

# CANADA

45-46 Elizabeth II, 1996-97

## *Chapter 9*

### **AN ACT TO ESTABLISH THE CANADIAN NUCLEAR SAFETY COMMISSION AND TO MAKE CONSEQUENTIAL AMENDMENTS TO OTHER ACTS**

(assented to 20 March 1997)

#### **Preamble**

Whereas it is essential in the national and international interests to regulate the development, production and use of nuclear energy and the production, possession and use of nuclear substances, prescribed equipment and prescribed information;

And Whereas it is essential in the national interest that consistent national and international standards be applied to the development, production and use of nuclear energy;

Now, Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

#### **Short Title**

1. This Act may be cited as the *Nuclear Safety and Control Act*.

#### **Interpretation**

2. The definitions in this section apply in this Act.

“**analyst**” means a person designated as an analyst under section 28.

“**Commission**” means the Canadian Nuclear Safety Commission established by section 8.

“**designated officer**” means a person designated as a designated officer under section 37.

“**dosimetry service**” means a prescribed facility for the measurement and monitoring of doses of radiation.

“**inspector**” means a person designated as an inspector under section 29.

**“licence”** means a licence issued under section 24.

**“Minister”** means the Minister of Natural Resources or such member of the Queen’s Privy Council for Canada as the Governor in Council may designate as the Minister for the purposes of this Act.

**“nuclear energy”** means any form of energy released in the course of nuclear fission or nuclear fusion or of any other nuclear transmutation.

**“nuclear energy worker”** means a person who is required, in the course of the person’s business or occupation in connection with a nuclear substance or nuclear facility, to perform duties in such circumstances that there is a reasonable probability that the person may receive a dose of radiation that is greater than the prescribed limit for the general public.

**“nuclear facility”** means any of the following facilities, namely,

- a) a nuclear fission or fusion reactor or subcritical nuclear assembly,
- b) a particle accelerator,
- c) a uranium or thorium mine or mill,
- d) a plant for the processing, reprocessing or separation of an isotope of uranium, thorium or plutonium,
- e) a plant for the manufacture of a product from uranium, thorium or plutonium,
- f) a plant for the processing or use, in a quantity greater than 1015 Bq per calendar year, of nuclear substances other than uranium, thorium or plutonium,
- g) a facility for the disposal of a nuclear substance generated at another nuclear facility,
- h) a vehicle that is equipped with a nuclear reactor, and
- i) any other facility that is prescribed for the development, production or use of nuclear energy or the production, possession or use of a nuclear substance, prescribed equipment or prescribed information, and includes, where applicable, the land on which the facility is located, a building that forms part of, or equipment used in conjunction with, the facility and any system for the management, storage or disposal of a nuclear substance.

**“nuclear substance”** means

- a) deuterium, thorium, uranium or an element with an atomic number greater than 92;
- b) a derivative or compound of deuterium, thorium, uranium or of an element with an atomic number greater than 92;
- c) a radioactive nuclide;

- d) a substance that is prescribed as being capable of releasing nuclear energy or as being required for the production or use of nuclear energy;
- e) a radioactive by-product of the development, production or use of nuclear energy;
- f) a radioactive substance or radioactive thing that was used for the development or production, or in connection with the use, of nuclear energy.

**“prescribed”** means prescribed by regulation of the Commission.

**“radiation”** means the emission by a nuclear substance, the production using a nuclear substance, or the production at a nuclear facility of, an atomic or subatomic particle or electromagnetic wave with sufficient energy for ionization.

**“record”** has the meaning assigned to that word by section 3 of the *Access to Information Act*.

**“vehicle”** means any means of air, water or land transport, and includes railway equipment within the meaning assigned to that expression by subsection 4(1) of the *Railway Safety Act*.

### **Purpose of Act**

- 3. The purpose of this Act is to provide for
  - a) the limitation, to a reasonable level and in a manner that is consistent with Canada’s international obligations, of the risks to national security, the health and safety of persons and the environment that are associated with the development, production and use of nuclear energy and the production, possession and use of nuclear substances, prescribed equipment and prescribed information; and
  - b) the implementation in Canada of measures to which Canada has agreed respecting international control of the development, production and use of nuclear energy, including the non-proliferation of nuclear weapons and nuclear explosive devices.

### **Application**

- 4. Subject to any order made pursuant to section 5, this Act is binding on Her Majesty in right of Canada or a province.
- 5. The Governor in Council may, by order, exclude the Department of National Defence or the Canadian Forces from the application of this Act or any regulations made pursuant to this Act, to the extent and under the conditions specified in the order.
- 6. This Act does not apply to a nuclear-powered or nuclear-capable naval vessel of a foreign state that is invited into Canada by Her Majesty in right of Canada.
- 7. The Commission may, in accordance with the regulations, exempt any activity, person, class of person or quantity of a nuclear substance, temporarily or permanently, from the application of this Act or the regulations or any provision thereof.

## **Canadian Nuclear Safety Commission**

### ***Establishment of Commission***

8. (1) There is hereby established a body corporate to be known as the Canadian Nuclear Safety Commission.

(2) The Commission is for all its purposes an agent of Her Majesty and may exercise its powers only as an agent of Her Majesty.

### ***Objects***

9. The objects of the Commission are

- a) to regulate the development, production and use of nuclear energy and the production, possession and use of nuclear substances, prescribed equipment and prescribed information in order to
  - i. prevent unreasonable risk, to the environment and to the health and safety of persons, associated with that development, production, possession or use,
  - ii. prevent unreasonable risk to national security associated with that development, production, possession or use, and
  - iii. achieve conformity with measures of control and international obligations to which Canada has agreed; and
- b) to disseminate objective scientific, technical and regulatory information to the public concerning the activities of the Commission and the effects, on the environment and on the health and safety of persons, of the development, production, possession and use referred to in paragraph (a).

### ***Members***

10. (1) The Commission consists of not more than seven permanent members to be appointed by the Governor in Council.

(2) Notwithstanding subsection (1), the Governor in Council may appoint temporary members of the Commission whenever, in the opinion of the Governor in Council, it is necessary to do so.

(3) The Governor in Council shall designate one of the permanent members to hold office as President.

(4) The President is a full-time member of the Commission and the other members may be appointed as full-time or part-time members.

(5) Each permanent member holds office during good behaviour for a term not exceeding five years and may be removed at any time by the Governor in Council for cause.

(6) Each temporary member holds office during good behaviour for a term not exceeding six months.

(7) A member is eligible to be re-appointed to the Commission in the same or another capacity.

11. (1) A member shall not, directly or indirectly, engage in any activity, have any interest in a business or accept or engage in any office or employment that is inconsistent with the member's duties.

(2) A member who becomes aware that the member is in a conflict of interest contrary to subsection (1) shall, within one hundred and twenty days, terminate the conflict or resign from the Commission.

### ***President***

12. (1) The President is the chief executive officer of the Commission and has supervision over and direction of the work of the members and officers and employees of the Commission, including the apportionment of work among the members and, where the Commission sits in a panel, the assignment of a member or members to the panel and of a member to preside over the panel.

(2) If the President is absent or incapacitated or if the office of President is vacant, such other member as may be designated by the Commission has all the powers and functions of the President during the absence, incapacity or vacancy, but no person may so act for a period exceeding ninety days without the approval of the Governor in Council.

(3) The President may delegate any of the powers delegated to the President pursuant to subsection 16(2) or 17(2) to any officer or employee of the Commission.

(4) Subject to the regulations made pursuant to paragraph 44(1)(d), the President shall make such reports to the Minister as the Minister may require concerning the general administration and management of the affairs of the Commission and such of these reports as the Minister may direct shall form part of the report referred to in section 72.

### ***Remuneration and Expenses***

13. Each member and each former member to whom subsection 23(2) applies shall be paid such remuneration and allowances as are fixed by the Governor in Council and is entitled to be paid reasonable travel and living expenses incurred in the course of the member's or former member's duties under this Act while absent from, in the case of a full-time member or former member, their ordinary place of work and, in the case of a part-time member or former member, their ordinary place of residence.

### ***Meetings***

14. (1) The Commission may meet for the conduct of its affairs at such times and in such places as are established by by-law of the Commission.

(2) A member may, subject to the by-laws of the Commission, participate in a meeting of the Commission by means of a telephone or other communication device that permits all persons participating in the meeting to hear one another, and a member who participates in a meeting by those means is deemed, for the purposes of this Act, to be present at the meeting.

