VERŻJONI ELETTRONIKA

I assent.

(L.S.) **MARIE-LOUISE COLEIRO PRECA**
President

25th May, 2018

ACT No. XVIII of 2018

An ACT to make provision for the protection of individuals in current and future generations against the harmful effects of ionising and non-ionising radiation and for the safety of radiation sources and to introduce preventive and protective measures of control for human exposure to ionising and non-ionising radiation and matters connected therewith or ancillary thereto.

BE IT enacted by the President, by and with the advice and consent of the House of Representatives in this Present Parliament

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assembled, and by the authority of the same as follows: -

ARRANGEMENT OF ACT

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Part I – Preliminary

Short title.

1. The short title of this Act is the Nuclear Safety and Radiation Protection Act, 2018.

Scope.

2. (1) The scope of this Act is to:

(a) allow the beneficial and justified uses of ionising and non-ionising radiation;

(b) provide for adequate protection of people in current and future generations against the harmful effects of ionising radiation and for the safety of radiation sources;

(c) provide for the physical protection of nuclear material;

(d) provide a mechanism whereby these objectives are achieved through the establishment of a Radiation Protection Commission and its Secretariat hereinafter referred to as the "Commission" and "Secretariat", to act as the competent national authority in the field of nuclear safety and radiation

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protection.

(2) Notwithstanding the provisions of sub-article (1), this Act shall apply to:

(a) the programmed safe management of radioactive waste;

(b) conditions for the security of the ionising radiation sources;

(c) the implementation of the requirements, including but not only, the enactments of any act or regulation, required to give effect to any treaty, convention or protocol related to the ionising radiation, nuclear safety and security related international legal instruments which the Government accedes and ratifies;

(d) equipment, articles and non-nuclear material specified for the reporting of exports and imports according to Article 2(a)(ix) of the Additional Protocol:

Provided that this Act shall not apply to activities or practices involving exposures that have been excluded from regulatory control.

(3) Without prejudice to the generality of this article the aim of this Act is also to introduce preventive and protective measures of control of detrimental human exposure to non-ionising radiations against known or otherwise anticipated biological effects that have a detrimental effect on mental, physical and, or general well-being of exposed people, either in the short term or long term from any facility or equipment emitting such fields.

Interpretation.

3. In this Act, unless the context otherwise requires:

"accident" shall mean any unintended event, including operating errors, equipment failures and other mishaps, the consequences or potential consequences of which are not negligible from the point of view of radiation protection or safety;

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

"Additional Protocol" means the Additional Protocol to the

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Safeguards Agreement, which came into force for Malta on 1 July 2007;

"applicant" means a natural or legal person who applies to the Secretariat by filing an application for the purpose of obtaining the authorization for undertaking specific activities in relation to this Act;

"authorization" means the granting by the Secretariat of a written permission for an undertaking to perform a specified activity and may include a registration or licence;

"carers and comforters" means individuals knowingly and willingly incurring an exposure to ionising radiation by helping, other than as part of their occupation, in the support and comfort of individuals undergoing or having undergone medical exposure;

"Chairperson" means the Non-Executive Chairperson responsible for the Commission and includes the Deputy Chairperson when acting as Chairperson in instances where the Chairperson is unable to perform the functions of his office;

"clearance" means the removal of regulatory control by the Secretariat after consultation with the Commission from radioactive material or radioactive objects within notified or authorized practices;

"clearance level" means a value, established by the Commission and expressed in terms of activity concentration, at or below which regulatory control may be removed from a source of radiation within a notified or authorized practice;

"Commission" means Commission for the Protection from Ionising and Non-Ionising Radiation as defined in article 10;

"compliance" means conformity with the requirements of this Act or regulations made thereunder;

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

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

"effective dose" means the sum of the weighted equivalent doses from ionising radiation in all the tissues and organs of the body from internal and external exposure;

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"equipment" means a manufactured product that produces ionising or non-ionising radiation;

"exclusion" means the deliberate exclusion of a particular category of exposure from the scope of this Act on the grounds that it is not considered amenable to regulatory control;

"Executive Secretary" means the secretary responsible for the proper and efficient organization of the Secretariat;

