of the activity , nuclear or

.radioactive material, its intended use and the facility in which it shall be used;

* 1. a description of the radiation protection measures of individuals and for physical protection of the nuclear or radioactive material or facility;
  2. a plan for the management of radioactive waste resulting from the use of nuclear or radioactive material; and
  3. proof of payment of prescribed fees.

1. The Cpmmission may issue an authorization
   1. only for activities that can be conducted in a manner that adequately ensures the protection of people, property and the environment; and
   2. upon such other terms and conditions as may be prescri bed.
2. A person who contravenes this section commits an offence and is liable upon conviction to a fine not exceedi ng five (5) million shill ings or an imprisonment for a term not exceeding five (5) years or to both.
3. ( 1 ) The Commission may establish categories of authorization for any activity for a specified period and subject to the terms and conditions specified in the authorization.

(2) The Commission may require an authorized person to submit such reports as the Commission may from time to time request.

1. ( 1) An authorization issued under this Act may be suspended , modified , or revoked by the Commission in the event of -
2. a contravention of this Act;
3. violation of the terms and conditions of the authorization; or

959

Categories for authori?.ation.

Suspension, revocation or modification of an authorization.

*Th( Nudear Regulatory Bill, 2018*

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# (c) any circumstance where the Commission detennines. that continued activity under the au.thorization would pose a risk to people, property or the environment.

(2) A responsibility arising out of an authorization under this. At shall not be transferred unless with the written approval of the Commission.

(3) An authorization shall cease to be valid when any

time limit prescribed under the provisions of this Act lapses

o.r the tenns and conditions of the authorization expire.

25,A person authorized to .conduct an activity shall

. ve the primacy· responsibility for the safe and secure oonduct of the activity and for ensuring compliance with this. Act and aU applicable. regulations,

# 26..(l) A person aggdeve-0 by a decision of the Commission undei this Part shall have the right to apply to the Commission for a review of the decision,

·(2) Al,l application for·..eview under subsection (1)

# shall be filed with t Commis.sion within thirty days of CQJlimunication Qf too decision and shall state the factual ,

legal,and procedural ground on which it is based.

(3) TOO Commission shaU within sity day of receipt of an appbc·atioo for review, makt' finding and communicate- the same to lhe a.uthod:ied person.

1. An appliction for review under this section shall oot have the efft €>f s.us.pending the decision by the Coouruss.ioo.

(.5) Nng under this s.oo.tion stops an applicant from

# seeking altemath:·i> means, e>f rooress in a court of law, ,

*rl..* ( l) obj«tiYes. uf jnspectkm and nforcmnt is to. IOOIUto.f eompli wjth the reqyirement of thhi Act, and the terms and cooditjoos. uf tlw authoriiation h111ued by the Co.mmiss.Wn. such that

* 1. fa('ihties ud aQttvititts meet th ncei>l!ry

# regulatory uh· mentsi

(b) relevant docunts. nd instrnlions to AYthorimd persons are valid and ff' ooiri c.Clmp,lid with by the authoriied noos, mploy\' or a ms:

Prim!U)' respongjbility for safety.

Rij:bl of review of

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*The Nuckar Regulatory Bill. 2018*

##### (c) persons engaged in authorized activities possess

**the** competence necessary for their functions;

**(d)** deficiencies and deviations from authorization requirements are remedied without undue delay; and

(e) lessons learnt from authorized activities are communicated to other authorized persons, the Commission and any other relevant persons.

(2) The Commission shall establish a planned and sys,tematic inspection programme consisting of routine and reactive inspections that are announced and unannounced to monitor compliance with this Act and all applicable regulations.

1. (l ) The Commission shall , by notice in the Gazette appoint persons of such qualifications as may be prescribed, to be inspectors for the jurisdiction specified in the notice of appointment.
2. An inspector appointed under subsection (I ) shall
   1. carry out inspections of facilities and activities so as to -
      1. monitor compliance with the provisions of this Act and all applicable regulations; and
      2. compile and submit reports of inspection to the Commission; and

(b) perform such other functions as the Commission may deem necessary.

1. An inspector appointed under this Act may -
2. enter any facility which he has reason to believe is necessary in order to ascertain whether the

·provisions of this Act are being complied with;

1. be accompanied by a duly authorized empfoyee of the Commission;
2. take any equipment or material requi red for any purpose for which power of entry is being exercised;
3. carry out such inspections and make such recording as may be necessary;

961

Appointment oT inspectors.

Powers of inspectors.

962 *The Nuclear Regulatory Bill, 2018*

##### interview the licensee or any of its employees;

(f) direct that any part of the facility which he has power to enter, or anything in such facility , be left undisturbed for as long as is reasonably necessary for the purpose of any inspection;

1. take appropriate samples, articles or substances found in any facility which he has power to enter; and
2. request the production of any records which may

be required to be kept under this Act.

30. ( 1) Where an inspector determines that an activity is being conducted in violation of .the provisions of this Act or that the activity poses an immediate risk of injury or damage to persons, property or the environment, the inspector may -

1. immediately order the temporary suspension of the activity;
2. order the authorized person to prohibit workers who do not meet applicable requirements from engaging in the activity;
3. order that nuclear material, radioactive material or any other apparatus generating ionizing radiation originating from a suspended activity or facility be safely and securely stored; and
4. take any other action as may be prescribed under the provisions of this Act.
5. An order issued by an inspector under subsection ( 1) shall continue to be in force unless - ·
   1. withdrawn by the inspector;
   2. reversed or modified by the Commission; or

,(c) modifid or altered through an administrative or judicial review.

1. An inspector who undertakes any enforcement action specified in subsection ( 1) shall prepare a report indicating the reasons for his action and identifying the evidentiary basis for his findings including measurements, test samples, explanations and any other relevant information.

Enforcement.

*The Nuclear Re?,ulatory Bill, 2018*

1. The report prepared under subsection (3) shall be made available to the authorized person who shall have the right to submit explanations or objections withi n the time specified by the Commission .
2. The Commission may prescri be the circumstances under which the prior approval of the Commission shall be obtained by an inspector prior to taking any of the actions specified i n subsection (1).

31.( I ) Upon receipt of an inspection report under section 28, the Commission shall -

1. where the report is accompanied by objections, review the objections and issue such orders as may be necessary; and
2. ensure that relevant measures have been taken against the persons contravening the provisions of the Act.
3. The person subject to enforcement action shall take necessary measure to -
4. remedy compliance as directed by the Commission or as soon as practically possi ble; and
5. prevent recurrence.
6. The Commission may, where the case presents an immediate safety or security hazard to people , property or the environment , require the authorized person to suspend its activities u ntil the situation has been remed ied .

**PART V -RADIATION PROTECTION**

1. ( I ) A licensee shall -
2. justi fy every radiation practice and prove that its benefits outweigh the health detriment to .the people and environment;
3. optimize the rad iation protection of people and the environment in such a way that exposures, are as low as reasonably achievable , taking into account economic and social factors;
4. put mechanisms in place to ensure dose limits are not exceeded for practices where such limits apply; and

963

Oversight role by the Commission.

Regulatory control for radiation

protect ion .