### ***By-Laws***

15. The Commission may make by-laws respecting the management and conduct of its affairs and to meet its objects and carry out its duties under this Act and may, without limiting the generality of the foregoing, make by-laws

- a) respecting the calling of meetings of the Commission;
- b) respecting generally the carrying on of the work of the Commission, including establishing the number of members that constitutes a quorum of the Commission or of a panel of the Commission; and
- c) determining the procedures to be followed in proceedings other than those for which rules are otherwise prescribed.

### ***Officers, Employees and Contractors***

16. (1) The Commission may, notwithstanding any other Act of Parliament, appoint and employ such professional, scientific, technical or other officers or employees as it considers necessary for the purposes of this Act and may, with the approval of the Treasury Board, establish the terms and conditions, including remuneration, of their employment.

(2) The Commission may delegate to the President any of the powers conferred on it by subsection (1).

(3) The members, officers and employees of the Commission are deemed to be employees for the purposes of the *Government Employees Compensation Act* and to be employed in the public service of Canada for the purposes of any regulations made pursuant to section 9 of the *Aeronautics Act*.

17. (1) The Commission may enter into contracts for the services of any persons having technical or specialized knowledge of any matter relating to the work of the Commission, to advise and assist the Commission in the exercise or performance of any of its powers, duties or functions under this Act, and those persons shall receive such payment for their services and such expenses as are fixed by the Commission with the approval of the Treasury Board.

(2) The Commission may delegate to the President any of the powers conferred on it by subsection (1).

### ***Civil Liability***

18. (1) No civil proceedings may be brought against any member or other person or authority acting on behalf or under the direction of the Commission for anything done, reported or said in good faith in the course of the exercise or performance or purported exercise or performance of any power,

duty or function of the Commission under this Act or for any alleged neglect or default in the execution in good faith of any such power, duty or function.

(2) No civil proceedings may be brought against any person or authority referred to in subsection 44(8) or (9) for anything done, reported or said in good faith in the course of the exercise or performance or purported exercise or performance of any power, duty or function of the Commission under this Act or for any alleged neglect or default in the execution in good faith of any such power, duty or function.

(3) Nothing in this section relieves the Commission of liability in respect of a tort or extracontractual civil liability to which the Commission would otherwise be subject.

### ***Directives***

19. (1) The Governor in Council may, by order, issue to the Commission directives of general application on broad policy matters with respect to the objects of the Commission.

(2) An order made under this section is binding on the Commission.

(3) A copy of each order made under this section shall be

a) published in the *Canada Gazette*; and

b) laid before each House of Parliament.

### ***Powers***

20. (1) The Commission is a court of record.

(2) The Commission has, with respect to the appearance, summoning and examination of witnesses, the production and inspection of records, the enforcement of its orders and other matters necessary or proper for the due exercise of its jurisdiction, all such powers, rights and privileges as are necessary to carry out the duties of the Commission or to enforce any order, including, without limiting the generality of the foregoing, the power to

a) issue a summons requiring a person

i. to appear at the time and place stated in the summons to give evidence concerning any matter relevant to any subject-matter before the Commission, and

ii. to produce, either before or at a hearing, such records and things as the Commission considers appropriate to the full investigation and consideration of matters within its jurisdiction; and

b) administer oaths and examine any person under oath.

(3) All proceedings before the Commission shall be dealt with as informally and expeditiously as the circumstances and considerations of fairness permit, but, in any case, within the prescribed period of time.

- (4) The Commission is not bound by the legal rules of evidence and in particular may
- a) receive and accept such evidence and information on oath, by affidavit or otherwise, as in its discretion it considers appropriate; and
  - b) refuse to accept any evidence that the Commission does not consider relevant or trustworthy.

(5) Before conducting a proceeding, the Commission may

- a) stay or dismiss an application where the applicant is not in compliance with a term or condition of a licence or of any order made under this Act;
- b) determine the issues in respect of which it will receive evidence or hear argument; and
- c) exclude from consideration any matter on which it has rendered a decision.

(6) The Commission may take such measures as it considers necessary to maintain order during proceedings before it and in particular may limit the participation in the proceedings of, or eject from the proceedings, any person who disrupts the proceedings and, where the person is ejected, continue the proceedings in the person's absence.

(7) A peace officer shall provide such assistance as the Commission or a member of the Commission may request for the purpose of maintaining order during proceedings before the Commission.

(8) Any decision or order of the Commission may, for the purpose of enforcement, be made a rule, order or decree of the Federal Court or of a superior court of a province and may be enforced in like manner as a rule, order or decree of that court.

(9) To make a decision or order of the Commission a rule, order or decree of the Federal Court or a superior court, the usual practice and procedure of the court in those matters may be followed, or the President may provide to the court a certified copy of the decision or order under the seal of the Commission and thereupon the decision or order becomes a rule, order or decree of the court.

21. (1) The Commission may, in order to attain its objects,
- a) enter into arrangements, including an arrangement to provide training, with any person, any department or agency of the Government of Canada or of a province, any regulatory agency or department of a foreign government or any international agency;
  - b) establish and maintain programs to provide the Commission with scientific, technical and other advice and information;
  - c) establish, and fix the terms of reference of, advisory, standing and other committees;
  - d) establish and maintain offices and laboratories;

- e) disseminate objective scientific, technical and regulatory information to the public concerning the activities of the Commission and the effects, on the environment or on the health or safety of persons, of the development, production or use of nuclear energy or the production, possession or use of a nuclear substance, prescribed equipment or prescribed information;
- f) provide, under an appropriate security classification, to any department or agency of a foreign government or international agency with which Canada or the Commission has entered into an arrangement for the provision of such information, information relating to the development, production or use of nuclear energy or the production, possession or use of a nuclear substance, prescribed equipment or prescribed information including, after obtaining such assurances as it considers necessary to protect any commercial interest, protected commercial information;
- g) charge such fees as may be prescribed for any information, product or service it provides under this Act;
- h) certify and decertify prescribed equipment for the purposes of this Act;
- i) certify and decertify persons referred to in paragraph 44(1)(k) as qualified to carry out their duties under this Act or the duties of their employment, as the case may be; and
- j) authorize the return to work of persons whose dose of radiation has exceeded the prescribed radiation dose limits.

(2) The Commission may, under the prescribed circumstances, refund all or part of any fee referred to in paragraph (1)(g).

### ***Panels***

22. (1) The President may establish a panel of the Commission consisting of one or more members and, subject to subsection (3), the panel may, as directed by the President, exercise or perform any or all of the powers, duties and functions of the Commission.

(2) An act of a panel is deemed to be an act of the Commission.

(3) A panel may not make by-laws or regulations or review a decision or order of the Commission.

### ***Decision-Making***

23. (1) The President or the presiding member shall not vote at a meeting of the Commission or a panel of the Commission, as the case may be, except that the President or presiding member has and shall cast the deciding vote in case of an equal division.

(2) A person who has ceased to be a member may, with the authorization of the President and for such period as the President may fix, take part in the disposition of any matter in which that person became engaged while holding office as a member, and a person so authorized shall, for that purpose, be deemed to be a member of the Commission.

(3) Where any member has taken part in a matter and for any reason is unable to take part in the disposition of the matter, the remaining members who took part in the matter may, with the authorization of the President, make the disposition notwithstanding that the quorum may have been lost.

(4) Where a panel consists of one member and the member is at any time unable to dispose of a matter that is before the panel, the President may authorize another member to consider and dispose of the matter.

### ***Licences***

24. (1) The Commission may establish classes of licences authorizing the licensee to carry on any activity described in any of paragraphs 26(a) to (f) that is specified in the licence for the period that is specified in the licence.

(2) The Commission may issue, renew, suspend in whole or in part, amend, revoke or replace a licence on receipt of an application

- a) in the prescribed form;
- b) containing the prescribed information and undertakings and accompanied by the prescribed documents; and
- c) accompanied by the prescribed fee.

(3) The Commission may, under the prescribed circumstances, refund all or part of any fee referred to in paragraph (2)(c).

(4) No licence may be issued, renewed, amended or replaced unless, in the opinion of the Commission, the applicant

- a) is qualified to carry on the activity that the licence will authorize the licensee to carry on; and
- b) will, in carrying on that activity, make adequate provision for the protection of the environment, the health and safety of persons and the maintenance of national security and measures required to implement international obligations to which Canada has agreed.

(5) A licence may contain any term or condition that the Commission considers necessary for the purposes of this Act, including a condition that the applicant provide a financial guarantee in a form that is acceptable to the Commission.

(6) The Commission may authorize the application of the proceeds of any financial guarantee referred to in subsection (5) in such manner as it considers appropriate for the purposes of this Act.

(7) The Commission shall grant to any person who provided a financial guarantee under subsection (5) a refund of any of the proceeds of the guarantee that have not been spent and may give the person, in addition to the refund, interest at the prescribed rate in respect of each month or fraction of a month between the time the financial guarantee is provided and the time the refund is granted, calculated on the amount of the refund.

