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DEPARTMENT OF MINERAL RESOURCES AND ENERGY

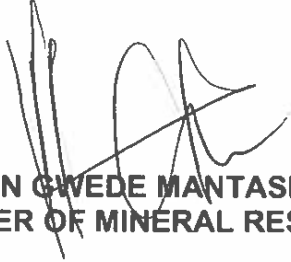
NO. 3705

26 July 2023

PUBLICATION OF EXPLANATORY SUMMARY NATIONAL NUCLEAR REGULATOR AMENDMENT BILL, 2021

1. Notice is hereby given in terms of Rule 276(1)(b) of the Rules of the National Assembly that the Minister of Mineral Resources and Energy intends to introduce the National Nuclear Regulator Act Amendment Bill, 2021, (the Bill) in the National Assembly shortly.
2. The explanatory summary of the Bill is hereby published in accordance with Rule 276(1)(c) of the Rules of the National Assembly.
3. The purpose of the Bill is to amend the National Nuclear Regulator Act, 1999 (Act No. 47 of 1999) in order to strengthen the nuclear safety regulatory framework; to substitute certain definitions and to insert new definitions that align with international best practices; to provide for the regulation of occupational exposure of air crew; regulation over the decontamination, decommissioning and closure of any of the Republic's National Defence Force facilities, equipment, machinery or scrap prior the release for civilian use and clarify the scope of the application of the Act; to provide for a centralised dose record system for occupational exposures for radiation workers; to provide for conditions applicable in the transfer of responsibility for authorised activities; to strengthen the powers of inspectors; to improve financial provisions relating to costs associated with safe rehabilitation or decommissioning of nuclear facilities; to introduce provisions for non-criminal sanctions in cases of non-compliance with the Act and to provide for matters incidental thereto.

4. A copy of the Bill can be found on the websites of the Department of Mineral Resources and Energy at <http://www.dmre.gov.za> and that of the Parliamentary Monitoring Group at <http://www.pmg.org.za>.

A handwritten signature in black ink, appearing to be 'SGM', is written over the printed name and title of the Minister.

SAMSON GWEDE MANTASHE, MP
MINISTER OF MINERAL RESOURCES AND ENERGY

REPUBLIC OF SOUTH AFRICA

NATIONAL NUCLEAR REGULATOR AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 75); explanatory summary of
Bill published in Government Gazette No. of) (The English text is the
official text of the Bill)*

(MINISTER OF MINERAL RESOURCES AND ENERGY)

[B-2021]

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments
_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the National Nuclear Regulator Act, 1999, so as to substitute certain definitions and insert new definitions; to authorise the Regulator to perform additional regulatory functions; to provide for the transfer of an authorisation; to provide for additional powers of inspectors; to provide for financial provision for costs associated with safe rehabilitation or decommissioning of nuclear facilities; to provide for administrative fines; to provide for the establishment of the National Dose Register to provide for a centralised database of radiation workers; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 47 of 1999

1. Section 1 of the National Nuclear Regulator Act, 1999 (Act No. 47 of 1999) (hereinafter referred to as the "principal Act") is hereby amended—

- (a) by the deletion of the definition of "action";
- (b) by the insertion before the definition of "board" of the following definitions:

" **activity** means—

- (a) the use, possession, production, storage, enrichment, processing, reprocessing, or disposal of radioactive material;
- (b) the import and export of radioactive material for industrial, research and medical treatment;
- (c) the transporting, or causing to be transported, of radioactive material;
- (d) manufacturing of design packages intended for storage or transport of radioactive material;
- (e) the site evaluation, design, manufacturing, construction, commissioning, operation and decommissioning of facilities; and
- (f) radioactive waste management activities and site rehabilitation;

'aircrew' means flight crew, cabin crew and any person employed by the aircraft operator to perform a function on board the aircraft while it is in flight;

'authorisation' means a written permission in the form of—

- (a) a nuclear licence;

(b) a nuclear site licence;

(c) a nuclear vessels licence;

(d) a certificate of registration;

(e) a certificate of exemption;

(f) an authorisation to manufacture; or

(g) any other written permission granted by the Regulator;

'authorisation holder' means the holder of an authorisation, granted by the Regulator;

'authorisation to manufacture' means a written permission to manufacture parts for a nuclear facility;"

- (c) by the insertion after the definition of "chief executive officer" of the following definition:

" 'clearance' means the removal of regulatory control over radioactive material or radioactive objects within authorised activities;"

- (d) by the substitution for the definition of "closure" of the following definition:

" 'closure' means the completion of all technical and administrative operations after the disposal [emplacement] of [spent fuel or] radioactive waste in a disposal facility;"

- (e) by the insertion after the definition of "closure" of the following definitions:

" 'Compensation for Occupational Injuries and Diseases Act' means Compensation for Occupational Injuries and Diseases Act, 1993 (Act No.130 of 1993);

'cosmic radiation' means radiation that originates in outer space, and which is composed of subatomic particles and "rays" of energy such as gamma rays and X-rays;

'decommissioning' means all processes leading to the release of a facility, other than a disposal facility, from regulatory control, other than confirming the decommissioned status of a facility, which may also include the processes of decontamination and dismantling;

'discharges' means planned and controlled releases into the environment, as a legitimate practice, within limits authorised by the regulatory body, of liquid or gaseous radioactive material that originates from regulated nuclear facilities during normal operation;

'disposal' means the emplacement of radioactive waste in a disposal facility without the intention of retrieval;

'Dose' means a measure of the energy deposited by radiation in a target;

'dosimetry services provider' means a body or an individual service provider providing services related to calibration, reading or interpretation of individual monitoring devices, conducting measurement of radioactivity in the human body or in biological samples, and assessment of doses;"

(f) by the deletion of the definition of "Council for Nuclear Safety";

(g) by the insertion after the definition of "enrich" of the following definitions:

" 'exemption' means the determination by the Regulator that a source, facility or activity is not subject to some or all aspects of regulatory control, on the basis that the exposure (including potential exposure) due to the

source, facility 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;

'facility' means nuclear facility, irradiation facility, mining and raw material processing facility, radioactive waste management facility, and any other places where radioactive material is produced, processed, used, handled, stored or disposed of, on such a scale that protection and safety is required;"

- (h) by the substitution for the definition of "ionizing radiation" of the following definition:

" **'ionizing radiation'** means [electromagnetic or corpuscular emission emitted from radioactive material and capable of producing ions, directly or indirectly while passing through matter]radiation capable of producing ion pairs in biological materials;"

- (i) by the substitution for the definition of "Minister" of the following definition:

" **'Minister'** means the Minister responsible for [of] Mineral[s] Resources and Energy;"

- (j) by the insertion after the definition of "Minister" of the following definition:

" **'National Dose Register'** means centralised radiation dose record system that contains the dose records of individuals who are monitored for occupational exposures to ionizing radiation;"

- (k) by the substitution for the definition of "nuclear accident" of the following definition:

" **'nuclear accident'** means any [occurrence or succession of occurrences having the same origin which—

(a) results in the release of radioactive material, or a radiation dose, which exceeds the safety standards contemplated in section 36; and

(b) is capable of causing nuclear damage;]unintended event, including operating error, equipment failure or malfunction, unauthorised or malicious acts, the safety significance of which exceeds the levels prescribed in safety standards contemplated in section 36;"

(l) by the deletion of the definition of "nuclear authorisation";

(m) by the substitution for the definition of "nuclear damage" of the following definition:

" **'nuclear damage'** means—

(a) any injury to or the death or any sickness or disease of a person;

[or]