"exemption" means the determination by the Commission that a source or practice need not be subject to some or all aspects of regulatory control on the basis that the exposure and the potential exposure due to the source or practice is too small to warrant the application of those aspects or that this is the optimum option for protection irrespective of the actual level of the doses or risks as specified in this Act;

"exemption level" means a value, established by the Commission and expressed in terms of activity concentration, total activity at or below which a source of ionising radiation need not be subject to notification or authorization;

"exposure" means the act of exposing or condition of being exposed to ionising or non-ionising radiation;

"facilities" means any installation which has a source of ionising or non-ionising radiation;

"graded approach" means a structured method by which the stringency of control to be applied to a product or process is commensurate with the risk;

"inspection" means the examination, observation, measurement, or test undertaken to assess structures, components, and materials, as well as operational activities, technical processes, organisational processes, procedures, and personnel competence;

"intervention" means any action intended to reduce or avert exposure or the likelihood of exposure to sources which are not part of a controlled practice or which are out of control as a consequence of an accident;

"ionising radiation" means energy transferred in the form of particles or electromagnetic waves of a wavelength of 100 nanometres or less capable of producing ions directly or indirectly;

"licence" means a legal document issued by the Secretariat

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granting authorization to perform specified activities related to a facility or activity;

"licensee" means the holder of a current licence granted for an activity or practice who has recognized rights and duties for the activity or practice, particularly in relation to safety and security;

"medical exposure" means exposure incurred by patients or asymptomatic individuals as part of their own medical or dental diagnosis or treatment, with ionising radiation and intended to benefit their health, as well as exposure incurred by carers and comforters and by volunteers in medical or biomedical research;

"Minister" means the Minister responsible for matters related to and incidental to this Act and such Minister shall not have under his responsibility any form of ionising or non-ionising radiation facility or source;

"non-ionising radiation" means energy transferred in the form of electromagnetic waves of a wavelength greater than 100 nanometres and is not capable of producing ions directly or indirectly;

"notification" means a document submitted to the Secretariat by an undertaking to notify an intention to carry out a practice or other use of a source;

"nuclear damage" means:

(a) damage due to death, physical injury, or other infringement to human health, loss or damage to property, occurring or being a consequence of radioactive characteristics or a combination of such characteristics with poisonous, explosive or other hazardous characteristics of nuclear fuel or radioactive products or waste located in a nuclear facility, or nuclear material sent to a nuclear facility or produced in the facility or being sent out of it;

(b) damage due to death, physical injury, or other infringement to human health, loss or damage to property, occurring or being a consequence of other ionising radiation originating from any other radiation source in a nuclear facility;

"nuclear facility" means any facility where activities or practices utilizing nuclear material are conducted, including a nuclear power plant, research reactor, fuel fabrication plant, spent fuel storage facility, enrichment plant, reprocessing facility or any other facility determined by the Commission. For purposes of the application of

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International Atomic Energy Agency safeguards, it means a facility as defined in the relevant Safeguards Agreement between Malta and the International Atomic Energy Agency;

"nuclear material" means uranium and thorium of natural isotopic structure, uranium with reduced (depleted uranium), or increased contents of isotope 235, uranium of isotopic structure 233, plutonium 239 and its heavier isotopes, industrial products or products made of such substances, as well as other substances designated by the Commission. For purposes of the application of International Atomic Energy Agency safeguards, it means any special fissionable material or source material as defined in the relevant Safeguards Agreement between Malta and the International Atomic Energy Agency; it shall not be interpreted as applying to ore or ore residue;

"nuclear or radiological emergency" means an emergency in which there is, or is perceived to be, a hazard due to:

(a) the energy resulting from a nuclear chain reaction or from the decay of the products of a chain reaction; or

(b) radiation exposure;

"occupational exposure" means exposure of workers, apprentices and students, incurred in the course of their work with ionising or non-ionising radiation;

"owner" means the person or company who owns, or is responsible for, the operation of an installation emitting non-ionising and ionising radiation into the environment or workplace;