(8) A licence may not be transferred.

25. The Commission may, on its own motion, renew, suspend in whole or in part, amend, revoke or replace a licence under the prescribed conditions.

26. Subject to the regulations, no person shall, except in accordance with a licence,

- a) possess, transfer, import, export, use or abandon a nuclear substance, prescribed equipment or prescribed information;
- b) mine, produce, refine, convert, enrich, process, reprocess, package, transport, manage, store or dispose of a nuclear substance;
- c) produce or service prescribed equipment;
- d) operate a dosimetry service for the purposes of this Act;
- e) prepare a site for, construct, operate, modify, decommission or abandon a nuclear facility;  
or
- f) construct, operate, decommission or abandon a nuclear-powered vehicle or bring a nuclear-powered vehicle into Canada.

### ***Records and Reports***

27. Every licensee and every prescribed person shall

- a) keep the prescribed records, including a record of the dose of radiation received by or committed to each person who performs duties in connection with any activity that is authorized by this Act or who is present at a place where that activity is carried on, retain those records for the prescribed time and disclose them under the prescribed circumstances; and
- b) make the prescribed reports and file them in the prescribed manner, including a report on
  - i. any theft or loss of a nuclear substance, prescribed equipment or prescribed information that is used in carrying on any activity that is authorized by this Act, and
  - ii. any contravention of this Act in relation to an activity that is authorized by this Act and any measure that has been taken in respect of the contravention.

### *Analysts and Inspectors*

28. The Commission may designate as an analyst for the purposes of this Act any person whom the Commission considers qualified.

29. (1) The Commission may designate as an inspector for the purposes of this Act any person whom the Commission considers qualified and any person so designated shall be provided with a certificate in the prescribed form certifying the person's designation.

(2) The certificate must list any category of place or vehicle that the inspector has been designated to inspect, any condition that must be satisfied by the inspector in conducting an inspection and any restriction on the powers conferred on the inspector, and on entering or inspecting a place or vehicle the inspector shall, if requested, show the certificate to the person in charge of the place or vehicle.

30. (1) In order to verify compliance with this Act, the regulations, an order or decision made under this Act or a condition of a licence, an inspector may, at any reasonable time and in accordance with the inspector's certificate, enter and inspect

- a) a nuclear facility;
- b) a nuclear-powered vehicle or a vehicle that the inspector believes on reasonable grounds is transporting a nuclear reactor, nuclear substance, prescribed equipment or prescribed information; and
- c) a vehicle or place in which the inspector believes on reasonable grounds there is a nuclear substance, prescribed equipment, prescribed information or a record that is required by this Act, the regulations, an order or decision made under this Act, or a condition of a licence.

(2) In the case of an inspection of a dwelling-house

- a) the inspector shall give reasonable notice to the licensee that an inspection is to be carried out;
- b) the inspection shall be conducted between the hours of 7:00 a.m. and 9:00 p.m., local time, where the licensee and the inspector cannot agree on a time for the inspection; and
- c) the inspection shall be limited to the parts of the dwelling-house in which the nuclear substance, prescribed equipment, prescribed information or record is kept.

(3) An inspector may, at any time, enter and inspect a vehicle or place in which the inspector believes on reasonable grounds that

- a) there is contamination by a nuclear substance;
- b) a nuclear substance is being used, handled, stored or transported in a manner that may cause an unreasonable risk to the environment or to the health or safety of persons; or

- c) a nuclear facility is being operated in a manner or is in a state that may cause an unreasonable risk to the environment or to the health or safety of persons.

31. For the purposes of ensuring compliance with this Act and the regulations, an inspector may exercise the powers of search and seizure provided for in section 487 of the *Criminal Code* without a warrant if the conditions for obtaining a warrant exist but, by reason of exigent circumstances, it would not be feasible to obtain a warrant.

32. The measures that an inspector may take, in exercising authority under this Act, include

- a) using any equipment or causing any equipment to be used;
- b) taking any measurement;
- c) carrying out any test on a vehicle or in relation to anything in a vehicle or place that the inspector has been designated to inspect;
- d) examining any vehicle or place and making or causing to be made a record of anything in any vehicle or place that the inspector has been designated to inspect and removing anything from such a vehicle or place for a reasonable period for the purpose of making a record of it;
- e) opening or requesting the opening of any receptacle;
- f) taking and disposing of any sample;
- g) examining any records that are required to be kept or reports that are required to be made under this Act, or any books, records, electronic data or other documents that the inspector believes on reasonable grounds relate to such records or reports; or
- h) questioning any person in charge of, found in or having a connection with, any vehicle or place that the inspector has entered, inspected or searched or from which any thing is seized by an inspector.

33. While exercising any authority under this Act, an inspector may be accompanied by any other person chosen by the inspector.

34. Any thing seized by an inspector in the course of exercising authority under this Act or under a warrant issued under the *Criminal Code* shall be disposed of or returned to the owner or person in charge of it

- a) on the order of a court, after all proceedings before the court in respect of an offence under this Act or the regulations in relation to the thing are finally concluded; or
- b) on the order of the Federal Court, at any time on application by the Commission or the owner or person in charge.

35. (1) An inspector may order that a licensee take any measure that the inspector considers necessary to protect the environment or the health or safety of persons or to maintain national security or compliance with international obligations to which Canada has agreed.

(2) Where an inspector enters or inspects any vehicle or place

- a) in the circumstances described in paragraph 30(3)(a), the inspector may order that any person evacuate, close, seal, label or take any measures that the inspector considers necessary to decontaminate, the place or vehicle;
- b) in the circumstances described in paragraph 30(3)(b), the inspector may order that any person use, handle, store or transport the nuclear substance in a manner that will not cause an unreasonable risk to the environment or to the health or safety of persons;
- c) in either of the circumstances described in paragraph 30(3)(c), the inspector may order that any person operate the nuclear facility in a manner or put it in a state that will not cause an unreasonable risk to the environment or to the health or safety of persons; or
- d) in the circumstances described in section 31, the inspector may order that any person take any measure that the inspector considers necessary to protect the environment or the health or safety of persons or to maintain national security or compliance with international obligations to which Canada has agreed.

(3) An inspector shall refer any order made under this section to the Commission for review and the Commission shall confirm, amend, revoke or replace the order.

36. Every owner of a place or vehicle that is entered, inspected or searched or from which any thing is seized by an inspector, every person in charge of or found in such a place and every person with control of or found in such a vehicle shall give the inspector all reasonable assistance to enable the inspector to carry out the inspector's duties and functions under this Act.

### ***Designated Officers***

37. (1) The Commission may designate, by name, title of office or class of persons, any person whom the Commission considers qualified as a designated officer and any officer so designated shall be provided with a certificate setting out the duties that the designated officer is authorized to carry out.

(2) The Commission may authorize a designated officer to

- a) certify and decertify prescribed equipment for the purposes of this Act;
- b) certify and decertify persons referred to in paragraph 44(1)(k) as qualified to carry out their duties under this Act or the duties of their employment, as the case may be;
- c) issue, on receipt of an application referred to in subsection 24(2), a licence of a class established by the Commission;
- d) renew, suspend in whole or in part, amend, revoke or replace, on receipt of an application referred to in subsection 24(2), a licence referred to in paragraph (c);

- e) designate any person whom the designated officer considers qualified as an analyst under section 28 or as an inspector under subsection 29(1);
- f) make any order that an inspector may make under subsection 35(1) or (2);
- g) confirm, amend, revoke or replace any order made by an inspector; or
- h) authorize the return to work of persons whose dose of radiation has exceeded the prescribed radiation dose limits.

(3) In carrying out any of the duties referred to in subsection (2), a designated officer shall, if requested, produce the designated officer's certificate of designation.

(4) A designated officer who refuses to issue, renew, suspend, amend, revoke or replace a licence shall notify the applicant of the refusal.

(5) A designated officer shall report to the Commission on

- a) a refusal by the designated officer to issue, renew, suspend, amend, revoke or replace a licence;
- b) the issuance by the designated officer of a licence that contains the condition that the applicant provide a financial guarantee referred to in subsection 24(5);
- c) a renewal of a licence where the terms or conditions of the licence are amended, or a suspension, amendment, revocation or replacement of a licence, other than an amendment of terms or conditions or a suspension, amendment, revocation or replacement made on the application, or with the consent, of the licensee; and
- d) a confirmation, amendment, revocation or replacement of an order under paragraph (2)(g).

(6) A designated officer shall refer any order made under paragraph (2)(f) to the Commission for review and the Commission shall confirm, amend, revoke or replace the order.