(b) other damage, including any damage to or any loss of use of property or damage to the environment;

(c) economic loss arising from loss or damage referred to in (a) or (b) above;

(d) the cost of measures of reinstatement of impaired environment, unless such impairment is insignificant, if such measures are actually taken or to be taken;

(e) loss of income, deriving from an economic interest in any use or enjoyment of the environment, incurred as a result of a significant impairment of that environment;

(f) the costs of preventive measures, and further loss or damage caused by such measures;

(g) any other economic loss, other than any caused by the impairment of the environment;

which arises out of, or results from, or is attributable to, the ionizing radiation associated with a nuclear **[installation]** facility, nuclear vessel or **[action]** activity;"

(n) by the substitution of the definition of "nuclear energy" of the following definition:

" **'nuclear energy'** means **[all]** the energy released by **[a]** the nucleus of an atom as a result of nuclear fission, **[or]** nuclear fusion **[process]** or radioactive decay;"

(o) by the insertion after the definition of "nuclear energy" of the following definition:

" **'nuclear facility'** means any facility within the nuclear fuel cycle, other than the mining and processing of ore, including but not limited to a—

(a) nuclear power plant;

(b) research reactor;

(c) fuel fabrication plant;

(d) nuclear reprocessing facility;

(e) uranium, thorium, or plutonium refinement or conversion facility;

(f) uranium enrichment facility;

(g) nuclear reactor, including a nuclear fission reactor or any other facility

intended to create nuclear fusion;

(h) spent nuclear fuel storage facility;

(i) storage facility for enriched uranium processing; and

(j) facility specifically designed to handle, treat, condition, temporarily store

or permanently dispose of any radioactive material which is intended to

be disposed of as waste material, other than a facility which only

handles radioactive waste resulting directly from the mining and

processing of ore; or

(k) any facility, installation, plant or structure declared to be a nuclear

facility in terms of section 2(3);";

(p) by the deletion of the definition of "nuclear incident";

(q) by the deletion of the definition of "nuclear installation";

(r) by the substitution of the definition of "nuclear installation licence" of the following definition:

" **'nuclear [installation] licence'** means a licence referred to in section

21(1);";

(s) by the insertion after the definition of "nuclear licence" of the following definitions:

" **'nuclear material'** means plutonium, uranium-233, or uranium enriched

in the isotopes uranium-233 or uranium-235, or any other material

determined to be nuclear material in terms of the Nuclear Energy Act,

1999 (Act No. 46 of 1999);

'nuclear or radiological emergency' means a non-routine situation, involving radiation, which necessitates the taking of prompt response actions, to prevent or mitigate potential nuclear damage;

'nuclear or radiation incident' means any unintended event, including but not limited to, operating error, equipment failure or malfunction, unauthorised or malicious acts, the safety significance of which exceeds the levels prescribed in the safety standards contemplated in section 36;"

- (t) by the deletion of the definition of "nuclear reprocessing facility";
- (u) by insertion after the definition of "nuclear or radiation incident" of the following definition:

" 'nuclear site licence' means a licence referred to in section 21(1A);"

- (v) by the substitution for the definition of "period of responsibility" of the following definition:

" **'period of responsibility'**, in relation to the holder of a nuclear authorisation, means the period beginning on the date of **[the grant]** coming into force the relevant **[nuclear installation licence or certificate of registration or, in the case of a nuclear vessel, when it enters South Africa's territorial waters]** authorisation and ending on the date on whichever of the following dates is the earlier, namely—

- (a) the date on which the Regulator gives notice in writing to the holder that in its opinion the risk of nuclear damage from—
 - (i) anything on the site, or at or in the nuclear **[installation]**facility, in question;

- (ii) any act performed in regard to the nuclear **[installation]facility** or site in question;
 - (iii) any action described in section 2(1)(c), as the case may be, no longer exceeds the safety standards contemplated in section 36;
- (b) the date on which a nuclear authorisation in respect of the nuclear **[installation]facility**, site or action in question is granted to some other person;
- (c) in the case of a nuclear vessel, the date on which the nuclear vessel leaves South Africa's territorial waters;"
- (x) by the insertion after the definition of "plant" of the following definition:

" 'pre-construction activities' means the preparation of a site for the construction of a nuclear facility including initial earthworks and site levelling, preparation of construction roads, borrow areas, security infrastructure, dewatering, building of diaphragm wall and excavation and clearance of bedrock;"
- (y) by the insertion after the definition of "prescribed" of the following definitions:

" 'Public Finance Management Act' means Public Finance Management Act, 1999 (Act No.1 of 1999);

'radiation' means ionizing radiation or non-ionizing radiation;"
- (z) by the substitution for the definition of "radioactive material" of the following definition:

" **'radioactive material'** means any substance consisting of, or containing any **[radioactive nuclide]** radionuclide, whether natural or artificial [, including, but not limited to, radioactive waste and spent nuclear fuel];";

(za) by the deletion of the definition of "radioactive nuclide".

(zb) by the insertion after the definition of "radioactive material" of the following definitions:

"radionuclide" means any unstable atomic nucleus which decays spontaneously with the accompanying emission of ionizing radiation;";

'radioactive waste' means material that contains or is contaminated with radioactive material at a concentration or activities greater than the prescribed clearance level and for which no further use is foreseen;";

(zc) by the substitution for the definition of "radioactivity" of the following definition:

" **'radioactivity'** means the **[measure of a quantity of radioactive materials]** phenomenon whereby atoms undergo spontaneous random disintegration, usually accompanied by the emission of radiation;";

(zd) by the substitution for the definition of "site" of the following definition

" **'site'** means **[a site on which—**

(a) **a nuclear installation is situated or is being constructed; or**

(b) **any action which is capable of causing nuclear damage, is**

carried out] a defined geological area that contains an authorised facility.

authorised activity or authorised source over which the authorisation holder or applicant exercises direct authority;";

(ze) by the insertion after the definition of "site" of the following definition:

" 'site evaluation' means the analysing of those factors that could affect nuclear or radiation safety and security of a facility or activity on that site, including site characterisation, factors affecting the release of radioactive material, subsequent dispersion of such material, the impact on the environment and access issues relevant to safety and security;
'source' means anything that may cause radiation exposure including emission of ionizing radiation, or by releasing radioactive substances or material, and which can be treated as a single entity for protection and safety purposes."

Amendment of section 2 of Act 47 of 1999

2. Section 2 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

"Application of Act, and declaration of nuclear [installation] facilities;";

(b) by the substitution for subsections (1), (2) of the following subsections respectively:

"(1) Subject to subsection (2), this Act applies to—

(a) the site evaluation, design, manufacturing of component parts, construction, operation, extended shutdown, decontamination and

decommissioning of any nuclear facility including the closure of any radioactive waste disposal facility;

(b) commercial vessels propelled by nuclear power or having radioactive material on board which is capable of causing nuclear damage;

(c) the decontamination, decommissioning and closure of any of the Republic's National Defence Force facilities, equipment, machinery or scrap, including remediation or rehabilitation of land, which is designated for release for civilian use;

(d) exposure of aircrew to cosmic radiation; and

(e) any other activities involving radiation conducted in the Republic which are capable of causing nuclear damage.