"potential exposure" means an exposure that is not expected to occur with certainty but that may result from an accident at a source or owing to an event or sequence of events of a probabilistic nature, including equipment failures and operating errors;

"practice" means any human activity that introduces additional sources of exposure or exposure pathways or extends exposure to additional people or modifies the network of exposure pathways from existing sources in a way that increases the exposure or the likelihood of exposure of people or the number of people exposed;

"public" means everyone who is not a worker or a patient under medical care;

"public officer" has the same meaning as assigned to it by article 124 of the Constitution, but does not include a Judge of the Superior

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Courts or a Magistrate of the Inferior Courts;

"public exposure" means exposure of individuals, excluding any occupational or medical exposure;

"radiation" refers to either ionising or non-ionising radiation;

"radiation protection" means protection of people from the harmful effects of exposure to ionising or non-ionising radiation, and the means for achieving this protection;

"radiation protection programme" means the systemic arrangements that are aimed at providing adequate consideration of radiation protection;

"radioactive material" means material (solid, liquid, or gas), which spontaneously emits radiation, including accelerator-produced material, by-product material, natural material, source and special nuclear material;

"registration" means a form of authorization for practices of low risk, through a simplified procedure to carry out a practice;

"radiation source" means an ionising radiation generator, or a radioactive source or other radioactive material outside the nuclear fuel cycles of research and power reactors;

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

(a) that contains or is contaminated with radioactive substances and has an activity or activity concentration higher than the level set for clearance from regulatory requirements, and

(b) exposure to which is not excluded under applicable regulations;

"radioactive waste management" means all administrative and operational activities which involve handling, pre-treatment, treatment, conditioning, transport, storage, and disposal of radioactive waste;

"reference level" means an exposure level to ionising or non-ionising radiation provided for practical exposure assessment purposes to determine whether the basic restrictions are likely to be exceeded;

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"regulatory control" means any form of control or of regulation applied by the Secretariat to facilities or activities, for the reasons relating to radiation protection or to safety of radiation sources, or security of radioactive sources;

"Safeguards Agreement" means the Agreement between the European Union Non-nuclear-weapon Member States, the European Atomic Energy Community and the International Atomic Energy Agency in implementation of Article III(1) and (4) of the Treaty on the Non-Proliferation of Nuclear Weapons (Agreement 78/164/ Euratom) which came into force for Malta on 1 July 2007;

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

"safety culture" means the assembly of characteristics and attitudes in organizations and individuals which establishes that, as an overriding priority, protection and safety issues receive the attention warranted by their significance. Safety culture includes:

(a) individual and collective commitment to safety on the part of the leadership, the management and personnel at all levels;

(b) accountability of organizations and of individuals at all levels for safety; and

(c) measures to encourage a questioning and learning attitude and to discourage complacency with regard to safety;

"Secretariat" means the Secretatiat of the Commission as established by article 12;

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

"security culture" means characteristics and attitudes in organisations and of individuals which establish that security issues receive the attention warranted by their significance;

"source" means anything that may cause radiation exposure - such as by emitting ionising or non-ionising radiation or by releasing radioactive substances or material and can be treated as a single entity for protection and safety purposes;

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"source material" includes:

(a) uranium containing an isotopic mixture appearing in nature,

(b) depleted uranium in 235 isotope,

(c) thorium,

(d) any of the stated materials in the form of metal, alloy, chemical compound, or concentrate, and

(e) any material other substance containing one or more of the above stated elements with concentration level designated by the Commission;

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

"technical service provider" means service providers in safety, providing either consultancy and maintenance services or calibration and testing services;

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

"Tribunal" means the Appeals Tribunal as referred to in article 14;

"undertaking" means a natural or legal person who has legal responsibility under national law for carrying out a practice, or for a radiation, whether ionising, or non-ionising source (including cases where the owner or holder of a radiation source does not conduct related human activities);

"work activity" means a sequence of man-made actions, involving naturally occurring radionuclides, which are not aimed at processing and, or extracting these radionuclides for their radioactive, fissile or fertile properties;

"worker" means an employee or self-employed individual who is subjected to ionising or non-ionising exposure at work.

4. (1) This Act shall apply to all practices and work Applicability.