***Procedures for Decisions and Orders***

38. Every order of an inspector and every order of a designated officer under paragraph 37(2)(f) shall be made, and every measure under paragraph 37(2)(c), (d) or (g) shall be taken, in accordance with the prescribed rules of procedure.

39. (1) A designated officer shall provide a reasonable opportunity to be heard to

- a) the applicant, before refusing to issue a licence under paragraph 37(2)(c);
- b) the licensee, before renewing, suspending, amending, revoking or replacing a licence, or refusing to renew, suspend, amend, revoke or replace a licence, under paragraph 37(2)(d); and

- c) any person named in or subject to the order, before confirming, amending, revoking or replacing an order under paragraph 37(2)(g).

(2) Subsection (1) does not apply in respect of a renewal, suspension, amendment, revocation or replacement of a licence on the application of the licensee.

40. (1) Subject to subsection (2), the Commission shall provide an opportunity to be heard in accordance with the prescribed rules of procedure to

- a) the applicant, before refusing to issue a licence under section 24;
- b) the licensee, before renewing, suspending, amending, revoking or replacing a licence, or refusing to renew, suspend, amend, revoke or replace a licence, under section 25;
- c) any person named in or subject to the order, before confirming, amending, revoking or replacing an order of an inspector under subsection 35(3);
- d) any person named in or subject to the order, before confirming, amending, revoking or replacing an order of a designated officer under subsection 37(6);
- e) the applicant, before confirming a decision not to issue, and the licensee, before confirming a decision not to renew, amend, revoke or replace, a licence under paragraph 43(4)(a);
- f) the licensee, before confirming, varying or cancelling a term or condition of a licence under paragraph 43(4)(b);
- g) the licensee, before taking any measure under any of paragraphs 43(4)(c) to (f);
- h) any person named in or subject to the order, before taking any measure under any of paragraphs 43(4)(g) to (j); and
- i) any person named in or subject to the order, before making any other order under this Act.

(2) Subsection (1) does not apply

- a) in respect of a renewal, suspension, amendment, revocation or replacement of a licence on the application of the licensee; or
- b) in respect of an order under subsection 47(1).

(3) Notwithstanding any other provision of this Act, where the Commission is satisfied that it is in the public interest to do so, the Commission may, on its own initiative, conduct proceedings in accordance with the prescribed rules of procedure to determine any matter or thing relating to the purpose of this Act.

(4) On completion of proceedings in respect of which subsection (1) applies and proceedings under subsection (3), the Commission shall give notice of its decision to

- a) the applicant, where the proceedings were in relation to an application for a licence;
- b) the licensee, where the proceedings were in relation to a licence; or
- c) any person named in, or subject to, the order, where the proceedings were in relation to an order.

(5) The Commission shall, subject to any bylaws made under section 15 and any regulations made under section 44, hold a public hearing with respect to

- a) the proposed exercise by the Commission, or by a panel established under section 22, of the power under subsection 24(2) to issue, renew, suspend, amend, revoke or replace a licence; and
- b) any other matter within its jurisdiction under this Act, if the Commission is satisfied that it would be in the public interest to do so.

(6) Subsection (5) does not apply in respect of any matter in relation to which subsection 14(2) applies.

41. Every person named in, or subject to, an order of the Commission, an inspector or a designated officer shall, whether or not the person has had an opportunity to make representations with respect to the order, comply with the order within the time specified in it or, if no time is specified, immediately.

42. (1) Where the Commission, an inspector or a designated officer makes an order in relation to a nuclear substance, prescribed equipment, prescribed information or a nuclear facility, the person who is in possession of the nuclear substance, prescribed equipment or prescribed information or the owner or person in charge of the nuclear facility at the time the order is made is, without proof of fault or negligence, liable to pay any costs that any other person incurs in complying with the order.

(2) Nothing in subsection (1) shall be construed to restrict the owner's or person's right of recourse against or indemnity from any other person in respect of the liability.

(3) Nothing in this section shall be construed to affect the liability of an operator under the *Nuclear Liability Act*.

### ***Redetermination and Appeal of Decisions and Orders***

43. (1) An appeal may be made to the Commission by any person who is directly affected by
- a) a refusal of a designated officer to issue, renew, suspend, amend, revoke or replace a licence;
  - b) any term or condition of a licence issued by a designated officer;

- c) a renewal, suspension, amendment, revocation or replacement, by a designated officer, of a licence; or
- d) a confirmation, amendment, revocation or replacement, by a designated officer, of an order of an inspector.

(2) The Commission shall rehear and redetermine, on the application of

- a) the applicant, a decision of the Commission not to issue a licence;
- b) the licensee, a decision of the Commission not to renew, suspend, amend, revoke or replace a licence;
- c) the licensee, any term or condition of a licence issued, renewed, suspended or amended by the Commission;
- d) the licensee, a suspension, amendment, revocation or replacement, by the Commission, of a licence;
- e) any person named in, or subject to, an order of the Commission, the order; or
- f) any person named in, or subject to, an order of an inspector or a designated officer, a confirmation, amendment, revocation or replacement, by the Commission, of the order.

(3) The Commission may, on its own initiative, redetermine any decision or order made by it or by an inspector or designated officer or any term or condition of a licence.

(4) On considering an appeal or a redetermination, the Commission may hear new evidence or rehear such evidence as it considers necessary and may, in the case of

- a) a decision not to issue, renew, amend, revoke or replace a licence, confirm the decision or issue, renew, amend, revoke or replace the licence;
- b) any term or condition of a licence, confirm, vary or cancel the term or condition;
- c) an amendment of a licence, confirm, vary or cancel the amendment;
- d) a suspension of a licence, confirm, vary the conditions of or cancel the suspension;
- e) a revocation of a licence, confirm or cancel the revocation and, where it cancels the revocation, impose any term or condition that it considers necessary for the purposes of this Act;
- f) a replacement of a licence, confirm, vary, cancel or replace the replacement;
- g) an order or a replacement of an order, confirm, amend, revoke or replace the order or the replacement;

- h) a confirmation of an order, reconfirm the order or cancel the confirmation and amend, revoke or replace the order;
- i) an amendment of an order, confirm the amendment or cancel the amendment and confirm, amend, revoke or replace the order; or
- j) a revocation of an order, confirm the revocation or cancel the revocation and confirm, amend or replace the order.

### ***Regulations***

44. (1) The Commission may, with the approval of the Governor in Council, make regulations
- a) respecting the development, production and use of nuclear energy;
  - b) respecting the mining, production, refinement, conversion, enrichment, processing, reprocessing, possession, import, export, use, packaging, transport, management, storage, disposal and abandonment of a nuclear substance;
  - c) respecting the design, inspection during production or installation, production, possession, storage, import, export, use, decommissioning, abandonment and disposal of prescribed equipment;
  - d) respecting the production, possession, transfer, storage, import, export, use and disclosure, and restricting the disclosure, of prescribed information;
  - e) respecting the location, design, construction, installation, operation, maintenance, modification, decommissioning, abandonment and disposal of a nuclear facility or part of a nuclear facility;
  - f) respecting the protection of the environment and the health and safety of persons from any risks associated with the activities referred to in paragraphs (a), (b), (c) and (e);
  - g) respecting doses of radiation, including
    - i. establishing classes of persons and prescribing, in respect of each class, the radiation dose limits to which members of that class may be exposed,
    - ii. 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
    - iii. establishing measures to protect persons from exposure to radiation;
  - h) respecting the protection of nuclear energy workers, including prescribing
    - i. the duties that may be performed by a person employed in a 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 in order to measure and monitor the dose of radiation to which the person is exposed,
  - iii. medical examinations or tests and the circumstances under which they are to be conducted on persons so employed, and
  - iv. the measures that must be undertaken by employers of persons so employed and licensees of such a nuclear facility or other place;
- i) prescribing the fees that may be charged for the provision, by the Commission, of information, products and services;
  - j) prescribing the fees or the method of calculating the fees that may be charged for a licence or class of licence;
  - k) respecting the qualifications for, and the training and examination of, analysts, inspectors, nuclear energy workers and other persons employed in a nuclear facility or other place where a nuclear substance or prescribed equipment is produced, used, possessed, packaged, transported, stored or disposed of, and prescribing the fees for the examination of analysts, inspectors, nuclear energy workers and such other persons;
  - l) respecting the procedures and prescribing the fees for the certification and decertification of persons referred to in paragraph (k);
  - m) respecting measures to ensure the maintenance of national security and compliance with Canada'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 information;
  - n) respecting measures to implement Canada's international obligations regarding the development, production and use of nuclear energy, including prescribing the manner in which and conditions under which access to a nuclear facility, nuclear substance or prescribed information shall be granted to prescribed persons;
  - o) establishing requirements to be complied with by any person who possesses, uses, packages, transports, 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;
  - p) respecting the form of certificates of inspectors and designated officers;
  - q) respecting the procedure for certification and decertification of prescribed equipment;
  - r) establishing classes of nuclear facilities;

- s) respecting the operation of a dosimetry service;
- t) respecting the form of notices required by this Act and the manner in which they are to be given;
- u) respecting the exemption of any activity, person, class of person or quantity of a nuclear substance, temporarily or permanently, from the application of this Act or the regulations or any provision thereof;
- v) prescribing anything that by this Act is to be prescribed; and
- w) generally as the Commission considers necessary for carrying out the purposes of this Act and to assist the Commission in attaining its objects.