964 *The Nuclear Regulatory Bill,tfJ/tJ*

# (d) ensure *the* protection of peoon8 from the harmful effects *of* e.xposure to ioni.zing radiation.

##### (2) E%emptions from regulatory control unde1"

subsection ( 1) hall be based on the criteria that - ·

# (a} the radiittiott ri1'k for s is sufficiently low to

be *C1f* regulatory cmtcem;

# (b) the cottective radiofoiica:I impact i sufficiently I that regulatory control is not warranted; and

(} the SO\ltce or actiYity fa considered to be iuherently

§afof with no like1iho00 of creating situations that ottld reult in a failure to meet the criteria in paragraph!t (a) *'1t* (b),

33, (1) *An* authorization *of* an activity by the C()tntniskm under thi Act ·haJJ be ubject to the radiation protet:ticm requirements. out in subsection (2).

# (2) 'fhe uuthorized person hall -

(") fX' & an adequate undeJ'Manding of the fundumentaJ princ;ples *'1f* radiation protection. ju8tification1 optimization and limitation;

(b) Ud g aU Mep necesary for the proteaion and afety of workers, patient& and the public by keeping dmes below the relevant threshold and gf1Miting that aH reasonable steps are ·taken to mtnimiu dYerse dfecb on the population. at pre&ent and In the future; ·

(i;) p1att and implement the t«hnical and m-ganizatiooaJ measures necessary to ensure "dgquate afoty , including effective defenses agilifigt radiological hazards

(d) ptepsm and implement an appropriate emergency

vtam

(e) ett&ure cmnp1iance with the dose limits established by the Commision and monitor the radiation epo!nttg of workers;

{f) fX'8e!" i:tdquate human and financial resources to

##### conduct the proposed activity in a manner that

@ttsufc8 safety and security;

(g) *nm* modify the conduct of any authorized activity

##### itt a manner that could aff«:t the protection of

miolt pr requiT!'.

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wotktts. patients *and* the public or the environment without ieclci.ng the written approval of the Commission and

(h) provide upon request by the Commission, all infonnatioo considered t.o be necessary by the Commission,

34 ( I ) No consumer products shall be offered to the

public unbs their use by members of the public has been

..jtKtifted and either lheir use has been exempted or thei.r provision *to* ·the public has been authorized by the Commission.

1. Upon receipt of an application for authorization· under subsection (l},the O:>mmission shall -

# verify compliance with the provisions of this Act

and applicabte regulations;

1. verify the assesments and selection parameters presented by the applicant;
2. determine whether the end use of the product can

be exempwi; and

1. if necestwy. authorize the provision to the public of the consumer product subject to specific oonditiotts of authoriz.ation or exempt the consumer product,
2. A person who imports consumer products, as exempt products shall ensure the products are packaged and labelled in a manner as prescribed by the Commission.
3. A person who rontravenes this section commits an offence and is liable upon conviction to a fine not

exceeding five (5) million shillings or to an imprisonment for a term not exce.eding five years. or to both.

Consumer producl6.

35.. (t) Every authorized person shall ensure that no Mediciil l:ii."°'ure.

person. whether symptomatic or asymptomatic. incurs·

medical exposure unless -

1. the radiological procedure has been requested by a referring medical practitioner; ·
2. responsibility has ·bec11 assumed for ensuring · protection and safety; and
3. the per5on subject t.o the eKposure has been informed of the expected benefits and risks and has ronsertted to the exposure.

966 *The Nuclear Regulatory Bill , 2018*

1. Every authorized person shall · ensure that all practicable measures have been taken to minimize the likelihood of unintended or accidental medical exposure.
2. Where unintended or accidental radiation exposure occurs, the authorized person shall implement correcti ve action and report to the Commission .
3. A person who contravenes this section commits an offence and is l iable on conviction to a fine not exceed ing one mill ion shillings or to imprisonment for a term not exceedi ng one year or to both .
   1. **( l )** Where an authorized person ·u ndertakes an activity likely to cause pu blic exposure to neigh bori ng States, the authorized person shall notify the Commission of the intended activity.
4. Upon receipt of a notification under subsection ( I ), the Commission shall notify the neigh bou ring State of the intended activity.
5. Any person who contravenes subsection ( l ) commits an offence and is liable on conviction to a fine not exceedi ng ten million shill ings or to an imprisonment for a term not exceeding ten years or to both.

#### PART VI -SAFETY OF RADIATION SOURCES AND FACILITIES

* 1. The Commission shall -

1. establish a system of control over radiation sources to ensure they arc safely managed and securely protected during and at the end of thei r useful lives; and
2. prescri be a categorization of sources based on the potential injury to people and the environment.
   1. An authori zed person shall bear the pri mary responsi bility for ensuring the safe and secure use of rad iation sources.
   2. The Commission shall -
3. establ ish and maintai n a national register of radiation sources;
4. establish the categories . of radiation sources requ ired to be included in the national register; and

Intended radiological exposures with trans hou ndary effects.

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Cont rol of

**radiation sources.**

Responsihil ity for

**radiation sources.**

:--lational register for radiation **sources.**

*The Nuclear Regulatory Bill, 2018*

##### ensure protection of information contained in the

* + national register to guarantee the safety and security of these sources as appropriate.

1. An authorized person shall promptly report to the Commission any -
2. loss of control over radiation sources, or any other situation; or
3. incident in connection with a radiation source that may pose a significant risk of radiological injury to persons or substantial damage to property or the environment.
4. The Commission shall -
5. establish a system for recovery and safe management of orphan sources;
6. be responsible for coordinating the response to radiological emergencies as a result of orphan sources;
7. bear the primary responsibility of the safety of orphan sources of which it has notice;
8. establish programmes aimed at detecting orphan. sources in places where such sources are generally

. suspected to be;

1. draw up appropriate response plans and measures for handling orphan sources; and

(f) give specialized technical advice and assistance to persons not normally involved in operations subject to radiation protection requirements and who suspect the presence of an orphan source.

1. ( 1) Subject to the provisions of any other written law, the Commission shall develop requirements and guidelines to be additionally met before the issuance of mining and milling license in relation to uranium, thorium or other radioactive ores.
2. The requirements under subsection (1) shall be in respect of -
   1. explor.ation;
   2. removal from site for testing and evaluation;

967

Reports on loss of a radiation sources.

Orphan sources.

Mining and milling licences.

968 *The Nuclear Regulatory Bill, 2018*

1. excavation activities at site;
2. sitting and construction of the mine;

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1. operation of the mine and processing facility;

(f) transport;

1. waste management; and
2. decommissioning of the mine ..

# PART VII- SAFETY OF NUCLEAR FACILITIES AND DECOMMISSIONING

43. (l) A person who intends to carry out an activity related to a nuclear facility shall obtain an authorization from the Commission.

(2) An authorization under this section shall be required for the siting, construction, operation and decommissioning of a nuclear facility.

1. The Commission shall prescribe requirements in connection with the authorization, review and assessment of a nuclear facility, including the requirements for -
   1. nuclear facility design;
   2. siting;
   3. construction;
   4. commissioning;
   5. operation;

(t) decommissioning;

(g) remediation; and

(h) such other activity relating to construction and operation, as may be necessary.

1. The authorization requirements prescribed under subsection (3) shall make a distinction between -
   1. nuclear power plants;
   2. research reactors; and
   3. other nuclear facilities.
2. An application for authorization under this section shall be in such form and manner as may be prescribed.
3. The Commission shaJI ensure that the general public is informed and consulted at appropriate steps 9uring the authorization process of a nuclear facility.

Authorization of nuclear facilities.

*The NtKlear Regulatory Bill. 2018*

##### (7) Any person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding one million shillings or to an imprisonment for a term not exceeding two years, or to both.

1. The authorized person shall bear the primary responsibility for ensuring safety and security of the facility

and an activities associated with it.