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activities which involve a risk from ionising radiation emanating from an artificial source or from a natural radiation source in cases where natural radionuclides are or have been processed in view of their radioactive, fissile or fertile properties, namely:

(a) the manufacture, production, processing, handling, disposal, use, holding, storage, transport, supply import to and export from Malta, transit through Maltese territory and disposal of radioactive substances;

(b) the manufacture and the operation of any electrical equipment emitting ionising radiation and containing components operating at a potential difference of more than 5kV;

(c) human activities which involve the presence of natural radiation sources that lead to significant increase in the exposure of workers or members of the public;

(d) discontinuance or cessation of a practice or work activity involving radioactive substances and devices that produce radiation and are used for industrial, medical, agricultural, research, and education purposes;

(e) any other practice or work activity specified from time to time by the Commission.

(2) This Act shall apply to nuclear material used for peaceful purposes while in international transport, and as applicable to domestic use, storage and transport.

(3) This Act shall also apply to work activities which are not covered by sub-article (1) but which involve the presence of natural radiation sources and may lead to a significant increase in the exposure of workers or members of the public which cannot be disregarded from the radiation protection point of view.

(4) Without prejudice to the other provisions of this article, this Act shall also apply to any intervention in cases of radiological emergencies or in cases of lasting exposure resulting from the after-effects of a radiological emergency or a past or old practice or work activity.

(5) Without prejudice to the generality of this article and the provisions of this Act and any regulations made thereunder, this Act shall apply for any facility or equipment that emits non-ionising radiation that the Commission specifies:

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Provided that, without prejudice to the generality of the provisions of this article, sub-articles (2), (3), (4), and (5) shall apply *mutatis mutandis* to the activities carried out by any member of the disciplined forces, and the crew of vessels or aircraft registered in Malta.

(6) This Act shall also apply to the exposure of workers or members of the public to indoor radon, the external exposure from building materials and cases of lasting exposure resulting from the after-effects of an emergency or past human activity.

(7) This Act shall not apply to exposures associated with situations excluded or exempted by the Commission.

(8) This Act shall not apply to radio communications apparatus, electronic communications networks and services which are subject to the requirements of any law administered by the Malta Communications Authority.

Part II - General Principles of Protection against Ionising and Non-ionising Radiation

Prime responsibility.

5. (1) The prime responsibility for the safety and security of ionising and non-ionising radiation sources rests with the undertaking:

Provided that the prime responsibility for safety and security rests with the licence holder. That responsibility cannot be delegated and includes responsibility for the activities of contractors and sub-contractors whose activities might effect safety and security.

(2) Undertakings shall promote both a safety culture and a security culture within their organisation.

Justification.

6. No practice involving exposures to ionising or non-ionising radiation shall be adopted unless it produces sufficient benefit to the exposed individual or to society to offset the detriment it causes.

Optimization.

7. Exposure to ionising and non-ionising radiation must be kept as low as reasonably achievable, taking economic and social factors into account.

Limits of exposure.

8. (1) For the purposes of this Act the recommendations by the International Commission on Non-Ionising Radiation Protection with respect to Basic Restrictions and Reference Levels in the electromagnetic field shall be adopted as the relevant exposure limits for electromagnetic fields.

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(2) The effective ionising radiation dose to individuals shall not exceed the dose limits specified by the Commission as defined in article 10.

Graded approach.

9. A graded approach shall be applied by the Commission and the Secretariat in performing their functions.

Part III – The Regulatory Framework

Functions of the Commission.

10. (1) There shall be set up a Commission for the Protection from Ionising and Non-Ionising Radiation, hereinafter referred to as "the Commission", which shall act as the regulatory authority in the field of nuclear safety and radiation protection. The Commission shall have such functions in respect of its structures as are set out in this Act and such other functions as may devolve upon it under any other law, or as may be assigned to it by the Minister.