(2) The fee referred to in paragraph (1)(i) may not exceed a reasonable estimate of the cost of providing the information, product or service.

(3) The fee referred to in paragraph (1)(j) for a licence or class of licence may not exceed a reasonable estimate of the cost of the Commission's regulatory activities related to that licence or class of licence.

(4) Regulations made under paragraph (1)(o) incorporating a standard by reference may incorporate the standard as amended to a certain date or from time to time.

(5) The Governor in Council may make regulations generally as the Governor in Council considers necessary for carrying out the purposes of this Act.

(6) Any regulation made under subsection (1) or (5) incorporating by reference in whole or in part an Act of the legislature of a province or an instrument made under such an Act may incorporate the Act or instrument as amended to a certain date or from time to time.

(7) Regulations referred to in subsection (6) may apply

- a) generally, in respect of all works and undertakings described in section 71;
- b) in respect of a particular work or undertaking or class or classes of work or undertaking referred to in that section; or
- c) in respect of any class or classes of persons who are employed in connection with a work or undertaking described in paragraph (a) or (b).

(8) A regulation made under subsection (1) incorporating an Act or instrument shall, with the consent of the appropriate provincial minister, be administered and enforced by the person or authority that is responsible for the administration of the Act or instrument.

(9) A regulation made under subsection (5) incorporating an Act or instrument shall, with the consent of the appropriate provincial minister, be administered and enforced by the person or authority that is responsible for the administration of the Act or instrument.

(10) Notwithstanding section 51, every person who contravenes a regulation made under subsection (1) or (5) by contravening a provision of an Act of the legislature of a province that, or an instrument made under such Act that, is incorporated by the regulation is guilty of an offence against this Act and is liable to the same punishment as is imposed by or under any Act of that legislature for the contravention of that provision.

(11) The prosecution of a contravention described in subsection (10) shall be commenced by the Attorney General of the province in which the offence was committed.

(12) A copy of each regulation that the Commission proposes to make under paragraph (1)(i) or (j) shall be published in the *Canada Gazette* and a reasonable opportunity shall be given to persons to make representations to the Commission with respect thereto.

### ***Exceptional Powers***

45. Every person who, on reasonable grounds, believes that

- a) a place or vehicle is contaminated, in excess of the prescribed limit, by a radioactive nuclear substance, or
- b) an event has occurred that is likely to result in the exposure of persons or the environment to a dose of radiation in excess of the prescribed limits,

shall immediately notify the Commission or an appropriate authority of the location and circumstances of the contamination or event.

46. (1) Where the Commission believes, on reasonable grounds, that there is contamination in excess of the prescribed limit by a radioactive nuclear substance at any place, the Commission may conduct a public hearing in accordance with the prescribed rules of procedure to determine whether such contamination has occurred.

(2) Where, after conducting a hearing, the Commission is satisfied that there is contamination referred to in subsection (1), the Commission shall file a notice of contamination in the land registry office or other office where title to land is recorded for the area in which the place is located, or in any other prescribed public office.

(3) Where, after conducting a hearing, the Commission is satisfied that there is contamination referred to in subsection (1), the Commission may, in addition to filing a notice under subsection (2), order that the owner or occupant of, or any other person with a right to or interest in, the affected land or place take the prescribed measures to reduce the level of contamination.

(4) Where the Commission believes on reasonable grounds that there is no longer contamination referred to in subsection (1) at a place with respect to which a notice has been filed under subsection (2), the Commission shall conduct a public hearing in accordance with the prescribed rules of procedure to determine whether such contamination is no longer present.

(5) Where, after conducting a hearing under subsection (4), the Commission is satisfied that the contamination is no longer present, the Commission shall file a notice of cancellation wherever a notice of contamination in relation to the place was filed.

(6) A notice of contamination or cancellation is to be filed following a hearing under this section and, before such filing, the Commission shall give notice in the prescribed manner to the owner or occupant of the affected land and any other prescribed person of the Commission's determination.

(7) The Commission shall give notice in the prescribed manner of an order made under subsection (3) to any person named in or subject to the order.

47. (1) Notwithstanding any other provision of this Act, in case of emergency the Commission may, without conducting any proceedings, make any order that it considers necessary to protect the environment or the health and safety of persons or to maintain national security and compliance with Canada's international obligations.

(2) The Commission shall, as soon as practicable after making an order under subsection (1), give notice of it in the prescribed manner.

### **Offences and Punishment**

48. Every person commits an offence who

- a) alters, otherwise than pursuant to the regulations or a licence, or misuses any thing the purpose of which is to
  - i. protect the environment or the health or safety of persons from any risk associated with the development, production or use of nuclear energy or the possession or use of a nuclear substance, prescribed equipment or prescribed information, or
  - ii. maintain national security or implement international obligations to which Canada has agreed, at a nuclear facility or at a place where, or vehicle in which, a nuclear substance is located;
- b) discloses prescribed information, except pursuant to the regulations;
- c) fails to comply with any condition of a licence;
- d) knowingly makes a false or misleading written or oral statement to the Commission, a designated officer or an inspector;
- e) fails to comply with an order of the Commission, a designated officer or an inspector;
- f) fails to assist or give information to an inspector when requested to do so, or otherwise interferes with the performance of an inspector's duties;
- g) takes disciplinary action against a person who assists or gives information to an inspector, a designated officer or the Commission in the performance of the person's functions or duties under this Act;

- h) except in the prescribed manner and circumstances, terminates, or varies the terms and conditions of, employment of a nuclear energy worker who has received or is committed to a dose of radiation in excess of the prescribed limits;
- i) falsifies a record kept pursuant to this Act or the regulations or to a condition of a licence;
- j) fails to comply with an order made under any of sections 58 to 62; or
- k) fails to comply with this Act or any regulation made pursuant to this Act.

49. Notwithstanding the occurrence of a legal strike or lockout, every person commits an offence who

- a) while in charge of a nuclear facility, fails to ensure that there is present in that facility at all times the staff required, under the licence for that facility, to maintain that facility in a safe condition; or
- b) does not report for duty at a nuclear facility or who, while on duty at a nuclear facility, withdraws their services, except where the person is not required to report or is relieved in accordance with a procedure set out in the licence for that facility.

50. Every person commits an offence who, except as authorized by this Act, possesses a nuclear substance, prescribed equipment or prescribed information that is capable of being used to produce a nuclear weapon or a nuclear explosive device.

51. (1) Every person who contravenes section 36 is guilty of an offence punishable on summary conviction and liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding six months or to both.

(2) Every person who commits an offence under section 50 is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years.

(3) Every person who commits an offence other than an offence in respect of which subsection (1) or (2) applies

- a) is guilty of an indictable offence and liable to a fine not exceeding \$1,000,000 or to imprisonment for a term not exceeding five years or to both; or
- b) is guilty of an offence punishable on summary conviction and liable to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding eighteen months or to both.

51. A person shall not be found to have contravened any provision of this Act, other than section 50, if it is established that the person exercised all due diligence to prevent its commission.

52. Where an offence under this Act is committed or continued on more than one day, it shall be deemed to be a separate offence for each day on which it is committed or continued.

53. Proceedings by way of summary conviction in respect of an offence under this Act may be instituted not later than two years after the time when the subject-matter of the proceedings arose or the Commission became aware of the subject-matter of the proceedings.

54. Subsection 389(5) of the *Canada Shipping Act* does not apply in respect of a nuclear substance, prescribed equipment, a nuclear facility or a nuclear-powered vehicle.

55. (1) Subject to this section, a certificate purporting to be signed by an analyst, stating that the analyst has analysed or tested a substance or product and stating the result of the analysis or test, or a copy or extract of a certificate certified as such by an inspector or designated officer is admissible in evidence in any prosecution for an offence under this Act without proof of the signature or official character of the analyst, inspector or designated officer and is proof of the statements contained in the certificate.