1. ( l ) A person applying for a site authorization for a nuclear power plant shall prepare a site evaluation report in accordance with subsection (2).
2. The site evaluation report shall contain -
   1. the frequency and severity of external natural and human induced events and phenomena that could · affect the safety of the facility;
3. the foreseeable evolution of natural and man made factors in the region that may have a bearing on safety for a time period that encompasses the projected lifetime of the facility;
4. the hazards aswciated with external events that are to be considered in the design of the facility, including the · potential combined effects of hydrological, hydrogeological and meteorological conditions;
5. additional matters relating to safety such as the storage and transport of nuclear material;
6. the possible non-radiological impact of the facility. due to chemical or thermal releases. and the potential for explosion and dispersion of chemical products;
7. the potential for interactions between nuclear and non-nuclear effluents; · ·
8. the potential radiological impacts in operational states and conditions on people in the region. including impacts that could lead to emergency measures or potential impacts outside the territory of the Republic of Kenya;
9. total nuclear capacity to be installed on the site, with provision for re-evaluation of the site if the . installed capacity is to be significantly increased

969

Responsibility for safety of facilities and activities.

Site evaluation.

970 *The Nuclear Regulatory Bill , 2018*

beyond the level assessed in a previous site evaluation; and

1. such other matters as may be prescri bed.

46. ( 1) Before granting a construction authorization for a nuclear power plant , the Commission shall review and assess -

1. the competence and capability of the applicant or authorized person to meet relevant authorization req uirements during construction and operation;
2. the site evaluation, prepared pursuant to the provisions of this Act, to confirm its acceptability, and related information needed for the design of the proposed facility;
3. the potential environmental impact of the proposed facility;
4. the basic design f the proposed facility, to confirm that it can meet relevant safety , security and physical protection requirements;
5. the management systems of the applicant or authorized person;

(f} research and development plans related to demonstration of the acceptability of the design; and

(g) arrangements for decommissioning and management of radioacti ve waste including financial mechanisms therefor.

1. During construction , the Commission shall review and assess -
2. the development of the faci l ity design through documentation submitted by the authorized person to determine i ts contin ued acceptabi l ity; and
3. the progress of research and development activities related to demonstration of the acceptabil ity of the design.
4. Before granti ng an operation authorization for a nuclear power plant, the Commission shall review and · assess -

Authorization for construction and operations.

*The Nuclear Regulatory Bill, 2018*

1. the commissioning programme and, if needed, establish a schedu le for further review and assessment prior to operation;
2. as-bu ilt design and construction and manufacturing qual ity of the facil ity;
3. results of non-n uclear commissioni ng tests;
4. limits and conditions for operation during commissioning, with a staged approach, if necessary;
5. provisions for radiation protection;
6. adequacy of operating instructions and procedu res, especially the main administrati ve procedu res, general operating procedures and emergency operati ng procedures;
7. recording and reporting systems;
8. arrangements for traini ng and qualification of faci lity personnel , including staffing levels and fitness for duty requi rements;

(i) management systems for operation;

U) emergency preparedness program me;

1. accounting measu res for nuclear and radioacti ve material;
   1. adequacy of physical protection measures;

(m)arrangements for periodic testi ng, maintenance, inspection and control of modifications and surveillance;

1. arrangements for decommissioni ng and management of radioacti ve waste;
2. resul ts of commissioni ng tests; and
3. l imits and conditions for operation.
4. During operation of a n uclear power reactor, the Commission shall req u ire -
5. the review and - assessment of changes in operational limits and conditions or of significant safety related modifications, to be conducted prior to their authorization; and ·

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971

972 *The Nuclear Regu/,atory Bill, 1018*

1. periodic reviews in every ten years or as the Commission may otherwise direct, of the operator's compliance with relevant terms and conditions related to the facility's safety · and physical protection. ·

47. ( l ) An authorized person shall prepare in accordance with subsection (2), a technical preservation programme for any research reactor that enters into or continue in a state of extended shutdown.

* 1. The technical preservation programme for reseMCh

reactors shall include -

* + 1. arrangements for ensuring that the reactor core remains subcritical;
    2. procedures and measures to disconnect, dismande and preserve the systems that are to be taken oot of operation or temporarily dismantled;
    3. modifications of the safety analysis report and the

operational limits and conditions;

* + 1. arrangements for dealing with the fuel and

radioacti ve waste;

(e) regular surveillance and periodic inspection testing and maintenance to ensure that the .safety performance of structures, systems and, components does not degrade;

1. revised emergency planning arrangements;
2. staffing requirements to undertake the tasks necessary to keep the reactor in a safe cooditioo and to maintain knowledge about the research reactor; and
3. arrangements for the security of the reactor and the facility.
   1. The Commission shall ensure·the safe management of a reactor that is in extended shutdown but the opera6oo of such facility shall not be the responsibility of the Commission.
4. ( l ) The Commission shall -
5. establish requirements for the decommissioning of nuclear facilities where radioactive SOl.lnXS are produced. used or stored in accordance with subsection (2);

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*The Nudear Regulatory Bill, 2018*

1. require the applicant for ari authorization to -
   1. construct and operate a nuclear facility to

- perform a baseline survey of the site, including radiological conditions, prior to construction; and

* 1. develop 'information prior to construction for comparison with the end state after decommissioning;

1. ensure that relevant documents and records prepared by the authorized person are maintained for a specified period of time before, during and after decommissioning;
2. establish criteria for determining when a nuclear facility or part of a facility must be permanently shut down; and
3. evaluate the end state of the facility after decommissioning activities have been completed to ensure that releva nt regulatory requirements have been met.
4. The requi rements referred to under. subsection ( I )
5. shall include -
   1. safety and environmental criteria, including conditions on the end state of decommissioning;
   2. limits and conditions for the removal of regulatory controls for facilities containing radionuclides;
   3. criteria for the clearance of radioactive material during and following decommissioning; and
   4. such other requirements as may be prescribed.
6. A facility shall not be released by the Commission from regulatory control until the authorized person has demonstrated that the end state in the decommissioning plan has been reached and that any other additional regulatory requirements have been met.
7. (1) At the design stage of facilities, the applicant for an authorization to construct and operate a facility shall prepare an initial decommissioning plan for approval by the Commission.
8. The plan prepared under subsection ( 1) shal I be commensurate with the type and status of the facility and

973

Decommissioning plan.

974 *The Nuclear Rexulatory Bill, 2018*

the hazards · that may be associated with its decommissioni ng.

1. The Commission shall -
   1. ensure that the pu bl ic and interested parries are provided with an opportu ni ty to review and comment upon the -decommissioning plan prior to its approval ;
   2. req uire the authorized person to provide periodic reviews and updates of the decommissioni ng plan and shall specify the maxi mum time interval between such reviews and updates;
   3. where specific circumstances result in significant changes to the initial decommissioning plan, req uire the authori zed person, to revise and update the plan to reflect these changed circumstances and submi t i t to the Commission for approv:al;
   4. req uire that a final decomm'issioning plan be prepared and submitted for approval prior to the implementation phase of decommissioning activities; and
   5. ensure that a programme to implement and monitor compliance with remaini ng regul atory req uirements has been estab,l ished for sites where decommissioni ng has been completed but where authorizations or restrictions on future use of the site remain.

·(4) The Commission shall , upon completion of decommissioni ng, ensure that appropriate records for confirmation of the completion of decommissioning activities are maintai ned in accordance with the approved decommissioning plan including the records of the premises and of the disposal of rad ioactive waste and material.