(2) It shall be the function of the Commission to:

(a) draw up and establish policies and strategies in consultation with the Minister to be followed by the Secretariat, relating to the protection against ionising and non-ionising radiation and other concerns addressed by the Act;

(b) co-ordinate the preparation of regulations governing any issues made in connection with this Act;

(c) act as a body of general review of the Secretariat;

(d) provide advice to the Secretariat when required as to the interpretation of the relevant provision in this Act;

(e) be the national body which gives effect to any decision of the UN Security Council or International Atomic Energy Agency, European Commission or internationally recognised entity or competent authority in the field of nuclear safety and radiation protection whenever so directed by the Minister;

(f) implement the regulatory requirements of Conventions and other EU legislation within the scope of this Act:

Provided that the Commission shall regulate its own procedures upon consultation with the Secretariat and the Minister on all matters related to its functions on matters regulated by this Act;

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(g) prescribe the fees to be paid in respect of the issue, validation, renewal, extension or variation of any certificate, licence or other document or the undergoing of any examination or test required by this Act or any regulations, directive or order made thereunder and in respect of any other matters in respect of which it appears to the Commission to be expedient for the purpose of the Act, regulations, directive or order to charge fees:

Provided that the Commission may appoint for this purpose, committees or sub-committees and it may co-opt on such committees or sub-committees competent persons from outside its membership, who in the opinion of the Commission, have professional or expert knowledge on any matter dealt with under this Act; so however that the co-opted members shall not have a vote on any matter before a committee or sub-committee.

(3) Without prejudice to the generality of this article, the Commission may undertake such other activity it may deem necessary or expedient for the purposes of its functions and objectives under this Act.

(4) The Commission shall consist of a Non-Executive Chairperson, a Deputy Chairperson, and not more than nine members.

(5) The Minister shall appoint members, as expert members in the Commission, for a period of three years and such period may be extended for further periods of three years each. The Commission shall be composed as follows:

(a) one member with regard to occupational health and safety issues;

(b) one member with regard to environment issues;

(c) one member with regard to the public health issues;

(d) one member with regard to the civil protection issues;

(e) one member with regard to transportation issues;

(f) one member with regard to the electromagnetic field issues;

(g) one member with regard to customs issues;

(h) one member representing civil society; and

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(i) one member representing the field of communications:

Provided that the Minister may change the composition of the Commission so as to reflect the regulatory exigencies developing from time to time, provided that no members shall be responsible for the use of any form of ionising or non-ionising radiation.

Members of the Commission shall be allowed to be represented by a replacement at meetings of the Commission and any such replacements shall have voting rights.

The Executive Secretary shall attend all meetings of the Commission but shall not have voting rights.

(6) The Chairperson and the Deputy Chairperson shall be appointed by the Minister for a period of three years and such period may be extended for further periods of three years each:

Provided that where the Chairperson is absent from Malta or is otherwise temporarily unable to perform the functions of that office, all duties and functions of the Chairperson shall be assumed by the Deputy Chairperson.

Conduct of the affairs of the Commission.

11. (1) Subject to the other provisions of this Act, the affairs and business of the Commission shall be the responsibility of the Commission itself but, save as aforesaid, the conduct of the Commission, its administration and organisation shall be the responsibility of the Chairperson of the Commission, who shall have such other powers as may from time to time be delegated by the Commission.

(2) The Chairperson shall attend all the meetings of the Commission and shall have the casting vote at such meetings.

(3) The Chairperson shall be responsible for the implementation of the objectives and functions of the Commission. Without prejudice to the generality of the foregoing, the Chairperson shall be responsible for evaluating the implementation and fulfillment of the Commission's established goals and shall report directly to the Commission.

(4) The quorum for the meetings of the Commission shall be constituted by the presence of any four members and the Chairperson.

(5) The Commission shall be obliged to convene at least once every three months.

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(6) The Commission shall provide a report on its activities and the activities of the Secretariat for each calendar year not later than the 15th April of the following year to the Minister.

The Secretariat.

12. (1) There shall be set up the Secretariat for the Commission, hereinafter referred to as "the Secretariat", which shall act as the executive of the regulatory authority in the field of nuclear safety and radiation protection.