(2) Any party against whom a certificate, copy or extract referred to in subsection (1) is produced may, with leave of the court, require the attendance of the analyst, inspector or designated officer, as the case may be, for the purposes of cross-examination.

(3) No certificate, copy or extract shall be received in evidence pursuant to subsection (1) unless the party intending to produce it has given to the party against whom it is intended to be produced reasonable notice of that intention, together with a copy of the certificate.

56. Every licensee who resides or carries on business in Canada and commits, outside Canada, an act or omission that would, if committed in Canada, be an offence under paragraph 48(c) or under paragraph 48(i) in relation to its licence, is deemed to have committed that act or omission in Canada.

57. A prosecution for an offence under this Act may be instituted, heard and determined in the place where the offence was committed, the subject-matter of the prosecution arose, the accused is resident or the accused is carrying on business.

58. (1) Where an offender has pleaded guilty to or been found guilty of an offence under this Act, the court may, instead of convicting the offender, order that the offender be discharged absolutely or on conditions that have any or all of the effects described in paragraphs 60(1)(a) to (j).

(2) Where an offender contravenes an order made under subsection (1) or is convicted of any other offence under this Act that is committed after the order under subsection (1) was made, the prosecutor may apply to the court to revoke the discharge, convict the offender of the offence to which the discharge relates and impose any sentence that could have been imposed if the offender had been convicted at the time the order was made.

59. (1) Where an offender is convicted of an offence under this Act, the court may suspend the passing of sentence and may order that the accused comply with any condition having any or all of the effects described in paragraphs 60(1)(a) to (j).

(2) Where the offender contravenes an order made under subsection (1) or is convicted of any other offence under this Act that is committed after the order under subsection (1) was made, the prosecutor may apply to the court to impose any sentence that could have been imposed if the passing of sentence had not been suspended.

60. (1) Where an offender has been convicted of an offence under this Act, in addition to any other punishment that may be imposed under this Act, the court may make an order having any or all of the following effects:

- a) prohibiting the offender from committing any act or engaging in any activity that may, in the opinion of the court, result in the continuation or repetition of the offence;
- b) directing the offender to take any measure that the court considers appropriate to protect the environment or the health or safety of persons from harm resulting from the act or omission that constituted the offence, or to remedy such harm;
- c) directing the offender to publish, in the prescribed manner and at the offender's own expense, the facts relating to the conviction;
- d) directing the offender to notify, in the prescribed manner and at the offender's own expense, any person who is affected by the offender's conduct, of the facts relating to the conviction;
- e) directing the offender to post a bond or pay an amount of money into court that the court considers appropriate to ensure compliance with any order, prohibition, direction or requirement provided for in this subsection;
- f) directing the offender to submit to the Commission, on application to the court by the Commission made within three years after the date of conviction, such information with respect to the activities of the offender as the court considers appropriate in the circumstances;
- g) directing the offender to compensate the Commission, in whole or in part, for the cost of any remedial or preventive measure taken by or caused to be taken on behalf of the Commission as a result of the act or omission that constituted the offence;
- h) directing the offender to perform community service, subject to such reasonable conditions as may be imposed by the court on the recommendation of the Commission;
- i) directing the offender to pay an amount for the purposes of conducting research into the use and disposal of any nuclear substance, prescribed equipment or nuclear facility in respect of which the offence was committed; or
- j) requiring the offender to comply with such other conditions as the court considers appropriate in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing any other offence under this Act.

(2) An order made under subsection (1), 58(1) or 59(1) shall come into force on the day on which the order is made or on such other day as the court may determine and shall not continue in force for more than three years after that day.

61. Where a person has been convicted of an offence under this Act and the court is satisfied that, as a result of the commission of the offence, monetary benefits accrued to the person, the court may order the person to pay, notwithstanding the maximum amount of any fine that may otherwise be imposed under this Act, an additional fine in an amount equal to the court's estimation of the amount of the monetary benefits.

62. (1) Where an offender has been convicted of an offence under this Act, in addition to any sentence imposed, the court may, at the time sentence is imposed and on the application of any person who has suffered loss of, or damage to, property, as a result of the commission of the offence, order the offender to pay to that person, within such period as the court considers reasonable, an amount of compensation for the loss or damage.

(2) Where an amount that is ordered to be paid under subsection (1) is not paid within the period specified, the applicant may, by filing the order in the superior court of the province in which the trial was held, enter the amount ordered to be paid as a judgment, and such a judgment is enforceable against the offender in the same manner as if it were a judgment rendered against the offender in that court in civil proceedings.

63. (1) Where a court has made an order under section 58, 59 or 60 in relation to an offender, the court may, on application by the offender or the Attorney General of Canada, require the offender to appear before the court and, after hearing the offender and the Attorney General, may vary the order in one or any combination of the following ways that is applicable and, in the opinion of the court, is rendered desirable by a change in the circumstances of the offender since the order was made, namely,

- a) make changes in the order or the conditions specified in the order or extend the period for which the order is to remain in force for such period, not exceeding one year, as the court considers desirable; or
- b) decrease the period for which the order is to remain in force or relieve the offender, either absolutely or partially or for such period as the court considers desirable, of compliance with any condition that is specified in the order.

(2) Before varying an order under subsection (1), the court may direct that notice be given to any persons that the court considers to be interested in the order and may hear any or all of those persons.

(3) Where an application made under subsection (1) in respect of an offender has been heard by a court, no other application may be made with respect to the order except with leave of the court.

64. Nothing in section 58, 59, 60, 62 or 63 shall be construed as restricting

- a) any right, obligation or liability of any person arising under the *Nuclear Liability Act*; or
- b) the jurisdiction of a Nuclear Damage Claims Commission established under the *Nuclear Liability Act*.

65. (1) Where an offender is required by an order made under section 58, 59 or 60 to comply with a condition having the effect described in paragraph 60(1)(c) and the offender fails to comply with the

condition, the Commission may publish the facts in the manner referred to in that paragraph and may recover the costs of publication from the offender.

(2) Where the Commission incurs publication costs under subsection (1) or an offender is required by an order made under section 58, 59 or 60 to comply with a condition having the effect described in paragraph 60(1)(g), the costs and any interest thereon constitute a debt due to Her Majesty in right of Canada and may be recovered as such in any court of competent jurisdiction or in any manner provided for by law.

## **General**

66. Every member, every officer and employee of the Commission and every person acting on behalf or under the direction of the Commission shall, before acting as such, take before a justice of the peace or a commissioner for taking affidavits the following oath or affirmation of fidelity and secrecy:

I, ....., do solemnly swear (*or affirm*) that I will faithfully, truly and to the best of my judgment, skill and ability execute and perform the duties required of me as a member (*or officer or employee or person acting on behalf or under the direction, as the case may be*), of the Canadian Nuclear Safety Commission.

I further solemnly swear (*or affirm*) that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Commission nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the Commission and relating to its business.

67. Subject to this Act and the regulations, the *Financial Administration Act* applies in respect of the Commission.

68. The Commission may expend, administer, use or dispose of any money or other property acquired by gift, bequest, donation and the like, subject to the terms, if any, on which the money or other property was given, bequeathed, donated or otherwise made available to the Commission.

69. A decision or order made under this Act, other than an order made under section 19, is not a statutory instrument for the purposes of the *Statutory Instruments Act*.

70. The amount of any fee imposed on a person under this Act and any interest thereon is a debt due to Her Majesty in right of Canada and may be recovered as such from the person on whom it was imposed in any court of competent jurisdiction.

71. Any work or undertaking constructed for the development, production or use of nuclear energy or for the mining, production, refinement, conversion, enrichment, processing, reprocessing, possession or use of a nuclear substance or for the production, possession or use of prescribed equipment or prescribed information is declared to be a work or undertaking for the general advantage of Canada.

72. The Commission shall, within four months after the end of each fiscal year, submit to the Minister a report of the activities of the Commission under this Act for that fiscal year, and the Minister shall cause the report to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after receiving it.