(2) This Act does not apply to—

(a) exposure to cosmic radiation at ground level or to potassium-40 in the body or any other radioactive material or activities not amenable to regulatory control as determined by the Minister, after consultation with the board by notice in the *Gazette*;

(b) activities involving exposures that have been excluded from regulatory control, through regulations established in terms of section 36;

(c) Group IV hazardous substances as defined in section 1 of the Hazardous Substances Act, 1973 (Act No. 15 of 1973);

- (d) exposure to ionizing radiation emitted from equipment, declared to be a Group III hazardous substance in terms of section 2(1)(b) of the Hazardous Substances Act, 1973[.];
- (e) naval vessels of a foreign state that are invited into the Republic through diplomatic channels; and
- (f) nuclear security issues in accordance with Sections 33, 34 and 35 of the Nuclear Energy Act, 1999 (Act No.46 of 1999)".

Amendment of section 3 of Act 47 of 1999

3. The following section is hereby substituted for section 3 of the principal Act:

"(1) A juristic person to be known as the National Nuclear Regulator, comprising a board, a chief executive officer and staff, is hereby established.

(2) The Regulator is a schedule 3A public entity in terms of the Public Finance Management Act."

Amendment of section 5 of Act 47 of 1999

4. Section 5 of the principal Act is hereby amended—

(a) by the substitution for paragraphs (a) and (b) of the following paragraphs:

"(a) provide for the protection of persons, property and the environment, against the harmful effects of ionizing radiation associated with nuclear facilities and activities **[nuclear damage]** through the establishment of safety and security standards and regulatory practices; as contemplated in section 2(1) of this Act;"

(b) exercise regulatory control related to safety and security over activities contemplated in section 2(1) of this Act through the granting of authorisations;";

(c) by the deletion of paragraph (c);

(d) by the substitution for paragraph (d) of the following paragraph:

"(d) **[provide assurance of]** enforce compliance with the conditions of **[nuclear]** authorisations **[through the implementation of a system of compliance inspections];**";

(e) by the substitution for paragraphs (f) of the following paragraph:

"(f) ensure that **[provisions]** requirements for nuclear and radiation emergency preparedness and response **[planning]** are in place;";

(f) by the insertion after paragraph (f) of the following paragraph:

- "(g) disseminate objective scientific, technical, and regulatory information concerning –
- (i) the activities of the Regulator; and
 - (ii) the impact from facilities and activities using radiation and nuclear technology on the environment and on the health and safety of persons as well as property from facilities and activities using radiation and nuclear technology."

Amendment of section 6 of Act 47 of 1999

5. Section 6 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) To give effect to the principles of co-operative government and intergovernmental relations contemplated in Chapter 3 of the Constitution of the Republic of South Africa, 1996 **[(Act No. 108 of 1996)]**, all organs of state, as defined in section 239 of the Constitution, on which functions in respect of the monitoring and control of radioactive material or exposure to ionizing radiation are conferred by this Act or other legislation, must co-operate with one another in order to—";

(b) by the substitution in subsection (1) for paragraph (a) of the following paragraph:

"(a) ensure the effective monitoring and control of the nuclear or radiation hazard;"

Amendment of section 7 of Act 47 of 1999

6. Section 7 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) The Regulator may, **[subject to this Act,]** for the purpose of achieving its objects—";

(b) by the substitution for paragraphs (a), (b), (c), (d) and (e) of the following paragraphs:

"(a) grant, **[or]** amend, refuse, suspend or revoke [nuclear] authorisations, subject to the provisions of this Act;

(b) hire, purchase or otherwise acquire any movable and immovable property **[and]** or proprietary right, and rent or dispose of property so acquired, **[but may not acquire or dispose of immovable property without the prior approval of the Minister, granted with the agreement of the Minister of Finance]** subject to the provisions of the Public Finance Management Act;

(c) collaborate with any other body or institution or establish and control facilities for the collection and dissemination of scientific and technical information, in connection with any matter regarding **[nuclear energy falling within the objects of the Regulator]** radiation safety and security; as contemplated in section 2(1) of this Act;"

- (d) collaborate with any educational, scientific or other body [,a **government**] or institution in connection with the provision of instruction for, or the training of, persons required by the Regulator;
 - (e) provide, on such conditions as the Regulator [**thinks**] deems fit, financial or other assistance in connection with the training of persons in so far as in the board's opinion it is necessary to ensure that a sufficient number of trained persons are available to enable the Regulator to perform its functions;"
- (c) by the substitution for paragraphs (g), (h), (i) and (j) of the following paragraphs:
- "(g) advise the Minister on matters associated with any [**action**] facility, activity or condition which—
 - (i) is capable of causing nuclear damage;
 - (ii) the Minister refers to the Regulator; or
 - (iii) the Regulator [**thinks**] deems necessary to advise the Minister on;
 - (h) [**for purposes of this Act,**] act as the national competent authority in connection with the International Atomic Energy Agency's Regulations for the Safe Transport of Radioactive Material;
 - (i) conclude contracts, enter into agreements or perform any act [, **whether in the Republic or elsewhere,**] whereby its objects are carried into effect or which is calculated, directly or indirectly, to enhance the value of the services which the Regulator renders towards the achievement of its objects or which may be prescribed;

- (j) produce and submit to the Minister an annual public report on the health and safety related to workers, the public and the environment associated with all sites including, but not limited to, the prescribed contents [.] and the reporting requirements in terms of the Public Finance Management Act;".
- (d) by the addition to subsection (1) after subparagraph (j) of the following paragraphs:
- "(k) issue rules, notices, letters, guidance and position paper necessary for the implementation of this Act;
- (l) inspect, monitor, assess the activities of applicants for authorisations and authorisation holders for the purpose of verifying compliance with the provisions of this Act, applicable to regulations and the conditions of specific authorisations;
- (m) implement enforcement measures in the event of non-compliance or violation of the provisions of this Act, applicable regulations and the conditions of authorisations;
- (n) recommend regulations prescribing safety and security standards as well as regulatory practices; as contemplated in section 2(2) of this Act;"
- (o) establish and maintain a national register of persons authorised to carry out activities under this Act;
- (p) establish and maintain a national dose register;

(r) conduct relevant research, establish and maintain nuclear safety and security research programmes for regulatory development to provide the Regulator with scientific, technical and other advice and information, as contemplated in section 2(1) of this Act;".

(e) by the substitution for subsection (2) of the following subsection:

"(2) The Minister must table in Parliament the annual public report submitted to him or her in terms of subsection (1)(j) **[within 14 days after it is so submitted if Parliament is then in ordinary session or, if Parliament is not then in ordinary session, within 14 days after the commencement of its next ordinary session]**".

(f) by the deletion of subsection (3).

Amendment of section 8 of Act 47 of 1999

7. Section 8 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) The Regulator is governed and controlled, in accordance with this Act, by a Board **[of Directors]**".

(b) by the substitution in subsection (4)(a) for subparagraphs (iv), (v) and (vi) of the following subparagraphs:

"(iv) an official from the Department of Mineral[s] Resources and Energy;

- (v) an official from the Department of Environment~~al Affairs and Tourism; and~~, Forestry and Fisheries; and
- (vi) not more than seven other directors ~~[and]~~."
- (c) by the substitution in subsection (4) for paragraph (b) of the following paragraph:
 - "(b) the chief executive officer~~;~~ and".
- (d) by the addition in subsection (4) after paragraph (b) of the following paragraph:
 - "(c) the chief financial officer".
- (e) by the substitution in subsection (7) for paragraph (b) of the following paragraph:
 - "(b) a panel, appointed by the Minister, which may include representatives of the relevant committees of Parliament, must compile a shortlist of not more than 20 candidates from the persons ~~[so] nominated;~~";
- (f) by the substitution in subsection (8) for paragraph (e) of the following paragraph:
 - "(e) is a holder of an ~~an~~ **[nuclear]** authorisation or an employee of such holder."
- (g) by the substitution of subsection (12) for the following subsections:
 - "12(a) The chairperson of the board holds office for a period specified in the letter of appointment but not exceeding **[three]** five years and may be reappointed upon expiry of that term of office.
 - (b) A director referred to in subsection (4)(a) holds office for a period specified in the letter of appointment but not exceeding **[three]** five years and maybe reappointed upon expiry of that term of office."
- (h) by the deletion in subsection (13) of paragraph (b);

- (i) by the deletion of subsection (14);
- (j) by the insertion after subsection 14 of the following subsection:

"(15) The board is the accounting authority of the
Regulator."