1. An authori zed person shall , i n implementi ng decommissioning act ivities at a facil ity , be responsi ble for

(a) ensuring safety , security and environmental protection , including any activities conducted by contractors or subcontractors;

Dt:commis oni ng rt:sponsibilitics.

*The Nuclear Regulatory Bill , 2018*

##### preparing the safety and environmental impact assessments necessary· for implementation of the decommissioning plan;

1. establishing a record keeping system of the key issues and modifications during the lifetime of the facility that may have an impact on decommissioning;
2. ensuring that the baseline survey of the site is performed in an effective and timely manner;
3. ensuring that new or untried methods for decommissioning are justified, addressed and submitted for approval by the Commission;

(f) informing the Commission within two months of a decision to permanently shut down a facility and submitting an appl ication to decommission the facility, together with a proposed final decommissioning plan , within two years of permanent cessation ·of operation;

1. in the case of deferred dismantling, ensuring that the facility has been placed and will be maintained in a safe configuration and will be adequately decommissioned in the future;
2. establishing and maintammg a management organization and personnel resources to ensure that decommissioning can be completed safely , including ensuring that responsible persons possess the necessary skills, expertise and training for safe decommissioning;
3. establishing and maintaini ng emergency planning arrangements commensurate with the associated hazards and rporting significant incidents to the Commission; and

(j) ensuring that adequate financial arrangements are made for all stages of the decommissioning process.

1. (1) An applicant for an authorization to construct and operate a nuclear facility shall ensure that adequate financial resources will be available when needed to cover the costs associated with safe decommissioni ng, including management of the resulting waste.

975

Finances for . decommissioning.

976 *TM Nuclear RgrJatory Bill, 2018*

(2) The amou nt of the financial resources to be made available for decommissioning activities hall- ·

1. be commensurate with a facility specific cost estimate;
2. be changed if the cost estimate increases or decreases; and
3. be revewed as part of the .periodic review of the

decommissioning plan. · ·

### PART VIII-DECOMMISSIONING FUND.

1. There is established a fund to be known as the Decommissioning Fund.
2. The Fund shall consist of -
3. all moneys appropriated by Parliament, or paid into, or allocated to the Fund under the provisions of any other Act;
4. domestic and foreign grants; and

(c} any property or amount of money received or acquired from any other legaJ sources.

54. The Fund shall be administered by the

Commission .

55. The functions of the Fund shall be to cater for -

1. decommissioning under the Act; and
2. the management of radioactive waste and spent

, fuel.

1. ( 1) The Cabinet Secretary, in consultation with the National Treasury, may make regulations on -
2. the administrative operatfons of the Fund; and
3. the financial requirements for decommissioning.

(2) Regulations made under subsection (I) shall be laid before Parliament

### PART IX -EMERGENCY PREPAREDNESS AND RESPONSE

1. The Commission in liason with the national body or authority resppnsible for responding to national emergencies shall -

Establishment of

the Fund.

Souroes of funds

for the Fund.

1. dm!nistration Qf.

the Fund.

Functions of the

Fund.

Otha matters to be prescribed.

Role of the

Commission.

977

##### define the criteria for classification of emergencies

(b) review and approve emergency preparedness and

response plans developed by the licensee; and

##### {c) advise and provide technical support on radiological emergencies and nuclear accidents.

58.The Commission shall not authorize any activity, operation. facility. or possession or use of a source unless an appropriate emecgency preparedness and response plan has been developed by the applicant and approved by the Commission.

59.(1) An on-site and off-site emergency plan shall be prepared in the prescribed form and manner for any facility, activity, or source that could give rise to a need for emergency intervention.

1. The emergency preparedness and response -plans

shall take into/ account -

##### an assessment of the narure, likelihood and potential magnitude of resulting damage. including the population and territory at risk from an accident, malicious act or incident;·and

* 1. the results of any accident analyses and any lessons learnt from the experience or incidents and accidents that have occurred in connection with similar activities.

1. Emergency preparedness and response plans shall be periodically reviewed as directed by the Commission.

60. The authorized person shall, in the event of a nuclear or radiological emergency. implement the emergency preparedness and response plan as approved by the Commission. ,

61.{l) In the event of a nuclear or radiological emergency that poses a risk that radioactive contamination eould spread beyond the boundaries of the Republic of Kenya. the Commission shall immediately notify the International Atomic Energy Agency and the relevant authorities of any State. which is or may be physically affected by a release that could be of a radiological nature.

(2) The Commission shall serve as the point of contact for providing any information or assistance regarding

Failure by an appliamll'O devdopai caa:gaocy

plcpai and TC!ipOmC plan.

Emergency preparedness -and response.

lmplcmeatalion of emergency prepmdac and respoue plan.

Trans-boundaiy nuclear or radiological emergency.

978 *The Nuclear ReJ{ulatory Bill, 2018*

nuclear or radiological emergencies under the terms of relevant ·internat ional instruments.

1. Every authorized person shall regularly inform the pu bl ic about the sign ificant facts of its emergency preparedness and response plan.

**PART X -TRANSPORTATION OF RADIOACTIVE** .

**MATERIAL**

1. ( 1 ) The Commission shall make regulations for transportation of rad ioactive material i n accordance with international standards. ·
2. In developi ng the regulations under subsection ( 1), the Commission shall take into account the need to -
   1. protect persons, property and the environment;
   2. meet the obligations under relevant international instruments ratified or acceded to by Kenya;
   3. support international cooperation in the safe, cure and peacefu l uses of nuclear science and

technology; and

* 1. support international efforts to prevent the prol iferat ion of nuclear weapons, explosive and rad iological dispersal dev ices.

1. ( 1 ) A person shall not -
2. undertake the design of any packaging or package;
3. operate or mai ntain any packagi ng or package; or
4. transport, or cause or permi t to be transported in any packagi ng or package,

any nuclear material or rad iation source, otherwise than in accordance with the provisions of of this Act.

(2) A person who contravenes the provisions of subsection ( 1 ) commits an offence and is liable on conv iction, to a fine not exceeding five mill ion shillings or an impri sonment for a term not exceeding five years or to both.

1. Without prejudice to any other provision under this Act, every carrier of a consignment shall exercise reasonable care to ensure that in the course of the transport of a consignment, no injury to health or any damage to property or to the environment is caused .

I nformation to public about plan.

Transport of radioacti ve material.

Offences relating to transport.

Duty to exercise reasonable care b;y cacrier.

*The Nw/ear Regulatory Bi// , 2018* .

**66..** ( 1 ) Every carrier shall establish a rad iat ion protection transport plan for application· during transportation of nuclear material or rad iation sources.

1. The transport plan shall -
   1. take into accou nt the natu re and extent of the measures to be taken in respect of the likelihood and magnitude of radiation exposures or environmental conamination; and
   2. adopt a structured and systematic approach incl uding consideration of the interfaces between the mode of transport and other activities.
2. Any person who contravenes this section commits an offence and shall is l iable on conviction to a fine not exceed i ng five mi ll ion shill ings or to an imprisonment for a term not exceed ing five years, or to both.

**67.** (1) In the event of an accident or incident during the transport of a n uclear material or rad iation source. a carrier shall apply i ts radiation protect ion transport plan as approved by the Commission.

(2) Emergency response proced ures shall take into account the formation of other dangerous substances that may result from the reaction between the contents of a consignment and the environ ment i n the event of an accident.

