

AN ACT TO REGULATE THE FILING, PROCESSING AND SETTLEMENT OF DAMAGE CLAIMS RESULTING FROM NUCLEAR INCIDENTS, TO APPROPRIATE FUNDS THEREFOR, AND TO HOLD HARMLESS, INDEMNIFY, AND D...

REPUBLIC ACT NO. 3083, June 17, 1961

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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. In order to protect the inhabitants of the Philippines and to promote the peaceful uses of atomic energy, in the interest of the general welfare of the Philippines, the Government of the Republic of the Philippines shall indemnify and hold harmless and defend at its expense the designer, manufacturer, contractor and/or supplier that shall undertake to design, manufacture for, or otherwise furnish equipment or services to the Philippine Government, its instrumentality or agency, for the reactor facility or other equipment for the Philippine Nuclear Research Reactor Project, from any and all liability for personal injury or property damage arising out of or resulting from a nuclear incident, and the National Science Development Board is hereby empowered to provide by contract with the designer, manufacturer, contractor and/or supplier of nuclear equipment, that such designer, manufacturer, contractor and/or supplier shall be indemnified, held harmless and defended at the expense of the Philippine Government from any and all liability arising out of or resulting from a nuclear incident: Provided, however, That the Government shall retain whatever rights it may otherwise have under existing laws against said manufacturer, contractor, or supplier if the nuclear incidents is the proximate result of willful misconduct, or bad faith, on the part of any corporate officer, director, or responsible officers of the designer, manufacturer, contractor and/or supplier, as the case may be: Provided, further, That the total liability of the designer, manufacturer, contractor and/or supplier shall not exceed the total value of the contract price: Provided, finally, That the total liability of said designer, manufacturer, contractor and/or supplier shall be over and above the liabilities, obligations and warranties assumed by it on the services, equipment, and materials furnished under its contract with the National Science Development Board for the furnishing of the equipment and services for the reactor facility or other equipment of the Philippine Nuclear Research Reactor Project.

Responsible officers as used in this section shall be determined in the indemnity agreement to be executed between the National Science Development Board and said designer, manufacturer, contractor and/or supplier.

SEC. 2. For the purposes of this Act:

- (a) The term "Nuclear Research Reactor Project" is meant the reactor project established or to be established under the Agreement for Cooperation between the Government of the Republic of the Philippines and the Government of the United States of America signed on July 27, 1955, including its amendments.
- (b) The term "liability" means any liability for personal injury or property damage arising out of or resulting from a nuclear incident.
- (c) The term "personal injury" means bodily injury, sickness, or disease, including death resulting therefrom.
- (d) The term "property damage" or "damage to property" means physical injury to or destruction or radioactive contamination of property, or loss of use of property so injured, destroyed or contaminated.

(e) The term "nuclear incident" means any occurrence causing personal injury or property damage arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of radioactive material.

SEC. 3. In order to carry out the purpose of this Act and to adjudicate claims for compensation for personal injury or property damage arising out of or resulting from a nuclear incident, there is hereby created a Nuclear Indemnity Board to be composed of the Vice-Chairman of the National Science Development Board as Chairman, mission and one Philippines, with the consent of the Commission and one other member to be appointed by the President of the Philippines, with the consent of the Commission on Appointments, who must be a diplomat in radiology or medical radio-therapy with at least five years of clinical practice, as members. The Vice-Chairman of the National Science, Development Board and the Commissioner of the Philippine Atomic Energy Commission shall serve ex officio without extra compensation and the third member shall receive a per diem of fifty pesos for each meeting actually attended: Provided, That the monthly total of such per diem shall not exceed two hundred pesos. The operating expenses of the Nuclear Indemnity Board Shall be borne out of the regular appropriation of the National Science Development Board.

No action, suit or proceeding for compensation for personal injury or property damage arising out of or resulting from a nuclear incident may be instituted against the designer, manufacturer, contractor and/or supplier of nuclear equipment, and all such claims for compensation shall be filed with the Nuclear Indemnity Board which is hereby exclusively empowered to settle the above-mentioned claims on a fair and reasonable basis taking into due account the purposes of this Act: Provided, however, That any provision of law to the contrary notwithstanding, any such claim shall be barred unless brought within ten years from the date of the event causing injury or damage and within two years from the time the injury or damage, or a subsequent aggravation thereof, came to the knowledge of, or could have been ascertained by the exercise of ordinary care by the aggrieved party: Provided, further, That the proper courts of the Republic of the Philippines shall have exclusive jurisdiction in the case of a nuclear incident occurring in the course of carriage of fuel elements or other radioactive materials capable of causing a nuclear incident belonging to or in the charge of the Philippine Government, or any of its agencies or instrumentalities, where such nuclear incident occurs outside Philippine territory: And provided, finally, That the aggregate liability of the Philippine Government under this Act shall not exceed the amount of five million pesos which is hereby appropriated out of any funds in the National Treasury not otherwise appropriated.

SEC. 4. For the purpose of carrying out its functions under this Act the Nuclear Indemnity Board shall have the following powers:

(a) To promulgate such rules and regulations as may be necessary to carry out the purposes of this Act including rules or procedure governing the filing, processing and settlement of claims: Provided, however, That the concurrence of at least two members shall be required in order for the Board to make an award, order or decision: Provided, further, That in the hearing, investigation and determination of any question or controversy, and in exercising any duties and powers under this Act, the Nuclear Indemnity Board shall act according to justice and equity and substantial merits of the case, and shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure;

(b) To issue subpoena and subpoena duces tecum;

(c) To administer oaths;

(d) To grant reasonable compensation in an amount not more than twenty-five pesos for each day of attendance, but in no case to exceed more than one hundred pesos a month, to an expert witness or resource person who is not a government official or employee, whose services may be availed of by the Nuclear Indemnity Board as provided herein; and

(e) Such other powers as may be necessary to carry out the purposes of this Act.

SEC. 5. Upon a showing that the government's liability in any one incident will probably exceed the limit of liability imposed by the preceding section, the Board may, in its sound discretion, for the purpose of ensuring the equitable and just distribution of damages, either issue orders apportioning the payments and permitting partial payments to be made to claimants or issue an order setting aside a part of the funds available for possible latent injuries not discovered until a later time, or both.

SEC. 6. When a nuclear incident occurs, the Board shall investigate or cause to be investigated the cause or extent of the damage and may for that purpose compel all persons exposed to radiation to report to the Board for examination not later than three months from the date of the order requiring their appearance. In determining the amount of damages the Board may, in its sound discretion, take into account the inexcusable violation of the foregoing obligation to report to the Board for examination.

SEC. 7. The Nuclear Indemnity Board is hereby authorized to call upon the National Science Development Board, the Philippine Atomic Energy Commission and other government agencies and instrumentalities for assistance and cooperation in the discharge of its powers, duties and functions under this Act.

SEC. 8. Any aggrieved claimant may appeal from any final order, award or decision of the Board to the Supreme Court in accordance with the provisions of Rule forty-five of the Rules of Court. Findings of fact by the Board shall be conclusive in the absence of fraud, collusion or evident mistake.

SEC. 9. This Act shall take effect upon its approval.

Approved, June 17, 1961.

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