Amendment of section 9 of Act 47 of 1999

8. Section 9 of the principal Act is hereby amended—

- (a) by the substitution of the heading for the following heading:

"Vacation of office [of board members] by a Director"

- (b) by the substitution for subsection (1) of the following subsection:

"(1) The Minister may at any time **[discharge]** remove a
director of the board from office—"

- (c) by the substitution in subsection (1) for paragraph (a) of the following paragraph:

"(a) if the director has **[repeatedly]** failed to perform his or her functions
[efficiently];"

Repeal of sections 10 and 11 of Act 47 of 1999

9. Sections 10 and 11 of the principal Act are hereby repealed.

Amendment of section 14 of Act 47 of 1999

10. Section 14 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"14. (1) Subject to subsections (2), (3), (4) and (5), the board may, by resolution, delegate any power, and assign any duty, conferred or imposed on it by the operation of section 8 (1) or (2) or conferred or imposed on it elsewhere by this Act, to its chairperson, **[or a]** committee of the board, director of the board or chief executive officer.

Amendment of section 15 of Act 47 of 1999

11. Section 15 of the principal Act is hereby amended—

(a) by the substitution for subsections (3) *and* (4) of the following subsections:

"(3) A chief executive officer holds office for a period not exceeding **[three]** five years as specified in the letter of appointment and may be reappointed upon expiry of that term of office.

(4) The Minister may at any time **[discharge]** remove the chief executive officer from office—

(a) if the chief executive officer has **[repeatedly]** failed to perform the duties of office **[efficiently]**;"

(b) by the deletion of subsection (5);

(c) by the deletion of subsection 6(c);

(6) by the substitution for paragraph (d) of the following paragraph:

"(d) complete a report on the activities of the Regulator for each financial year in accordance with the **[Reporting by Public Entities Act, 1992 (Act No. 93 of 1992)]** Public Finance Management Act and submit the report to the board for approval;"

(e) by the deletion of subsections (7), (8) and (9).

(f) by the substitution in subsection (10) for the following subsection:

"(10) If the chief executive officer is for any reason unable to perform any of his or her functions, the chairperson of the board must appoint **[an employee]** a staff member of the Regulator to act as chief executive officer until the chief executive officer is able to resume those functions."

(g) by the deletion of subsection 11.

Amendment of section 16 of Act 47 of 1999

12. Section 16 of the principal Act is hereby amended—

(a) by the deletion of subsections (3) and (4).

(b) by the deletion of subsection (6).

Amendment of section 17 of Act 47 of 1999

13. Section 17 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraph (b) of the following paragraph:

"(b) fees paid to the Regulator in terms of section 28 and fines levied in terms of section 52; and".

(c) by the deletion of subsection (4) and (5).

(d) by the deletion of subsection (7).

Amendment of heading of Chapter 3 of Act 47 of 1999

14. The following heading is hereby substituted for the following heading:

"[NUCLEAR] AUTHORISATIONS"

Substitution of section 20 of Act 47 of 1999

15. The following section is hereby substituted for section 20 of the principal Act:

"20. Restrictions on certain activities

(1) No person may site, construct, operate, decontaminate or decommission a nuclear facility, except under the authority of a nuclear licence.

(2) No person may perform any pre-construction activities without prior written permission of the Regulator.

(3) No person may manufacture or cause to be manufactured components or parts relating to nuclear safety as prescribed in the regulations except under the authority of an authorisation to manufacture.

(4) No vessel, which is propelled by nuclear power or which has on board any fissile material or uranium hexafluoride may—

(a) anchor or sojourn in the territorial waters of the Republic; or

(b) enter or leave any port of the Republic,

except under the authority of a nuclear vessel licence.

(5) No vessel which has on board any radioactive material capable of causing nuclear damage as listed as category 2 in the regulations may—

(a) anchor or sojourn in the territorial waters of the Republic; or

(b) enter or leave any port of the Republic.

except under the authority of a certificate of registration.

(6) Notwithstanding the provisions of subsection (4), a holder of an authorisation, with a condition or conditions permitting such holder to transport radioactive materials, may cause such materials to be transported by a vessel under the authority of such authorisation without a nuclear vessel licence or a certificate of registration.

(7) No person may carry out any activity contemplated in section 2(1) except under an authorisation issued by the Regulator.

(8) No radioactively contaminated facility, equipment, machinery, scrap or land belonging to or in the control of the Republic's Defence Force may be released for any other purposes, without the prior written permission of the Regulator.

(9) No person may undertake any of the prescribed technical services except under the authority of an authorisation issued by the Regulator."

Substitution of section 21 of Act 47 of 1999

16. The following section is hereby substituted for section 21 of the principal Act:

"21. Application and renewal for nuclear licence, nuclear site licence, nuclear vessel licence or regulatory evaluation of a decision

(1) Any person wishing to construct, operate, decontaminate or decommission a nuclear facility must apply in the prescribed form and manner to the chief executive officer for a nuclear licence or renewal of a nuclear licence.

(2) Any person wishing to obtain regulatory approval of site evaluation for the purposes of construction of a nuclear facility must apply in the prescribed form and manner to the chief executive officer for a nuclear site licence or renewal of a nuclear site licence.

(3) Any person wishing to obtain regulatory evaluation of a design for the purposes of construction of a nuclear facility must apply in the prescribed form and manner to the chief executive officer.

(4) Any person, other than persons mentioned in section 20(4), wishing to—

(a) anchor or sojourn in the territorial waters of the Republic; or

(b) enter any port in the Republic, with a vessel which is propelled by nuclear power or which has on board any fissile material or uranium hexafluoride, must apply to the chief executive officer for a nuclear vessel licence or renewal of a nuclear vessel licence and must furnish requested information.

(5) The chief executive officer must direct the applicant for a nuclear licence, nuclear site licence or nuclear vessel licence to—

(a) serve a copy of the application upon—

(i) every municipality affected by the application; and

(ii) such other person the chief executive officer may determine; and

(b) publish a copy of the application in the *Gazette* and two newspapers circulating in the area of every such municipality.

(6) (a) A person who may be directly affected by the granting of a nuclear licence, nuclear site licence or nuclear vessel licence pursuant to an application in terms of subsection (1), (2) or (3), may make written representations to the board, relating to health, safety and environmental issues

connected with the application, within 60 days of the date of publication in the Gazette contemplated in subsection (3)(b).

(b) If the board is of the opinion that further public representation is necessary, it must arrange for hearings on health, safety and environmental issues.

(7) Subject to the provisions of section 51 of this Act, the requirements for serving and publishing of an application and further public representation may be waived by the chief executive officer with the prior approval of the board.

(8) Subject to the board's approval, the chief executive officer may—

(a) refuse an application for a nuclear licence, nuclear site licence or nuclear vessel licence and must provide the applicant in writing with the reasons for the refusal; or

(b) grant an application for a nuclear licence nuclear site licence or nuclear vessel licence subject to such conditions as may be determined in terms of section 23.