## **Transitional Provisions**

**73. The definitions in this section apply in this section and sections 74 to 80.**

**“Board” means the Atomic Energy Control Board established by section 3 of the *Atomic Energy Control Act*, as that section read immediately before the commencement day.**

**“commencement day” means the day on which this Act comes into force.**

**74. The Board is hereby dissolved.**

**75. The person who holds the office of President of the Board immediately before the commencement day continues in office as the President of the Commission for the remainder of the term for which that person was appointed President.**

**76. Each person who holds office as a member of the Board immediately before the commencement day continues in office as a member of the Commission for the remainder of the term for which the person was appointed.**

**77. (1) All rights and property of Her Majesty in right of Canada that are under the administration and control of the Board and all obligations and liabilities of the Board are hereby transferred to the Commission.**

**(2) Every reference to the Board in a deed, contract or other document executed by the Board in its own name shall, unless the context otherwise requires, be read as a reference to the Commission.**

**(3) The Minister may do and perform all acts and things necessary for or incidental to closing out the affairs of the Board.**

**78. (1) Any action, suit or other legal proceeding in respect of an obligation or liability incurred by the Board, or in the closing out of the affairs of the Board, may be brought against the Commission in any court that would have had jurisdiction if the action, suit or proceeding had been brought against the Board.**

**(2) Any action, suit or other legal proceeding to which the Board is party pending in any court immediately before the commencement day may, on that day, be continued by or against the Commission in the like manner and to the same extent as it could have been continued by or against the Board.**

**(3) Proceedings pending before the Board immediately before the commencement day shall be taken up and continued before the Commission under and in accordance with this Act.**

**79. (1) Every person who, immediately before the commencement day, was an officer or employee of the Board becomes, on that day, an officer or employee, as the case may be, of the Commission.**

**(2) Every person to whom subsection (1) applies shall be deemed to have been appointed in accordance with subsection 16(1).**

(3) For greater certainty, nothing in subsection (1) shall be construed as entitling any person to severance pay.

(4) A person to whom subsection (1) applies shall be deemed, while an officer or employee of the Board, to have been employed in the Public Service for the purpose of determining the person's entitlement to leave or any other employment benefit.

80. A licence that is issued pursuant to regulations made under paragraph 9(b) of the *Atomic Energy Control Act* and that is in force immediately before the commencement day is deemed to have been issued under section 24 of this Act and to be in force for the remainder of the period for which it was issued under the *Atomic Energy Control Act* and any fees paid or payable under the *AECB Cost Recovery Fees Regulations, 1994* in respect of such a licence are deemed to be paid or payable, as the case may be, under this Act.

81. A certificate, approval, endorsement, authorization, designation, permit or specification issued pursuant to the *Atomic Energy Control Act* or any regulation made under that Act is deemed to have been issued pursuant to regulations made under this Act and to be in force for the remainder of the period for which it was issued under that Act or those regulations.

82. A nuclear installation designated by the Atomic Energy Control Board for the purposes of the *Nuclear Liability Act* is deemed to have been designated for those purposes by the Canadian Nuclear Safety Commission.

#### Consequential Amendments

##### *Access to Information Act*

83. Schedule I to the *Access to Information Act* is amended by striking out the following under the heading "Other Government Institutions":

Atomic Energy Control Board  
*Commission de contrôle de l'énergie atomique*

84. Schedule I to the Act is amended by adding the following in alphabetical order under the heading "Other Government Institutions":

Canadian Nuclear Safety Commission  
*Commission canadienne de sûreté nucléaire*

85. Schedule II to the Act is amended by deleting the reference to

Atomic Energy Control Act  
*Loi sur le contrôle de l'énergie atomique*

and the corresponding reference to section 9.

**86. Schedule II to the Act is amended by adding the following in alphabetical order:**

Nuclear Safety and Control Act  
*Loi sur la sûreté et la réglementation nucléaires*

**and by adding a corresponding reference to paragraphs 44(1)(d) and 48(b).**

*Atomic Energy Control Act*

**87. The long title to the *Atomic Energy Control Act* is replaced by the following:**

An Act relating to the development and utilization of nuclear energy

**88. The preamble to the Act is repealed.**

**89. Section 1 of the Act is replaced by the following:**

1. This Act may be cited as the *Nuclear Energy Act*.

**90. (1) The definitions “atomic energy”, “Board”, “member”, “prescribed substances” and “President” in section 2 of the Act are repealed.**

**(2) Section 2 of the Act is amended by adding the following in alphabetical order:**

“nuclear energy” has the meaning assigned to that expression by section 2 of the *Nuclear Safety and Control Act*;

“nuclear substance” has the meaning assigned to that expression by section 2 of the *Nuclear Safety and Control Act*.

**91. The heading before section 3 and sections 3 to 9 of the Act are repealed.**

**92. Paragraphs 10(1)(c) and (d) of the Act are replaced by the following:**

c) with the approval of the Governor in Council, acquire or cause to be acquired, by purchase, lease, requisition or expropriation, nuclear substances and any mines, deposits or claims of nuclear substances and patent rights relating to nuclear energy and any works or property for production or preparation for production of, or for research or investigations with respect to, nuclear energy; and

d) with the approval of the Governor in Council, license or otherwise make available or sell or otherwise dispose of discoveries and inventions relating to, and improvements in processes, apparatus or machines used in connection with, nuclear energy and patent rights acquired under this Act and collect royalties and fees on and payments for those licences, discoveries, inventions, improvements and patent rights.

**93. (1) Subsection 11(1) of the Act is replaced by the following:**

**11.** (1) The shares of the capital stock of a company, except the shares that are necessary to qualify persons other than the Minister as directors, shall be owned or held by the Minister, or by another company, in trust for Her Majesty in right of Canada.

**(2) Subsection 11(3) of the Act is repealed.**

**94. Sections 12 to 17 of the Act are replaced by the following:**

**14.** (1) Whenever any property has been requisitioned or expropriated under this Act and the Minister and the owner of the property have not, within such period as the Minister of Justice considers reasonable, agreed on the compensation to be made for the property, the claim for compensation shall be referred by the Minister of Justice to the Federal Court.

(2) Subsection (1) does not apply in respect of land described in subsections 10(2) and (3).

**15.** All expenses under this Act shall be paid out of moneys appropriated by Parliament for the purpose or received by a company through the conduct of its operations or by bequest, donation or otherwise.

**95. Paragraph 18(c) of the Act is replaced by the following:**

c) for the production, refining or treatment of nuclear substances,

**96. Subsection 19(1) of the Act is repealed.**

**97. Sections 20 and 21 of the Act are repealed.**

**98. Schedule I to the Act is repealed.**

**99. The Act is amended by replacing the expression “atomic energy” with the expression “nuclear energy” in the following provisions:**

a) paragraphs 10(a) and (b); and

b) paragraphs 18(a) and (b).

***Canadian Transportation Accident Investigation and Safety Board Act***

**100. The schedule to the *Canadian Transportation Accident Investigation and Safety Board Act* is amended by striking out the following:**

Atomic Energy Control Board  
*Commission de contrôle de l'énergie atomique*

**101. The schedule to the Act is amended by adding the following in alphabetical order:**

Canadian Nuclear Safety Commission  
*Commission canadienne de sûreté nucléaire*

***Financial Administration Act***

**102. Schedule II to the *Financial Administration Act* is amended by striking out the following:**

Atomic Energy Control Board  
*Commission de contrôle de l'énergie atomique*

**103. Schedule II to the Act is amended by adding the following in alphabetical order:**

Canadian Nuclear Safety Commission  
*Commission canadienne de sûreté nucléaire*

***Hazardous Products Act***

**104. Paragraph 3(1)(d) of the *Hazardous Products Act* is replaced by the following:**

- d) nuclear substance, within the meaning of the *Nuclear Safety and Control Act*, that is radioactive.

**105. Paragraph 12(d) of the Act is replaced by the following:**

- d) nuclear substance, within the meaning of the Nuclear Safety and Control Act, that is radioactive;

***Canada Labour Code***

**106. Section 123.1 of the Act is replaced by the following:**

**123.1** The Governor in Council may, by order, exclude, in whole or in part, from the application of this Part or any specified provision of this Part employment on or in connection with any work or undertaking that is regulated pursuant to the *Nuclear Safety and Control Act*.

***Municipal Grants Act***

**107. Schedule III to the *Municipal Grants Act* is amended by striking out the following:**

Atomic Energy Control Board  
*Commission de contrôle de l'énergie atomique*

**108. Schedule III to the Act is amended by adding the following in alphabetical order:**

Canadian Nuclear Safety Commission  
*Commission canadienne de sûreté nucléaire*

***Nuclear Liability Act***

**109. (1) The portion of the definition “nuclear installation” in section 2 of the *Nuclear Liability Act* before paragraph (a) is replaced by the following:**

“nuclear installation” means a structure, establishment or place, or two or more structures, establishments or places at a single location, coming within any of the following descriptions and designated as a nuclear installation for the purposes of this Act by the Canadian Nuclear Safety Commission, namely,

**(2) The definition “operator” in section 2 of the Act is replaced by the following:**

“operator” means the holder of a subsisting licence issued pursuant to the *Nuclear Safety and Control Act* for the operation of a nuclear installation or, in relation to any nuclear installation for the operation of which there is no subsisting licence, the recipient of the licence last issued pursuant to the *Nuclear Safety and Control Act* for the operation of that nuclear installation.