1. Every carrier shall ensure that -.
2. duri ng transport every consignment is segregated from any other dangerous goods; and
3. rad ioacti ve and fissi le properties, explosi veness, flammabil i ty, pyrophoricity, chemical tox icity and corrosiveness are taken into account i n the packi ng, labeling, marking, placard ing, storage and transport of a package i n. order to be compl iant with the provisions of th i s Act or any other written law relati ng to dangerous goods in each *o(* the States through or into which the consignment is transported .

**PART Xl -:EXPORT AND IMPORT CONTROLS**

1. ( 1 ) The provisions of this Part shall be applied to ensure controls over the export and import of nuclear

979

Radiation protection transport plan.

Emergency response in transportation.

Segregation of material .

Controlled items.

980 *The Nuclear Regulatory Bill. 2018*

materiais, nuclear related equipment and technology all of which shall be referred to as controlled items for the purposes.. of this Part.

(2) The Commission shall establish a list of controlled items subject to export or import controls and in accordance *with* international obligations and commitments of the Republic of Kenya.

70. ( l ) A person shall not export a controlied item

without prior license by the Commission .

(2) The following criteria shall be applied in granting a license for export of a controlled item -

1. the receiving State has disclosed the use of and made a binding commitment to use the controlled item for peaceful uses only
2. levels of physical protection of the cootrolled item is consistent with those set forth in the Convention on the Physical Prot.ection of Nuclear terials;
3. International Atomic Energy Agency Safeguards shall be applicable in relation to the oontrolled item;
4. transfers of previously exported controlled items to a third State are subject to the prior approval by the Commission; and

##### (e) any reprocessing of the controlled item is subject

to the approval by the Corn.mission.

71.A person shall not import a cQntroUed item unless

the - .

1. rontroHed item is not otherwise prohibited under

this Act and

1. designated recipient of the controlled item is holder of a valid authorization issued by the Cori:unis.sioo.

72. Any person who-

. (a) receives, possess. uses, transfers, transports. disposes or isperses a nuclear material or radiation source and which caufieS or is likely to

cause death or serious· injury to any per.son *oc*

damage to property or environment or

Export licensing

*ail.eria..*

*The Nuclear Ref<ulotory Bilf . 2018*

(b) carries, sends, or moves nuclear material or radiation source, into or out of Kenya,

Without lawful authority or contrary to the prescribed manneT, commits an offence anp is liable on conviction to an imprisonment for a term not exceed ing ten years without

### an option of a fine. . .

**PART** XII- RADIOACTIVE WASTE AND SPENT

FUEL MANAGEMENT

73.( I ) This Act shall apply to the management of any radioactive waste and spent fuel resulting from civilian applications in the Repubtic of Kenya, but shaH not apply

* + to waste that contains only naturatly occurring radioactive material, unless it is declared a.5 radioaetive waste for the purposes of this Act by the Commission.

1. The following principles shall be applied at an

stages in the management of radioacti ve waste -

* 1. that people, property · and the environment are adequately protected against radiological and otht4 hazards:
  2. generation of radioacti ve waste is kept to the minimum practicable .

Cc) interdependence among the different steps of radioactive waste and spent fuel management is taken into account;

1. protective measures for radioaetive waste and spent fuel management in the Republic of Kenya are implemented in a manner that reflects internationally recognized criteria, standards and guidanc;
2. biological, chemical and other hazards that may be associated with radioactive waste and spent fuel management are adequately addressed
3. criticality and removal of residual heat generated during radioactive waste and spent fuef management are adequately addressed;
4. actions imposing reasonably predictable impacts on future generations greater tha,n those permitted 'for the current generation. are av.oided; and

**(b)** appropriate funding arrangements are in plac .

981

Scope and ' principles of radioactive waste and !<penf fueI management.

982 *The N wlear Regulatory Bill . 2018*

**74.** ( I ) The pri mary responsi bi l ity for ensu ring the safety and security of rad ioacti ve waste and spent fuel in a rad ioactive waste or spent fuel management inside or outside a facil ity th roughout its l ife rests with the holder of the relevant aut hori zation.

(2) Every authorized person shall be responsi ble for the safe management of rad ioacti ve waste generated by the activities for which the authorization is issued and shall take all necessary measures to ensure that -

1. generation of the acti vity and vol ume of radioacti ve waste are kept to the minimum practicable level by suitable design , operation and decommissioni ng of i ts facil i ties;
2. radioact ive waste is managed by appropriate classification , segregation , treat ment , cond i t ioning, storage or disposal , and mai ntai ning records of such activities;
3. management of rad ioacti ve waste 1s not unnecessari ly delayed; and
4. information sought by the Commission 1s furnished as req uested .

75. The Commission shall establ ish a classification of radioacti ve waste to ensure a safe and secure management of rad ioacti ve waste in Kenya.

**76.** ( I ) Every authori zed person shall submit a was.te management plan to the Commission for approval .

1. .A waste management plan shall provide for the appropriate management of rad ioacti ve waste and ·shall include -
2. an outline of the processes generat ing waste, and a description of the waste generated ;
3. a description of the environment into \ hich the waste wi ll be discharged or disposed , includ ing the · basel ine rad iological characterist ics;
4. a description of the proposed system for waste management incl ud ing the facilities and proced ures invol ved i n the handl ing, transportation , treat ment , storage or disposal of rad ioact ive waste;

Responsibility for rauioa.:tive \\'aste anu spent fuel

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**ra<lioactiv waste**

Waste

management plan.

*The Nuclear Regulatory Bill. 2018*

1. prediction of environmental concentrations of radionuclide and radiation doses to people from ' the proposed waste management practices, includi ng demonstration of adherence to the radiation protection requirements under this Act;
2. a program for monitoring the concentration of ra<lionuclides in the environment and assessment of radiation doses to mem bers of the pu blic arising from the waste management practices;

(f) emergency plans for dealing with. accidental releases, or circumstances which might lead to , uncontrolled releases of radioacti ve waste, to the environment;

1. a schedule for reporting on the operation and results of monitori ng and assessments required by this plan;
2. a plan for decommissioning the operation and the associated waste management facilities and remediation of the site; and
3. a system of periodic assessment and review of the adequacy and effectiveness of procedures instituted under the plan to ensure currency and to take account of potential improvements consistent with best practicable technology.
4. For the purposes of this section "radioacti ve waste" includes spent fuel.

77. ( I ) A person shall not store, manage, transfer or dispose of radioactive waste without an authorization from the Commission.

1. An application for an authori zation to store, manage, transfer or dispose of radioactive waste shall be in the prescribed form and manner.
2. Every authorized person shall take appropriate me<J.sures to keep generation of radioactive waste and its environmental impact to the minimum practicable!.
3. Any person who contravenes subsection (1) commits an offence, and is liable upon conviction to a fine not exceeding five million shillings or to an imprisonment for a term not exceedi ng five years, or to both.·

983

Offences relati ng to radioacti ve waste and spent fuel.

984

78.( l ) An authorized person shall ensure that -

(a) radioactive waste is collected. segregated. charn.cterized. and packaged at the point of origin in aecordance with the classification and packaging system estabTished under this Act;

(1:>) the selected radioactive waste packages are compatible with planned storage or disposal optiioos. and also meet the prescribed radioactive waste acceptance criteria; and -

(c). the·waste packages are designed and produced so that radionudides- are confined under both normal and accident conditions.

* 1. In serecting a conditioning process, an authorized person shall ensme that safety will be improved from the ure of a matrix material and compatibility of the rad.ioacti'1e waste with tlre selected materials and processes.