(9) In consideration of an application under section (1), the chief executive officer may conduct an examination in respect of the applicant concerned.

(10) An authorisation under this section shall be valid for the period stipulated in the conditions of authorisation. The authorisation may be

renewed on the application in the prescribed format, before the prescribed time or such later time as the board may allow."

Substitution of section 22 of Act 47 of 1999

17. The following section is hereby substituted for section 22 of the principal Act:

"22. Application for certificate of registration, exemption or [for certain actions] authorisation to manufacture

(1) A person wishing to engage in any activity, not contemplated in section 21(1), (2), (3) or (4), must apply in the prescribed form and manner to the chief executive officer for a certificate of registration or a certificate of exemption or authorisation to manufacture.

(2) The chief executive officer may direct that the applicant for a certificate of registration, certificate of exemption, or authorisation to manufacture—

(a) serve a copy of the application upon—

(i) every municipality affected by the application; and

(ii) such other body or person as the chief executive officer determines; and

(b) publish a copy of the application in the Gazette and two newspapers circulating in the area of every such municipality.

(3) The chief executive officer may, with the approval of the board—

(a) refuse to grant an application for a certificate of exemption or a certificate of registration or a certificate of exemption or authorisation to manufacture made in terms of subsection (1) and must provide the applicant in writing with the reasons for the refusal; or

(b) issue—

(i) a certificate of registration, a certificate of exemption or authorisation to manufacture subject to such conditions as may be determined in terms of section 23; or

(ii) a certificate of exemption if satisfied that the action in question complies with the exemption criteria specified in the safety standard contemplated in section 36.

(4) In consideration of an application under subsection (1), the chief executive officer may conduct an examination in respect of the applicant;

(5) An authorisation under this section shall be valid for the period prescribed in the conditions of authorisation. The authorisation may be renewed on the application in the prescribed format, before the prescribed time or such later time as the board may allow."

18. The following section is hereby substituted for section 23 of the principal Act:

**"23. Conditions relating to nuclear [installation] licence, nuclear site licence,
nuclear vessel licence, [or] certificate of registration**

(1) The chief executive officer may establish standard conditions applicable to one or more categories of **[certificates of registration] authorisations**.

(2) The chief executive officer may, subject to subsection (3), impose any condition in **[a nuclear installation or vessel licence, or certificate of registration] an authorisation** which—

- (a) is necessary to ensure the protection of persons, property and the environment against nuclear damage; or
- (b) provides for the rehabilitation of the site.

(3) The chief executive officer—

- (a) may, subject to paragraph (c), amend any condition in **[a nuclear installation or vessel licence or certificate of registration] an authorisation**;
- (b) must notify the person in writing to whom the **[nuclear installation or vessel licence or certificate of registration] authorisation** was issued of such amendment and the reasons therefor; and

- (c) must submit to the board any amendments made to **[a nuclear] an authorisation** as contemplated in paragraph (a) for ratification at the first meeting of the board following the amendments."

Amendment of section 24 of Act 47 of 1999

19. Section 24 of the principal Act is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection:

"(2) Any provision included in an agreement referred to in subsection (1)(c) which could be included in terms of subsection (1) (a) or (b) as a condition of a nuclear vessel licence is considered to be a condition of that licence or approval, even if it is not expressly embodied in the relevant licence as a condition thereof."

- (b) by the substitution for subsection (6) of the following subsection:

"(6) The chief executive officer must exercise the powers conferred by this section on behalf of the board and subject to the Minister's directions in terms of subsection (1)(a)(ii)."

Substitution of section 25 of Act 47 of 1999

20. The following section is hereby substituted for section 25 of the principal Act:

"Transfer of an authorisation

25. (1) The holder of an authorisation may not transfer an authorisation to another person or entity without the written approval of the chief executive officer.

(2) A person or entity to whom the authorisation is to be transferred must submit an application to the Regulator as prescribed."

Substitution of section 26 of Act 47 of 1999

21. The following section is hereby substituted for section 26 of the principal Act:

"26. **Responsibilities of holders of an authorisation**

26. (1) The holder of an **[nuclear]** authorisation must—

- (a) at all times, display copies of that authorisation at such places and in such languages and form as determined by the chief executive officer to ensure public access to the conditions specified in the authorisation;
 - (b) establish and maintain the necessary competencies;
 - (c) provide adequate training and information to staff;
 - (d) establish procedures and arrangements to maintain safety and security under all conditions; as contemplated in section 2(1) of this Act;"
 - (e) verify appropriateness of design and the adequacy of the quality of activities and facilities and of their associated equipment;
 - (f) ensure the safe and secure control of all radioactive material that is used, produced, stored or transported;
 - (g) ensure the safe and secure control of all radioactive waste that is generated;
 - (h) implement a self-inspection programme to ensure compliance with all conditions of the authorisation; and
 - (i) provide any information or return as required by the chief executive officer.
- (2) The holder of a nuclear licence must establish a public safety information forum as prescribed in order to inform the persons living in the

municipal area in respect of which an emergency plan has been established in terms of section 38(1) on nuclear safety and radiation safety matters.

(3) The responsibility for ensuring safety and security of any facility or activity involving ionising radiation or nuclear energy rests with the holder of an authorisation."

Insertion of section 26A of Act 47 of 1999

22. The following section is hereby inserted after section 26 of the principal Act:

"Financial responsibilities of applicants for and holders of authorisations

26A. (1) An applicant for, or a holder of an authorisation to construct and operate a nuclear facility shall ensure that adequate financial resources will be available, and shall provide such financial resources, when needed to cover costs associated with safe rehabilitation, or decommissioning, including the management of resulting waste.

(2) The amount of financial resources to be made available for rehabilitation, or decommissioning activities shall be—

(a) commensurate with an activity or facility specific cost estimate;

(b) changed if the cost estimate increases or decreases; and

(c) reviewed as part of the periodic review of the rehabilitation, or decommissioning plan.

(3) For existing activities and facilities for which financial resources for rehabilitation, or decommissioning are not available, provisions for adequate financial resources shall be required within a set time frame as may be determined by the Regulator or prior to authorisation renewal or extension, whichever is applicable."

Substitution of section 27 of Act 47 of 1999

23. The following section is hereby substituted for section 27 of the principal Act:

"27. Suspension, modification, revocation or surrender of authorisation

27. (1) An authorisation issued pursuant to the provisions of this Act may be suspended, modified, or revoked by the Regulator—

(a) In the event of a violation of its conditions;

(b) When the conditions under which it was authorised are no longer met; or

(c) In any circumstance where the Regulator determines that continued activity under the authorisation would pose an unacceptable risk to the safety or security of persons, property and the environment.

(2) The chief executive officer may, with the approval of the board, revoke an authorisation.

(3) The holder of an authorisation may surrender that authorisation.

(4) If an authorisation has been revoked or surrendered in terms of subsection (1) or (2), the holder of the authorisation concerned must—
(a) if so directed by the chief executive officer, deliver to the person appointed by the chief executive officer, or account for, such authorisation; and
(b) for the duration of his or her period of responsibility, display, or cause to be displayed, on the relevant site or the vessel in respect of which authorisation has been granted, such notices as directed by the chief executive officer.

(5) On revocation or surrendering of an authorisation, or at any time during the period of responsibility of the holder of that authorisation, the chief executive officer, in writing, may give any direction to the person liable for nuclear damage in terms of section 30, which the chief executive officer believes is necessary to prevent nuclear damage which—

(a) may be caused by anything which is being done, may be done or was done; or

(b) is or was present,

at or in the relevant nuclear facility or site.