(2) The Secretariat shall have such functions as may devolve on it under any other law or as may be assigned to in writing by the Minister. In the case that other regulations are in force governing occupational, public and medical exposures, or environmental protection and safety of sources, which in some way address the uses of ionising radiation or non-ionising radiation, or any other substance the use or exposure of which is regulated by this Act, the Secretariat shall recommend to the Commission, if it considers it necessary, to make recommendations to the Minister for the reallocation of the regulatory responsibility to the Secretariat itself or to some other authority as the Secretariat after consultation with the Commission deems fit.

(3) It shall be the function of the Secretariat to:

(a) issue authorizations and grant exemptions concerning the possession and use of radiation sources;

(b) inspect, monitor and assess activities and practices for the purpose of verifying compliance with this Act, applicable regulations and the terms and conditions of authorizations and, or licences;

(c) maintain a national register of radiation sources and a national register of undertakings;

(d) gather the required data to enable an assessment of total exposure from all practices and work activities in Malta and including the distribution of the individual occupational and public exposures for each type of practice, and to enable the setting up of a national register for occupational exposure to ionising radiation;

(e) establish and maintain a national system of accounting for and control of nuclear material and a national system for the registration of licences for nuclear material, and to establish the necessary reporting and record keeping and requirements pursuant to the Safeguards Agreement, and Additional Protocol;

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(f) develop the necessary strategies for the implementation of the objectives of the Commission;

(g) advise the Commission on any matter it may refer or on any matter which is considered necessary or expedient; and any such duties as the Commission may assign from time to time;

(h) provide technical advise to the Minister or other governmental entities; and

(i) conduct any other functions that are deemed necessary by the Commission, to protect people and the environment of Malta.

(4) Without prejudice to the other provisions of this Act and to any regulations made thereunder, the Secretariat shall, following consultation with the Commission, adopt rules of procedure which shall regulate every stage of its operations.

(5) The Secretariat shall be responsible for keeping the proceedings referred to in article 12(3) and also a register wherein the findings and rulings of the Secretariat shall be entered.

Composition of the Secretariat.

13. (1) The Minister shall appoint a person to act as the Executive Secretary of the Secretariat, who shall be responsible for the proper and efficient organization of the Secretariat.

(2) The Executive Secretary of the Secretariat shall hold office for a period of three years and may be re-appointed on the expiry of the term:

Provided that the Executive Secretary shall remain in office on completion of the term until the Minister formally informs the Executive Secretary of the appointment of a substitute.

(3) The Executive Secretary shall appoint public officers and other employees as officers of the Secretariat on such terms and conditions as approved by the Commission.

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(4) For the purposes of the Criminal Code and of any provision of a penal nature in any other law, the members of the Commission, officers and employees of the Secretariat, shall be deemed to be public officers.

(5) An officer of the Secretariat shall be issued with means of proper identification signed by the Executive Secretary, and such document shall be produced at the time of any examination,

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investigation or inspection:

Provided that the Executive Secretary shall be deemed to be an officer, and the document of identification as an officer shall be signed by the Chairperson.

(6) Officers of the Secretariat shall have the following powers:

(a) to enter freely and without previous notice in any activity, facility, practice or any other place that is deemed to be carrying out the use of unlawful activities;

(b) to request the assistance of a member of the Police Force in the execution of the officer's duties;

(c) to question, alone or in the presence of witnesses, including the person, if such is the case, putting forward the complaint, any employer or worker, including any person acting on behalf of any employer or carrying out work for such employer, on any of the matters falling under this Act or under any regulations made thereunder;

(d) to inspect any document the keeping of which is prescribed by this Act or by any regulation made thereunder, or any book, document, design, plan, or list of technical specifications which may throw light with regard to ionising safety at any particular practice or activity;

(e) to take possession, upon giving receipt therefor, of any object required for tests or as evidence of any ionising radiation accident, injury or disease, or of any alleged violation of this Act or of any regulations made thereunder;

(f) to examine or see to the examination of any practice or activity and of any object therein, and to take samples for examination of any article, substance or material found in any workplace or within its curtilage for the purpose of radiation protection, and to ensure that such samples are preserved for use as evidence in any proceedings taken in accordance with this Act;

(g) to order that nothing be disturbed at a practice or activity for any period which may be reasonably required for the purpose of any examination, investigation or inspection referred to in the foregoing paragraphs;