79.( l) An authorized person shall ensure that radiooctive wastt- from authorized activities *is* OOt

·discharged to the environment unless -

1. such discharge is within the limits specified in the autOOrization ·and is carried out in a controlled manner using anthorized methods; or
2. *the* activity discharged is confirmed to be below

clearance fevef.

{2) An authorized person. during the operational

stages <>f any nuclear material under his responsibility. shaH

##### a) keep radioactive discharges below the authorized

limits as. *is* reasonably achievable;

(b)' monitor and record the discharges of radionuclides with sufficient detail and accuracy to demonstrate compliance with the authorized discharge limits and to pennit estimation of the exposure of the critical group;

1. report discharges to the Commission at intezyals as specified by the Commission and as may be determined from time to time; and

(d} report as soon as practically possible to the Commission of any discharges exceeding the authorized limits.

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radioactive wa..qre.

*The Nuclear Regulatory Bill, 2018*

* 1. Every authorized person shall ensure that non­ radiological hazards of the released radioactive waste comply with the requirements of any other written law concerning those hazar-ds.
  2. Every authorized person shall ensure radioactive waste is stored in such a way as to protect persons, property and the environment.

1. An applicant for an authorization for a radioactive waste and spent fuel management facility shall - ·
2. meet safety requirements for the protection of persons, property and the environment by appropriate planning for the siting, design, construction, operation and maintenance of the respective facility, including provisions for eventual retrieval of the waste;
3. design the facility -
   1. on the basis of assumed conditions for its normal operation and assumed incidents or accidents;
   2. for the likely period of storage, with the potential for degradation being taken into account;
   3. in such a way that the waste can be retrieved whenever required;
   4. so that it is adequately ventilated to exhaust any g!IB generated in normal conditions or under anticipated accidents conditions;

(v)' so that measures to prevent, detect and control fires are incorporated as required; and

(vi) so that radiological monitoring and visual inspection is readily possible.

1. Radioactive waste and spent fuel generated outside the territory of Kenya shall not be imported into Kenya for any purpose.
2. ( I ) Radioactive waste and spent fuel generated within the Republic of Kenya may be exported only upon authorization by the Commission.
3. Radioactive waste and spent fuel shall not be authorized for export to a destination south of latitude 60 degrees for storage or disposal.

985

Authorization to operate a radioactive waste and spent fuel management facility.

Radioactive waste imports.

Radioactive waste exports.

986 *The Nuclear Regulatory Bill , 2018*

1. The Commission shall apply the following criteria in determining export authorization for radioactive waste and spent fuel , whether -
2. the importing State has been notified of the transfer of radioactive waste and spent fuel prior to its recei pt and has consented to such transfer;
3. movement of the intended exported material shall be conducted in conformity with relevant international obligations in all States through which the material will transit; and
4. the importing State possesses the regulatory infrastructure and technical capacity necessary to manage the exported radioactive waste and spent fuel .
5. If an authorized export of radioactive waste or spent fuel cannot be . completed in compliance with the provisions of this Act, the radioactive waste or spent fuel shall be re-imported into the Kenya unless alternative safe and secure arrangements can be made.

**PART XIII -SAFEGUARDS**

1. ( I ) All tht( Nuclear material in Kenya shall be used exclusively for peaceful purposes and in accordance with this Act.
2. No direct or indirect control of nuclear weapons ano other nuclear related explosive devices, the manufacture or otherwise acquisition of such weapons or devices and the seeking of assistance in the manufacture of nuclear weapons or other nuclear related explosive devices, shall be allowed in Kenya.
3. Any person who contravenes the provisions of subsections ( **1 )** or (2) commits an offence, and is liable upon conviction to a fine not exceeding ten million shillings or to an imprisonment for a term not exceeding twenty years or to both.
4. ( I ) The Commission shall -
5. ensure the implementation of the obligations of Kenya aris.ing from ratified international treaties and conventions;
6. collect and provide to the applicable international entity information required to fully implement Kenya's international and national obligations;

Peaceful uses.

•

Application of safeguards.

987

1. facil itate, entry into, access within the Republic of Kenya and offer necessary support to designated inspectors of the applicable international entity; and
2. ensure all agencies of the Government of Kenya and authorized persons cooperate fully with the applicable international and national entities in application of safeguard measures.

(2) The Commission shall cooperate with the International Atomic Energy Agency in the implementation of the safeguards under this Part.

1. ( I ) An Inspector of the Commission and a designated inspector of the ,applicable international ·entity shall have access to any facility· or location as provided for under the safeguards regime with a view of conducting verification activities.

(2) Any person performing activities subject to the safeguards regime shall allow the Commission and designated inspectors of the applicable international entity to carry out any measures they consider necessary for achieving compliance with safeguard measures.

1. The Commission shall be responsible for approving the designation to Kenya of inspectors proposed · by the applicable international entity.
2. The Commission shall make regu lations to ensure the effective implementation of safeguards in Kenya by establishing and implementing -
3. a system for the measurement of nuclear material;
4. a system for the evaluation of measurement accuracy;
5. procedu res for reviewing measurement differences;
6. procedures for carrying out physical inventories;
7. a system for evaluation of unmeasured inventories;

(f) a system of records and reports for tracking nuclear material inventories and flows;

1. procedures for ensuring that accounting procedures and arrangements are being operated correct!y; and

Safeguard inspections.

Designation of inspectors.

State system of accounting for and control of nuc !car material.

988 *The Nuclear Rexulatory /Jill. 20 I R*

1. procedures of reporting to the applicable international entity.
2. Any person intendi ng to carry out research and development activities related to the nuclear fuel cycle, shall prior to commencement, provide to the Commission information and data necessary for compliance subject to the Safeguards Agreement or any protocal thereton.

# **PART** XIV-NUCLEAR SECURITY AND PHYSICAL PROTECTION

1. ( I) . The Commission shall coordinate threat assessment to be done by the national security institutions.

(2) Every authorized person shall ensure security measures are put in place in accordance with the threat identified under subsection ( l ).

90. ( I ) An authorized person is primarily responsible for ensuring the physical protection of nuclear material , radioactive material and related facilities under i ts control.

1. Where there has been theft, threat of theft or loss of nuclear material, an authorized perso shall -
2. notify the Commission without delay of the incident and circumstances thereof
3. provide a written report, including particulars, to the Commission as soon as practicable after giving notice; and
4. provide the Commission with any additional information as may be requested.
5. The Commission shall issue guidelines to on protection from attempted or actual unauthorized access of or illicit trafficking of nuclear and radioactive materials or sabotage of their associated facilities.

**91.** (1) In the event of an unlawful taking or threat of unlawful taking of nuclear material, the Commission shall take appropriate steps as soon as possible to inform other States that may be affected of the circumstances of the incident and the relevant international entity.

1. The Commission shall be the lead authority responsible for coordinating recovery and response in the event of any theft or unlawf ul taking of nuclear material.

Information rcyuirements for research and development activities related

to the nuclear fuel cycle.

Threat assessment processc11.

Pri mary responsibility for physical

protection-.

International cooperation and uietance.

*The Nuclear Regulatory Bill. 2018*

1. In the event of an unlawful taki ng of nuclear material , the Com mission shall be responsible for determining the necessary coord ination, cooperation and assistance arrangements in the recovery anJ protection of such materials as agreed with any State or international organization that so req uests.

(4) The Commission shall provide information on incidents involving unlawfu l taki ng of nuclear material , equipment and . technology to the applicable international entity.

1. (1) A person shall not interfere with. remove, alter. damage, or render ineffecti ve any security measures stipulated to secure n uclear or radioacti ve material except for lawful removal , transport or tech nical service.