(6) The Regulator shall make publicly available a statement providing information on the procedures and requirements for suspension, modification, renewal, revocation or surrender of authorisations."

Substitution of section 28 of Act 47 of 1999

24. The following section is hereby substituted for section 28 of the principal Act:

"28 Fees for [nuclear] authorisations

The Minister may, on the recommendation of the board **[and]** in consultation with the Minister of Finance **[and]** by notice in the *Gazette*, determine the fees payable to the Regulator in respect of—

- (a) an application for the granting of **[a nuclear]** authorisation;
- (b) an annual **[nuclear]** authorisation fee[.]; and
- (c) any work the Regulator may be required to undertake pursuant to the receipt of a notification in terms of sections 20(2) and (3)."

Substitution of section 29 of Act 47 of 1999

25. The following section is hereby substituted for section 29 of the principal Act:

"29. Financial security by holder of nuclear [installation] licence

(1) The Minister must, on the recommendation of the board **[and]** by notice in the *Gazette*, categorise the various **[nuclear installations]** facilities in the Republic, based on the potential consequences of a nuclear or radiation accident.

(2) The Minister must, on the recommendation of the board and in consultation with the Minister of Finance and by notice in the *Gazette*, determine—

- (a) the level of financial security to be provided by the holders of nuclear **[installation]** licences in respect of each of those categories; and
- (b) the manner in which that financial security is to be provided, in order for the holder of a nuclear **[installation]** licence to fulfil any liability which may be incurred in terms of section 30.

(3) Despite subsection (2), the Minister may, after consultation with the board, for so long as the holder of a nuclear **[installation]** licence may be liable for nuclear damage—

- (a) increase or decrease the level of financial security to be provided by that holder as determined in terms of subsection (2);
- (b) if financial security has not been required in terms of subsection (2) require that holder to provide financial security;

[(c) discharge that holder from the requirement to provide financial security;]

(d) amend the manner in which that holder must provide financial security.

(4) If—

(i) nuclear damage occurs and compensation is claimed as a result thereof,
or

(ii) the Minister is satisfied that such compensation is likely to be so claimed;
the Minister may require the holder of the nuclear **[installation]** licence in question to give additional financial security in respect of those claims or possible claims, to an amount which the Minister, after consultation with the board, determines.

(5) The holder of a nuclear **[installation]** licence must annually provide proof to the Regulator that any claim for compensation to an amount contemplated in section 30(2), can be met."

Substitution of section 30 of Act 47 of 1999

26. Section 30 of the principal Act is hereby amended:

"30. Strict liability of holder of nuclear [installation] licence for nuclear damage

- (a) by the substitution for subsections (1); (2); (3) and (4) of the following subsections:

(1) Subject to subsections (2), (3), (5) and (6), only a holder of a nuclear **[installation]** licence is, whether or not there is intent or negligence on the part of that holder, liable for all nuclear damage caused by or resulting from the relevant nuclear **[installation]** facility during the holders period of responsibility—

(a) by anything being present or which is done at or in the nuclear **[installation]** facility or by any radioactive material or material contaminated with radioactivity which has been discharged or released, in any form, from the nuclear **[installation]** facility; or

(b) by any radioactive material or material contaminated with radioactivity which is subject to the nuclear **[installation]** licence, while in the possession or under the control of the holder of that licence during the conveyance thereof from the nuclear **[installation]** facility, to any other place in the Republic or in the territorial waters of the Republic from or to any place in or outside the Republic.

(2) The liability for nuclear damage by any holder of a nuclear **[installation]** licence is limited, for each nuclear accident, to the amounts determined in terms of section 29(2).

(3) The liability contemplated in subsection (1)(b) ends upon the relevant material coming [—

(a)] onto another site in respect of which a nuclear **[installation]** licence has been granted. [; or]

[(b) onto a site or into the possession or the control of any person authorised in terms of section 3A of the Hazardous Substances Act, 1973 (Act No. 15 of 1973), where such material is a Group IV hazardous substance as defined in section 1 of that Act.]

(4) For the purposes of subsection (1) radioactive material or material contaminated with radioactivity which is being conveyed on behalf of the holder of a nuclear **[installation]** licence is regarded to be in the possession or under the control of the holder of that licence.”.

(b) by the substitution for subsections (6),(7) and (8) of the following subsections:

“(6) The holder of a nuclear **[installation]** licence is not liable to a person for any nuclear damage—

(a) to the extent to which such nuclear damage is attributable to the presence of that person or any property of that person at or in the nuclear **[installation]** facility or on the site in respect of which the nuclear **[installation]** licence has been granted, without the permission of the holder of that licence or of a person acting on behalf of that holder; or

(7) The holder of a nuclear **[installation]** licence retains any contractual right of recourse or contribution which the holder has against any

person in respect of any nuclear damage for which that holder is liable in terms of subsection (1).

(8) Any person who, without a nuclear **[installation]** licence, carries out an **[action]** activity, for which such a licence is required, is, whether or not there is intent or negligence on the part of that person, liable for all nuclear damage.”.

Substitution of section 32 of Act 47 of 1999

27. The following section is hereby substituted for section 32 of the principal Act:

“(1) The liability of a holder of a certificate of registration, for any nuclear damage caused by or resulting from any **[action]** activity carried out by virtue of that certificate during his or her period of responsibility, must be determined in accordance with—

- (a) the common law; or
- (b) the Compensation for Occupational Injuries and Diseases Act, 1993 **[(Act No. 130 of 1993)]**, as the case may be.”.

Amendment of section 33 of Act 47 of 1999

28. Section 33 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:

"(a) the total amount of claims for compensation against a holder of a nuclear **[installation]** licence; or"

(b) by the substitution for subsection (3) of the following subsection:

"(3) If on receipt of that notice, the Minister is satisfied that the total amount of claims for compensation against a holder of a nuclear **[installation]** licence that is unpaid and of such claims as are likely to be made thereafter, will exceed the amount of security given by that holder in terms of section 29 in respect of such claims, the Minister must—".

(c) by the substitution for subsection (6) of the following subsection:

"(6) The giving of additional security by a holder of a nuclear **[installation]** licence in terms of section 29(4) does not affect the application of this section."

Amendment of section 34 of Act 47 of 1999

29. Section 34 of the principal Act is hereby amended—

(a) by the substitution in subsection (2) for paragraph (a) of the following paragraph:

"(a) the identity of the holder of the **[nuclear]** authorisation concerned; and"

(b) by the substitution for subsection (3) of the following subsection:

"(3) The running of the period of two years referred to in subsection (2) is suspended from the date negotiations regarding a settlement by or on behalf of the claimant and the relevant holder of the **[nuclear]** authorisation are commenced in writing until the date any party notifies the other party that the negotiations are terminated."

(c) by the addition after subsection (3) of the following subsection:

"(4) A claimant may amend the claim to take into account any aggravation of the damage, even after the expiration of the prescription period, provided that a final judgment has not been entered."

Substitution of section 35 of Act 47 of 1999

30. Section 35 of the principal Act is hereby amended –

(a) by the substitution for the heading of the following heading:

"35. Compensation for injuries of Regulator['s] [employees] staff;"

(b) by the substitution for subsection (2) of the following subsection:

"(2) Nothing in this section precludes [an employee] a staff member of the Regulator from claiming a benefit in terms of the Compensation for Occupational Injuries and Diseases Act, 1993 **[(Act No. 130 of 1993)], but**

such **[employee]** staff member may not benefit both in terms of this Act and the Compensation for occupational Injuries and Diseases Act, 1993.”