**110. Paragraph 15(1)(a) of the Act is replaced by the following:**

- a) basic insurance for such term and for such amount not exceeding seventy-five million dollars as may be prescribed with respect to that nuclear installation by the Canadian Nuclear Safety Commission, with the approval of the Treasury Board, and

***Patent Act***

**111. Section 22 of the *Patent Act* and the heading before it are replaced by the following:**

**Patents Relating to Nuclear Energy**

**22.** Any application for a patent for an invention that, in the opinion of the Commissioner, relates to the production, application or use of nuclear energy shall, before it is dealt with by an examiner appointed pursuant to section 6 or is open to inspection by the public under section 10, be communicated by the Commissioner to the Canadian Nuclear Safety Commission.

***Privacy Act***

**112. The schedule to the *Privacy Act* is amended by striking out the following under the heading “*Other Government Institutions*”:**

Atomic Energy Control Board  
*Commission de contrôle de l'énergie atomique*

**113. The schedule to the Act is amended by adding the following in alphabetical order under the heading “*Other Government Institutions*”:**

Canadian Nuclear Safety Commission  
*Commission canadienne de sûreté nucléaire*

***Public Sector Compensation Act***

**114. Schedule I to the *Public Sector Compensation Act* is amended by striking out the following:**

Atomic Energy Control Board  
*Commission de contrôle de l'énergie atomique*

**115. Schedule I to the Act is amended by adding the following in alphabetical order:**

Canadian Nuclear Safety Commission

*Commission canadienne de sûreté nucléaire*

***Public Servants Inventions Act***

**116. Subsection 8(2) of the *Public Servants Inventions Act* is replaced by the following:**

(2) No interest in an invention coming within section 20 or 21 of the *Patent Act* shall be waived, abandoned or transferred under this section without the approval of the Minister of National Defence, and no interest in an invention coming within section 22 of that Act shall be waived, abandoned or transferred under this section without the approval of the Canadian Nuclear Safety Commission.

***Public Service Staff Relations Act***

**117. Part II of Schedule I to the *Public Service Staff Relations Act* is amended by striking out the following:**

Atomic Energy Control Board  
*Commission de contrôle de l'énergie atomique*

**118. Part II of Schedule I to the Act is amended by adding the following in alphabetical order:**

Canadian Nuclear Safety Commission  
*Commission canadienne de sûreté nucléaire*

***Public Service Superannuation Act***

**119. Part I of Schedule I to the *Public Service Superannuation Act* is amended by striking out the following:**

Atomic Energy Control Board  
*Commission de contrôle de l'énergie atomique*

**120. Part I of Schedule I to the Act is amended by adding the following in alphabetical order:**

Canadian Nuclear Safety Commission  
*Commission canadienne de sûreté nucléaire*

***Radiation Emitting Devices Act***

**121. Paragraph 3(a) of the *Radiation Emitting Devices Act* is replaced by the following:**

- a) a radiation emitting device that is designed primarily for the production of nuclear energy within the meaning of the *Nuclear Safety and Control Act*; or

*Transportation of Dangerous Goods Act, 1992*

**122. Paragraph (b) of the definition “accidental release” in section 2 of the *Transportation of Dangerous Goods Act, 1992* is replaced by the following:**

- b) emission of ionizing radiation that exceeds a level or limit established under the Nuclear Safety and Control Act;

**123. Class 7 of the schedule to the Act is replaced by the following:**

Class 7 – Nuclear substances, within the meaning of the *Nuclear Safety and Control Act*, that are radioactive.

**Conditional Amendments**

**124. On the later of the day on which subsection 672.64(1) of the *Criminal Code*, as enacted by section 4 of *An Act to amend the Criminal Code (mental disorder) and to amend the National Defence Act and the Young Offenders Act in consequence thereof*, chapter 43 of the Statutes of Canada, 1991, comes into force and the day on which this Act comes into force,**

- a) item 67 of the schedule to Part XX.1 of the *Criminal Code* and the heading before it are repealed; and
- b) the schedule to Part XX.1 of the *Criminal Code* is amended by adding the following after item 90:

**NUCLEAR SAFETY AND CONTROL ACT**

90.1 Paragraphs 48(a) and (b) and section 50 – offence

**125. (1) If Bill C-3, introduced in the second session of the thirty-fifth Parliament and entitled *An Act to amend the Canada Labour Code (nuclear undertakings) and to make a related amendment to another Act*, is assented to, then, on the later of the coming into force of that Act and the coming into force of this Act:**

**(a) section 121.1 of the *Canada Labour Code* is replaced by the following:**

**121.1** The Governor in Council may by regulation direct that this Part applies in respect of any employment, or any class or classes of employment, on or in connection with a work or undertaking set out in the regulation that is, or is part of, a corporation that is an agent of Her Majesty in right of a province and whose activities are regulated, in whole or in part, pursuant to the *Nuclear Safety and Control Act*.

**(b) subsection 121.2(1) of the *Canada Labour Code* is replaced by the following:**

**121.2** (1) The Governor in Council may by regulation exclude, in whole or in part, from the application of any of the provisions of this Part any employment, or any class or classes of employment, on or in connection with a work or undertaking set out in the regulation whose activities are regulated, in whole or in part, pursuant to the *Nuclear Safety and Control Act*.

**(c) section 158 of the *Canada Labour Code* is replaced by the following:**

**158.** The Governor in Council may by regulation direct that this Part applies in respect of any employment, or any class or classes of employment, on or in connection with a work or undertaking set out in the regulation that is, or is part of, a corporation that is an agent of Her Majesty in right of a province and whose activities are regulated, in whole or in part, pursuant to the *Nuclear Safety and Control Act*.

**(d) subsections 159(1) and (2) of the *Canada Labour Code* are replaced by the following:**

**159.** (1) The Governor in Council may by regulation exclude, in whole or in part, from the application of any of the provisions of this Part any employment, or any class or classes of employment, on or in connection with a work or undertaking set out in the regulation whose activities are regulated, in whole or in part, pursuant to the *Nuclear Safety and Control Act*.

(2) On the recommendation of the Minister after consultation with the Canadian Nuclear Safety Commission, the Governor in Council may make regulations relating to occupational safety and health in relation to employment that is subject to a regulation made pursuant to subsection (1).

**(e) section 265 of the *Canada Labour Code* is replaced by the following:**

**265.** The Governor in Council may by regulation direct that this Part applies in respect of any employment, or any class or classes of employment, on or in connection with a work or undertaking set out in the regulation that is, or is part of, a corporation that is an agent of Her Majesty in right of a province and whose activities are regulated, in whole or in part, pursuant to the *Nuclear Safety and Control Act*.

**(f) subsection 266(1) of the *Canada Labour Code* is replaced by the following:**

**266.** (1) The Governor in Council may by regulation exclude, in whole or in part, from the application of any of the provisions of this Part any employment, or any class or classes of employment, on or in connection with a work or undertaking set out in the regulation whose activities are regulated, in whole or in part, pursuant to the *Nuclear Safety and Control Act*.

**(g) section 8.1 of the *Non-smokers' Health Act* is replaced by the following:**

**8.1** The Governor in Council may by regulation direct that this Act applies in respect of any employment, or any class or classes of employment, on or in connection with a work or undertaking set out in the regulation that is, or is part of, a corporation that is an agent of Her Majesty in right of a province and whose activities are regulated, in whole or in part, pursuant to the *Nuclear Safety and Control Act*.

**(h) subsection 8.2(1) of the *Non-smokers' Health Act* is replaced by the following:**

**8.2** (1) The Governor in Council may by regulation exclude, in whole or in part, from the application of any or all of the provisions of this Act any employment, or any class or classes of employment, on or in connection with a work or undertaking set out in the regulation whose activities are regulated, in whole or in part, pursuant to the *Nuclear Safety and Control Act*.

**(2) If Bill C-3, introduced in the second session of the thirty-fifth Parliament and entitled *An Act to amend the Canada Labour Code (nuclear undertakings) and to make a related amendment to another Act*, is assented to, and that Act comes into force before this Act, then section 106 of this Act is repealed.**

**126. If a bill entitled *An Act respecting regulations and other documents, including the review, registration, publication and parliamentary scrutiny of regulations and other documents, and to make consequential and related amendments to other Acts* is introduced in the second session of the thirty-fifth Parliament and assented to, then, on the later of the day on which section 1 of that Act comes into force and the day on which this Act comes into force, section 69 of this Act is replaced by the following:**

**69.** A decision or order made under this Act, other than an order made under section 19, is not a regulation for the purposes of the *Regulations Act*.

Coming into Force

**127. This Act comes into force on a day to be fixed by order of the Governor in Council.**