(h) to require the operation or the setting in motion of any equipment, machine, device, thing or process, as well as the

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operation of any system or procedure which, in the opinion of the officer, may be relevant to any examination, investigation or inspection referred to in paragraphs (a) to (e);

(i) to require any undertaking to provide at the undertaking's expense:

(i) a certificate signed by suitably qualified persons with regard to the radiation safety of any building or structure, including any temporary structures;

(ii) a certificate signed by suitably qualified persons with regard to the radiation safety of any radiation producing equipment, as the case may be;

(iii) a certificate signed by a medical practitioner relating to the medical surveillance of any worker or any class of workers, which shall be presented to the Commission;

(iv) any information relative to radiation protection, including information which refers to protective measures;

(j) to require any undertaking, agent, manufacturer, importer, supplier, user or other person to provide at their expense any document, certificate or list of technical specifications in relation to any matter concerning radiation protection, the method of handling or use of any radiation producing equipment, machinery, article, substance or chemical which is used or intended to be used; and

(k) for the purposes of a prosecution for any offence under this Act, or for the purposes of any appeal to the Appeals Tribunal against an order by an officer, to disclose to the Court or to the Appeals Tribunal such results or information received or collected during the course of the investigations.

(7) No action, disciplinary or otherwise, or other proceeding for damages, shall lie or be instituted against the Executive Secretary, or against an officer for an act done or omitted to be done by them in good faith in the execution or intended execution of any power, right or duty under this Act or any regulation made thereunder.

Appeals Tribunal.

14. (1) There is hereby established a tribunal to be known as the Radiation Protection Appeals Tribunal, hereinafter referred to as "the Appeals Tribunal" to hear and decide upon appeals from any decision taken by the Secretariat.

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(2) Save as otherwise provided in this article, the Appeals Tribunal shall consist of a President of the Appeals Tribunal and two members who shall be appointed as follows:

(a) the President of the Appeals Tribunal shall be one of a panel of persons appointed by the Minister, being persons who are advocates of at least seven (7) years experience and such persons shall serve as President either in turn or in accordance with such distribution of duties, and subject to such provisions as to inability to serve and other circumstances, as the persons on the said panel may with the approval of the Prime Minister, establish;

(b) the other members of the Appeals Tribunal shall be selected by the President of the Appeals Tribunal from a list of persons who are neither advocates nor legal procurators, appointed by the Minister to serve as Members of the Appeals Tribunal as occasion may require.

(3) No member or officer of any Commission may be appointed on the Appeal's Tribunal.

(4) The names of persons appointed to serve as Presidents or as members of the Appeals Tribunal shall be notified in the Gazette.

(5) The Appeals Tribunal shall consist of the President and two members whenever the appeal concerns:

(a) an order relating to the barring in full of a workplace; or

(b) orders relating to the prohibition of use of any equipment, plant, or facility which, where the order to be implemented, would result in the cessation of all work activities; or

(c) appeals by third parties that would involve the barring in full of a workplace or the cessation of all work activities.

(6) Saving the provisions of sub-article (5), the Appeals Tribunal shall consist of the President alone provided that each one of the parties may request that the appeal be heard by an Appeals Tribunal made up of the President and two members, and such requests shall be decided by the President alone during the preliminary stages of the appeal as may be prescribed by regulations which the Minister may make by virtue of sub-article (11).

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(7) The President shall have the right to administer the oath and examine witnesses.

(8) The Appeals Tribunal shall have the right to seek expert advice as it may deem fit.

(9) The Minister may from time to time vary the composition of the lists as provided in this article, but a person actually serving as a member of the Appeals Tribunal shall, notwithstanding the removal of one's name from the panel, continue to serve in the proceedings as a member until the conclusion of those proceedings and for the purpose of the interpretation of any decision given therein:

Provided that in the case of the death or other impossibility of such member to continue hearing such a case, another person shall be subrogated from the existing panel to hear the case.

(10) The Minister shall also appoint a person to act as secretary of the Appeals Tribunal.