Amendment of heading to Chapter 5 of Act 47 of 1999

Substitution of section 37 of Act 47 of 1999

31. Section 37 of the principal Act is hereby amended-

- (a) by the substitution for the heading of the following heading:

"37. Duties regarding nuclear accidents and nuclear or radiation incidents."

- (b) by the substitution for subsection (1) of the following subsection:

“(1) If a nuclear accident, nuclear or radiation incident occurs in connection with **[a nuclear installation]** an authorised facility, nuclear vessel or **[action]** activity, the holder of **[the nuclear]** an authorisation in question must immediately report it to the Regulator and to a person described in that **[nuclear]** authorisation.”.

- (c) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“(2) When the occurrence of a nuclear accident, nuclear or radiation incident **[accident]** is so reported to the Regulator, it must—“.

- (d) by the substitution in subsection (2) for paragraphs (b) and (c) of the following paragraphs:

“(b) in such manner as it **[thinks]** deems fit, define particulars of the period during which the area within which, in its opinion, the risk of nuclear damage connected with the accident exceeds the safety standards and regulatory practices contemplated in section 36;

(c) direct the holder of the **[nuclear]** authorisation in question to obtain the names, addresses and identification numbers of all persons who were during that period within that area; and”.

- (e) By the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

“(4) The right of any person to claim compensation from a holder of an **[a nuclear]** authorisation in terms of section 30 is not prejudiced by—“.

- (f) By the substitution in subsection (5) of the following subsection:

“(5) If a nuclear incident occurs on a site, the holder of the **[nuclear]** authorisation in question must report it to the Regulator within the period stipulated in that authorisation.”.

- (g) By the addition after subsection (5) of the following subsection:

“(6) The Regulator must act as an adviser to emergency response organisations and Government organs, other than an authorisation holder in terms of the Act, in case of the nuclear or radiological emergency.”.

Substitution of section 38 of Act 47 of 1999

32. Section 38 of the principal Act is hereby amended:

(a) by the substitution for the heading of the following heading:

"38 Emergency [planning] preparedness and response"

(b) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“38. (1) Where the possibility exists that a nuclear accident or nuclear incident affecting the public may occur, the Regulator must direct the relevant holder of [a nuclear] an authorisation, other than a holder of a certificate of exemption, to—“

(c) by the substitution in subsection (1) for paragraph (b) of the following paragraph:

“(b) cover the costs for the establishment, implementation and management of such emergency plan insofar as it relates to the relevant nuclear [installation] facility or any [action] activity contemplated in section 2(1) ([c]e; and”

(d) by the substitution for subsections (3) and (4) of the following subsections:

“(3) When a nuclear accident or nuclear incident occurs, the holder of **[a nuclear]** an authorisation, other than a holder of a certificate of exemption in question, must implement the emergency plan as approved by the Regulator.

(4) The Minister may on recommendation of the board and **[in]** after consultation with the relevant municipalities, make regulations on the development surrounding any nuclear **[installation]** facility to ensure the effective implementation of any applicable emergency plan.”.

(e) by the insertion after subsection (4) of the following subsection:

“(5) In the event of a nuclear or radiological emergency that poses a risk that radioactive contamination could spread beyond the boundaries of the Republic, the Government of the Republic shall immediately notify the International Atomic Energy Agency and the relevant authorities of any State which is or may be physically affected.

(6) The Regulator shall serve as the point of contact for providing any information or assistance regarding nuclear or radiological emergencies under the terms of relevant international instruments, including the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency.”.

Substitution of section 39 of Act 47 of 1999

33. Section 39 of the principal Act is hereby amended:

- (a) by the substitution for the heading of the following heading-

"Record of nuclear [installations] facilities";

- (b) by the substitution in subsection (1) for paragraph (c) of the following paragraph-

“(c) where applicable, diagrams showing the position and limits,
of a nuclear [installation] facility in respect of which **[a nuclear installation
licence] an authorisation** has been granted.”

- (c) by the substitution for subsection (2) of the following subsection:

“(2) If the Regulator believes that a risk of nuclear damage—
(a) arising from anything done or being done; or
(b) which has been or is present,
at or in any nuclear **[installation] facility** in respect of which **[a nuclear
installation licence] an authorisation** is no longer in force, is within safety
standards contemplated in section 36, it may remove the particulars in
connection therewith from that record.”.

Substitution of section 40 of Act 47 of 1999

34. The following section is hereby substituted for section 40 of the principal
Act:

"40. Record of nuclear accidents and nuclear or radiation incidents [and access thereto]"

The Regulator must—

- (a) keep and maintain a record of the details of every nuclear accident and nuclear or radiation incident;
- (b) store that record safely;
- (c) retain that record for 40 years from the date of the nuclear accident or nuclear or radiation incident; and
- (d) on the request of any person, make that record available to that person."

Insertion of section 40A of Act 47 of 1999

35. The following section is hereby inserted after section 40 of the principal Act:

"National Dose Register

40A. (1) The Regulator must—

- (a) establish and maintain, in the prescribed manner and form, a national dose registry of—**
 - (i) every worker's records of occupational exposure who performs duties in connection with any activity that is authorised by the Act;**
 - and**

- (ii) every worker who's records of occupational exposure is submitted by a Dosimetry Service Provider to the National Dose Register, as required in terms of any other legislation.
- (b) provide the information in its register under this section to the relevant authorities in the prescribed manner and form.
- (2) A regulatory body requiring access to the register shall, in accordance with its mandate or as determined by the legislation administered by the relevant regulatory body, have access to occupational dose records in the register.
- (3) A Dosimetry Service Provider shall apply for authorisation for the operation of dosimetry services.
- (4) The Minister may, by regulation made in accordance with section 47, prescribe standards for—

 - (a) the operation of the national dose register;
 - (b) the collection and analysis of the data through that register;
 - (c) the frequency and nature of reports to be produced in respect of the operation of the register; and
 - (d) other matters related to the functioning of the register."

Amendment of section 41 of Act 47 of 1999

- 36.** Section 41 of the principal Act is hereby amended—

(a) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

"(4) Subject to the restrictions in the certificate contemplated in subsection (2), an inspector may, with notice—

(a) at all reasonable times enter—“.

(b) by the substitution in subsection (4) of paragraph (a) for subparagraphs (i);(ii);(iii);(v) of the following subparagraphs:

- (i) any **[nuclear installation]** authorised facility or site in respect of which an application for **[a nuclear installation licence]** an authorisation has been made or such **[a licence]** an authorisation has been granted;
- (ii) a place which the inspector on reasonable grounds suspects to be a site on which there is a nuclear or radiation **[installation]** facility or activity;
- (iii) a place where parts of a nuclear or radiation **[installation]** facility are present or manufactured;
- (iv) an place where radioactive material is kept or is present and in respect of which an application for **[a nuclear]** an authorisation has been made or a **[nuclear]** authorisation has been granted;”.