(2) Any person who contravenes the provisions of subsection ( 1), commits an offence.

1. ( l ) Any i nformatiort issued to or sought by the Commission under this Act is confidential and shall not be discJosed unless with the wri tten authority of the Commission.

(2) An authorized person shall not disclose any information that is prejudicial to securi ty of a nuclear facility or nuclear material unless with the written authority of the Commission.

1. No person shall use informat ion relati ng to the security of a nuclear facility or material for an unlawful purpose or to further an unla wful purpose or intnt.
2. A person who contravenes the provisions of this section commits an offence, and is liable upon conviction to a fine not exceeding five million shillings or to an imprisonment for a term not exceeding five years or to both.
3. A person who uses or damages a nuclear facility , or interferes in whatever manner with its operation with the intent to cause death or bodily harm, damage to property or environment by compelling a person to do or refrain from doing an act commits an offence and is liable upon conviction, to a fine not exceeding ten million shillings or to an imprisonment for a term not exceedfog twenty years or to both.

989

Restrictions.

Protection of confidential information.

Offences relating tu nudear facilities.

990 *The Nuclear Regulatory Bill , 2018*

#### PART XV -MISCELLANEOUS PROVISIONS

1. An employer or principal shall be liable for an offence committed by an employee or agent under this Act , unless the employer or princi pal proves that the employee was not acting on instruction or authority.
2. Where a contravention of any of the provisions of this Act is made for which no fine or penalty is expressly stated , the person so defaulting s.hall , on conviction, be liable to a fine not exceeding one million shillings or to an imprisonment for a term not exceedi ng twelve months or to both.
3. The Director Public Prosecutions may , on the· request of the Commission, gazette my officer of the Commission, to be a public prosecutor for the purposes of · prosecuting offences under this Act.
4. (1) The Commission shall , in consultation with the Cabinet Secretary, make regu lations for the better carrying out of the objects of this Act.
   1. Without prejudice to the general ity of subsection

(I), such regulations may be made in respect of -

* + 1. the development, production and use of nuclear energy;
    2. mining, production , refinement, conversion , enrichment , processing, reprocessing, possession, import, export, use, packaging, transport, management, storage, or disposal of a nuclear substance;
    3. design, inspection during production or installation, prod uction, possession, storage, import, export, use, decommissioning, or disposal of prescribed equipment;
    4. production, possession, transfer, storage, import, export, use, disclosure or restriction of disclosu re of prescribed information; ·
    5. applications for an authorization under this Act;

(f) design , sitting, construction, installation , operation , mai ntenance, modification , decommissioni ng, abandonment or disposal of a nuclear facility or part of a nuclear facil ity;

Offences by employees and agents.

Qeneral penal ty.

Appointment of prosecutors.

Regulations.

*The Nuclear Regulatory Bill, 2018* 991

##### protection of persons, property and the environment, from any risks associated with the facilities and activitjes carried out under this Act;

1. non-ionizing radiation exposure
2. doses of radiation, including -
   1. ) establishing · classes· of persons and prescribing, in ·respect of each class, the radiation dose limits to which members of that class may be exposed;
   2. prescribing the circumstances under which any or all members of a class of persons may be exposed to a dose of radiation exceeding any of the limits prescribed for that class of persons; and
   3. establishing measures for protection of persons from exposure to radiation;
3. protection of nuclear energy worlts, including prescribing -
   1. duties that may be performed by a person employed in nuclear facility or other place in which a nuclear substance is produced, used, possessed, packaged, transported, stored or disposed of and the manner and circumstances in which the person 's terms and .conditions of employment may be varied;

. (ii) the information that a person so employed is required to provide to their employer or to a dosimetry service provider in ·order to measure or moni tor the dose of radiation to which the person is exposed;

1. medical examinations or tests and the circumstances under which they are to be conducted on persons so employed; and
2. measures that must be undertaken by employets of persons so employed and licensees of such a nuclear facility;
3. prescribing the fees that may be charged by the Commission, on information; products and services or for the progra.mmes that it. establishes and maintains;

992 *The Nuclear Regulatory Bill, 2018*

##### prescribing the . fees payable for various authorizations;

(m)qualifications for, and the training and examination of, inspectors and other persons authorized under this Act;

1. measures to ensure the maintenance of national security and compliance with Kenya's international obligations in the development, production and use of nuclear energy and the production, use, possession, packaging, transport, storage and disposal of nuclear substances, prescribed equipment and prescribed infonnation;
2. measures to implement Kenya's international

·obligations regarding the development, production and use of nuclear energy, including prescribing the manner in which the conditions under which access to a nuclear facility, nuclear substance or presribed infonnation shall be granted to prescribed persons;

1. establishing requirements to be complied with by any person who possesses, uses, packages, transport,'stores or disposes of a nuclear substance or prescribed equipment or who locates, designs, constructs, installs, operates. maintains, modifies, decommissions or abandons a nuclear facility or nuclear-powered vehicle;
2. the form of certificates of inspectors and designated officers;
3. the procedure for certifications and decertification of prescribed equipment;
4. establishing classes of nuclear facilities;
5. the provision of any radiation protection services;
6. radioactivity levels in foodstuff and consumer products;
7. licensing process for export or import of controlled items. including end-user controls;

(w) the form of notices required by this Act and the manner in which they are to be given;

*The Nuclear Regulatory Bill, 2018* 993

1. the exemption of any activity, persons, class of persons or quantity of nuclear substance, temporarily or permanently , from the application of this Act or the regulations thereunder; and
2. prescribe anything that is required to be prescribed by this Act and generally any other matter necessary for carrying out the purposes of this Act.

**PART XVI-TRANSITIONAL PROVISIONS**

1. (1) The Radiation Protection Act, is repealed.
2. Notwithstanding the provisions of subsection (1)
   1. in as far as applicable, the contractual obligations existing pursuant to the Radiation Protection Act shall be preserved;
   2. any subsidiary legislation issued before the commencement of this Act shall, in as far as is not inconsistent this Act, remain in force until repealed or revoked by subsidiary legislation under the provisions of this Act and shall, for all purposes, be deemed to have been made under this Act;
   3. a licence issued by the former Radiation Protection Board shall be deemed a corresponding licence issued under this Act for its unexpired duration;
   4. members of the former Radiation Protection Board and the Chief Radiation Protection Officer shall continue to serve in the Commission in the corresponding positions as Commissioners and Director General respectively until the expiry of their unexpired term.
3. The Kenya Nuclear Regulatory Commission established under section 5 of this Act, shall be the successor to the Radiation Protection Board established by the Radiation Protection Act and subject to this Act, all rights, duties, obligations, assets and liabilities of the Radiation Protection Board existing at the commencement of this Act shall be automatically and fully transferred to the Kenya Nuclear Regulatory Commission.

Repeal of Cap. 243.

Cap 243

Commission to be successor of Radiation Protection Board.

Cap. 243

994 *The Nuclear Regulatory Bill, 2018*

### (1) A person who, immediately before the commencement of this Act, was an employee of the Government and who was serving at the former Radiation Protection Board shall, upon the commencement of this Act, be deemed to be an employee of the Commission.

(2) Despite subsection (1), all the employees of the Government who were serving at the former Radiation Protection Board shall upon the commencement of this Act be given an option to elect to serve in the Commission or be redeployed in the Public Service within a period of one year.

Transfer of Staff.

### (1) In addition to the staff appointed under section 10, a public officer may be seconded to the Commission from any other public body, upon the request by the Commission as may be necessary for the performance of the functions of the Commission.