(c) by the substitution in subsection 4 for paragraphs (b);(c);(d);(e) and (f) of the following paragraphs:

- “(b) carry out inspections and use any applicable equipment during such inspections at any of the **[nuclear installations]** facilities, sites or places referred to in paragraph (a) and conduct such investigations as are necessary for the purpose of monitoring or enforcing compliance with this Act;
- (c) if necessary for the purposes of monitoring or enforcing compliance with this Act, direct **[in writing]** the holder of or the applicant for **[a nuclear]** an authorisation, or any other person having any power or duty in connection with or on the relevant **[nuclear installation]** facility, site or place referred to in paragraph (a), to—
- (i) allow the inspector to take away for investigation the articles or objects pointed out by the inspector;
 - (ii) allow the inspecting of the documents specified by the inspector, and to make copies thereto;
 - (iii) furnish to the inspector information which is under his or her control;
- (d) after signing for any object or document, or copies thereof, remove it for investigation or evidence purposes;
- (e) if any **[action]** activity contemplated in section 20, or any condition associated with such **[action]** activity, does not comply with the requirements laid down in the **[nuclear]** authorisation, or with the safety and security standards contemplated in section 36, direct any person in control of the **[action]** activity—

- (i) to discontinue such **[action]** activity or immediately rectify such condition; or
 - (ii) to rehabilitate the relevant site or other place to a condition that complies with the requirements laid down in the **[nuclear]** authorisation or with the safety and security standards contemplated in section 36; or
 - (iii) to prohibit workers who do not meet the applicable requirements from engaging in the activity; or
 - (iv) to safely and securely store any nuclear or radioactive material originating from a suspended activity.
- (f) if any action contemplated in section 2(2)(b), or any condition associated with such **[action]** activity, does not comply with the exemption criteria specified in the safety standards contemplated in section 36, direct the person in control of the **[action]** activity—
- (i) to discontinue such action or immediately rectify such condition;
 - (ii) to rehabilitate the site or other place to a condition that complies with the exemption criteria provided for in the safety standards contemplated in section 36; **[or]**
 - (iii) to apply for a certificate of registration;
 - (iv) to prohibit workers who do not meet the applicable requirements from engaging in the activity; or

(v) to safely and securely store any nuclear or radioactive material originating from a suspended activity.”.

(d) by the substitution for subsection (5) of the following subsection:

“(5) An inspector authorised thereto in writing by the Regulator has, in respect of any vessel and subject to the terms of any agreement referred to in section 24(1)(c), the same powers conferred upon an inspector in respect of **[nuclear installations]** authorised facilities, sites and other places contemplated in this section.”.

(e) by the addition after subsection 5 of the following subsection:

“(6) A decision taken by an inspector shall continue in force until withdrawn—

(a) by the inspector;

(b) reversed or modified by action of the Regulator; or

(c) altered through an appeal or judicial review decision pursuant to

Chapter 6 of this Act.”.

Repeal of section 45 of Act 47 of 1999

37. Section 45 of the principal Act is hereby repealed.

Substitution of section 46 of Act 47 of 1999

38. The following section is hereby substituted for section 46 of the principal Act:

"46 Appeal to High Court against [Minister's] board's decision

(1) Any person adversely affected by a decision of the [Minister] board, either in terms of section 44(3) or in the exercise of any power in terms of this Act, may appeal against that decision to the High Court.

(2) Such appeal must—

- (a) be lodged within 60 days from the date on which the decision was made known by the [Minister] board or such later date as the High Court permits; and
- (b) set out the grounds for the appeal.

(3) The appeal must be proceeded with as if it were an appeal from a Magistrate's Court to a High Court."

Insertion of section 46A of Act 47 of 1999

39. The following section is hereby inserted after section 46 of the principal Act:

"Notification of an appeal

46A. The Board must notify the Minister, within ten (10) days, of any appeal lodged in terms of section 46."

Amendment of section 48 of Act 47 of 1999

40. Section 48 of the principal Act is hereby amended by the substitution of subsection (1) for the following subsection:

"(1) Subject to subsection (2), the Minister may delegate any power and assign any duty conferred or imposed upon the Minister in terms of this Act to the Director-General[:] responsible for [Minerals and] Mineral Resources and Energy".

Amendment of section 49 of Act 47 of 1999

41. Section 49 of the principal Act is hereby amended by the substitution of subsections (1) for the following subsections:

"(1) If the Minister rejects a recommendation of the board contemplated in section 28, 29 (1) or (2) **[, 36 (1)]** or 38(4), the Minister and the board must endeavour to resolve their disagreement."

Amendment of section 51 of Act 47 of 1999

42. Section 51 of the principal Act is hereby amended—

(a) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs:

"(a) no person may disclose to any other person or publish any information which relates to any nuclear **[installation]** facility or site or vessel or **[action]** activity described in section 2(1)(c) in respect of which an **[nuclear]** authorisation has been issued or is to be issued and not yet public knowledge if the disclosure of that information is likely to jeopardise the physical security arrangements in respect of such **[installation]** facility, site, vessel or **[action]** activity as required by the Regulator for the protection of persons or the security of the Republic;

(b) no person may be in possession of any documents if not authorised and such possession is likely to jeopardise the physical security arrangements in respect of such **[installation]** facility, site, vessel or **[action]** activity as required by the Regulator for the protection of persons or the security of the Republic;"

(b) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

"(3) No member of the board or a committee of the board or **[an employee]** staff member of the Regulator may disclose any information obtained by him or her in the performance of his or her functions in terms of this Act except—".

Amendment of section 52 of Act 47 of 1999

43. Section 52 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraph (c) of the following paragraph:

"(c) fails to comply with a directive issued by the Regulator
[contemplated in section 41 (4);]".

(b) by the substitution of subsection (2) for the following subsection:

"(2) Any person who contravenes or fails to comply with any other provision of this Act or any condition, notice, order, instruction, directive, prohibition, authorisation, permission,, certificate or document determined, given, issued, promulgated or granted in terms of this Act is, if any such contravention or failure is not declared an offence in terms of subsection (1), is guilty of an offence."

(c) by the addition after subsection 3 of the following subsection:

"(4) If a person has committed an offence prescribed in subsection (6), the Regulator may cause to be delivered, by hand, to that person (hereinafter referred to as "the infringer") a non-compliance notice which must contain the particulars contemplated in subsection (5).

(5) A notice referred to in subsection (4) must—

(a) specify the name and address of the infringer;

(b) specify the particulars of the alleged offence;

(c) specify corrective and preventive measures to be implemented by the infringer;

(d) specify the amount of the administrative fine payable;

(e) inform the infringer that, not later than 30 days after the date of service of the non-compliance notice, the infringer may—

(i) pay the administrative fine;

(ii) make arrangements with the Regulator to pay the administrative fine in instalments; or

(iii) elect to be tried in court on a charge of having committed the alleged offence referred to in terms of this Act; and

(f) state that a failure to comply with the requirements of the notice within the time permitted, will result in the administrative fine becoming recoverable as contemplated in subsection (8).

(6) The schedule of offences and associated administrative fines or sanctions to be imposed must, on the recommendation of the board, be prescribed by the Minister, in consultation with the Minister of Finance, by notice in the Gazette.

- (7) If the infringer refuses to pay the fine the process contemplated in section 52 shall apply.
- (8) If the infringer fails to comply with the requirements of a notice, the Regulator may file with the clerk or registrar of any competent court a statement certified by it as correct, setting forth the amount of the administrative fine payable by the infringer, and such statement thereupon has all the effects of a civil judgement lawfully given in that court in favour of the Regulator for a liquid debt in the amount specified in the statement.
- (9) An administrative fine imposed in terms of this section does not constitute a previous conviction as contemplated in Chapter 27 of the Criminal Procurement Act, 1977 (Act No. 51 of 1977)."

Short title and commencement

44. Section 56 of the principal Act is hereby amended by the substitution of subsection (1) and (2) for the following subsections:

"(1) This Act is called the National Nuclear Regulator Amendment Act, 2020 and comes into operation on a date determined by the President by Proclamation in the Gazette.

[(2) This Act takes effect on the date of commencement of the Nuclear Energy Act, 1999, as contemplated in section 61 of that Act.]"