(2) A public officer seconded to the Commission shall, during the period of secondment, be deemed to be an officer of the Commission and shall be subject only to the direction and control of the Commission.

Secondment of

Staff.

*The Nuclear Regulatory Bill, 2018 995*

SCHEDULE (s. 11)

### PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMISSION

1. (1) The Chairperson or a commissioner of the Commission other than *ex-officio* commissioners shall, subject to the provisions of this Schedule, hold office for a period of four years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for re-appointment for one further term.

(2) The commissioners of the Commission shall be appointed at different times so that the respective expiry dates of the commissioners' terms of office shall fall at different times.

1. (1) No person shall be appointed or shall, as a commissioner of the Commission if such person is-
2. a member of parliament or a county assembly; or
3. a person who holds any office or position, in a political party.
4. (1) A commissioner other than an *ex-officio*

### commissioner may -

1. at any time resign from office by notice in writing to the Cabinet Secretary;
2. be removed from office by the Cabinet Secretary on recommendation of the Commission if the commissioner -
   1. has been absent from three consecutive meetings of the Commission without its permission;
   2. is adjudged bankrupt or enters into a composition or scheme of arrangement with his creditors;
   3. is convicted of a corruption or economic crime or other criminal offence involving dishonesty, fraud or moral turpitude or any other criminal offence under any law punishable with imprisonment that amounts to a felony under the Laws of Kenya;

Tenure of office.

Disqualification

of commissioners.

Vacation of office.

996 *The Nuclear Regulatory Bill, 2018*

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##### (iv) is of unsound mind or is incapacitated by prolonged physical or mental illness for a period exceeding six months; or

(c) is otherwise unable or unfit to discharge his functions.

1. ( l ) The Commission shall meet at least once in every three months.
2. Notwithstanding subparagraph (1), the Chairperson may, and upon requisition in writing by at least five commissioners, convene a special meeting of the Commission at any time for the transaction of the business of the Commission.
3. Unless three quarters of the total commissioners of the Commission otherwise agree, at least fourteen days' written notice of every meeting of the Commission shall be given to every commissioner of the Commission.
4. The Chairperson shall preside at every meeting of the Commission and in his absence, the commissioners present shall elect one of their number, from among the commissioners appointed under the section 8, to preside and the person so elected shall have all the powers of the chairperson with respect to that meeting and the business transacted thereat.
5. Unless a unanimous decision is reached, a decision on any matter before the Commission shall be by a majority of the votes of the commissioners present and voting, and in case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.
6. Subject to subparagraph (4), no proceedings of the Commission shall be invalid by reason only of a vacancy among the commissioners thereof.
7. Nothing in this paragraph shall prevent the Chairperson from authorizing a commissioner to use live telephone conferencing or other appropriate communication or multimedia facilities to participate in any meeting of the Commission where, prior to the meeting, the commissioner, by notification to the Chairperson, has requested for such authorization.
8. ( l ) The Commission may establish such committees as it may deem appropriate to perform such functions and responsibilities as it may determine.

Meetings.

Committce5 of the

Commi55ion.

*The Nuclear Regulatory Bill, 2018*

##### The Commission shall appoint the Chairperson of a committee established under subparagraph ( 1) from amongst its commissioners.

1. The Commission may where it deems appropriate, co-opt any person to attend the deliberations of any of its committees.
2. All decisions by the committees appointed under subparagraph ( I ) shall be ratified by the Commission.
3. (1) The secretary to the Commission shall be

responsible to the Chief Executive Officer for -

1. arranging the business of the Commission 's meetings;
2. keeping records of the proceedings of the Commission;
3. performing such other duties as the Commission may direct.

(2) The Commission may in the absence of the secretary appoint any commissioner of the Commission or staff of the Corporation to temporarily perform the functions of the secretary under subparagraph ( I ).

1. ( I ) A commissioner who has an interest in any contract, or other matter present at a meeting shall at the meeting and as soon as reasonably practicable after the commencement, disclose the fact thereof and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.
2. A disclosure of interest made under subparagraph (I) shall be recorded in the minutes of the meeting at which it is made.
3. A commissioner of the Commission who contravenes subparagraph ( 1) commits an offence and is liable to a fine not exceeding two hundred thousand shillings.

997

Secretary to the Commission.

Disclosure of interest.

998 *The Nuclear Regulatory Bill, 2018*

##### 8.Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed on behalf of the Commission by any person generally or specially authorized by the Commission for that purpose.

Contracts and instruments.

*The Nuclear Regulatory Bill, 2018* 999

##### MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to repeal the Radiation Protection Act (Cap. 243) and provide for a comprehensive regulatory framework, for radiation and nuclear safety, nuclear security and safeguards to control radiation sources, nuclear materials and associated waste. The Bill aims to protect the people, property and the environment from the harmful effects of exposure to radiation and to provide for nuclear safety and non­ proliferation in accordance with national and international obligations.

Part I of the Bill deals with preliminary matters. Clause 3 sets out the object and purpose of the Bill which shall be to regulate safe, secure and peaceful development, production, possession, use, storage, disposal, transport or handling of nuclear and radioactive materials and other activities generating ionizing radiation.

Part II of the Bill deals with the establishment of the Kenya Nuclear Regulatory Commission as an independent and autonomous body, domiciled in a neutral administrative Government Ministry, from the user Ministries, in line with Kenya's development agenda.

Part ID of the Bill deals with the financial provisions in relation to the Commission including the funds of the Commission, the financial estimates and the accounts and audit of the books of account of the Commission.

Part IV of the Bill gives in detail, the manner in which the commission shall exercise regulatory control including notifications, authorizations and inspections.

Part V of the Bill provides the framework for the radiation protection and related medical and intended radiological exposures with trans­ boundary effects, among others.

Part VI of the Bill deals with the safety of radiation sources and facilities.

Part VII of the Bill provides for the authorizations of nuclear facilities and the safety of nuclear facilities and decommissioning.

Part VIII of the Bill establishes the Decommissioning Fund whose primary objective is to cater for decommissioning and the management of radioactive waste and spent fuel.

Part IX of the Bill deals with emergency preparedness and responses in the event of radiological emergencies and nuclear accidents.

Part X deals with the transportation of radioactive material in line with the best practice, to prevent the proliferation of nuclear weapons, explosives and radiological dispersal devices.

1000 *The Nuclear Regulatory Bill, 2018*

Part XI of the Bill addresses the issue of illicit trafficking.

##### Part XII of the Bill deals with the discharge of radioactive waste and spent fuel management and the related offences.

Part XIII of the Bill deals with the regime of safeguards and safeguard inspections, in compliance of Kenya's international obligations.

Part XIV of the Bill delves on nuclear security and physical protection.

Part XV of the Bill deals with miscellaneous matters. Clause 98 gives the Commission, powers to make regulations, in consultation with the Cabinet secretary, for better carrying out of the objects of the Act.

Part XVI of the Bill deals with the repeal of the Radiation Protection Act (Cap. 243) and the saving and transitional provisions in respect of the repealed Act.

The Schedule deals with the provisions as to the conduct of business and affairs of the Commission.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms.

The Bill does not contain any provisions limiting any fundamental rights and freedoms.

Statement on how the Bill concers County governments

The Bill does not affect the functions of County governments as set out in the Fourth Schedule to the Constitution and is therefore not a Bill concerning counties.

Statement that the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill shall occasion additional expenditure of public funds.

Dated the l st November, 2018.

ADEN DUALE,

*Leader of the Majority Party.*