(11) The Minister may make regulations prescribing the procedure to be used for an appeal to be made to the Secretary of the Appeals Tribunal and to regulate the procedure to be used by the Appeals Tribunal.

Part IV - Notification, authorization, inspection, enforcement and penalties

Notification.

15. (1) Any person who intends to adopt or introduce, conduct, discontinue or cease to operate a practice or work activity involving the use of ionising radiation, as well as design, manufacture, construct or assemble, acquire, import or export, distribute, sell, loan or hire, possess, locate, commission, use and operate, maintain or repair, transfer or decommission, disassemble, transport, store or dispose of radioactive material, as applicable, within a practice or work activity, shall submit to the Secretariat a formal written notification of the intention to do so giving all information required within the time limits required by the Secretariat.

(2) Any person who intends to adopt or introduce, conduct, discontinue or cease to operate a practice or work activity involving the use of non-ionising radiation that requires notification as specified by the Commission by virtue of article 4(5) shall submit to the Secretariat a formal written notification of the intention to do so giving all information required within the time limits required by the Secretariat.

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(3) On submission of a formal written notification or a formal request of authorization, where appropriate the Secretariat may request a security bond:

Provided that the Secretariat must state in writing the reasons why it considered the necessity to impose such bond and the process of quantification of such bond.

Authorization.

16. (1) No activity shall be introduced, implemented, ceased or stopped, and no source shall be designed, produced, built or assembled, purchased, imported or exported, distributed, sold, borrowed or leased, possessed, located, put in operation, used or operated, maintained or repaired, transferred, transported or decommissioned, disassembled, stored or finally disposed, if not in line with relevant provisions on safety of radiation sources and, or other requirements established by this Act.

(2) Without prejudice to the provisions of sub-article (1), the prohibition of action shall be in effect until radiation exposure, or non-ionising emittance from such an operation or source, is excluded from the contents of the relevant regulation, or until the Secretariat excludes such an operation or source from the regulatory control, including notification and authorization requests.

(3) Without prejudice to the provisions of sub-articles (1) and (2), it shall be unlawful to possess a radiation source or perform a practice involving an ionising radiation source without an authorization from the Secretariat.

(4) Without prejudice to the provisions of sub-article (2) it shall be unlawful to possess a non-ionising radiation source as specified by the Commission by virtue of article 4(5) or perform a practice involving such sources without an authorization from the Secretariat:

Provided that the Secretariat may issue staged authorizations. In such cases, before the issuance of a staged authorization, each preceding and completed stage shall be subject to full review and assessment.

Suspension, modification, revocation of licence or authorization.

17. Any licence or authorization issued pursuant to this Act may be suspended, modified or revoked by the Secretariat in the event of a violation of its conditions, when the conditions under which it was issued are no longer met, or in any circumstance where the Secretariat determines that continued activity under the licence or authorization would pose an unacceptable risk to people or the environment.

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Primary responsibility.

18. (1) Any person or entity licenced or authorized to conduct an activity or practice shall have the primary responsibility for the safe and secure conduct of that activity or practice and for ensuring compliance with this Act and all applicable regulatory requirements and conditions of the licence or authorization related to that activity or practice.

(2) A license holder shall be liable for safe management of radioactive waste resulting from the practice involving the radioactive source.

Enforcement.

19. (1) The Secretariat shall have the authority to conduct announced and unannounced inspections and to carry out any other such examination as may be necessary to verify compliance with the provisions of this Act, applicable regulations and any applicable conditions of licences or authorizations.

(2) For cases representing an immediate safety or security hazard to people or the environment, the Secretariat may require the person or entity subject to enforcement action to suspend its activities, or parts thereof until the situation has been corrected. In such cases, the Secretariat may also suspend, revoke or modify the terms and conditions of the licence or authorization.

(3) In cases of persistent or extremely serious non-compliance with or violation of the terms and conditions of an authorization or a licence or in cases of significant release of radioactive material into the environment, the Secretariat may revoke the authorization or licence and require the licensee to remedy any unsafe condition.

(4) No person may threaten, insult, molest or disturb inspectors in the performance of their duties, or knowingly give an officer false information, or break or tamper with any seal made, or with any monitoring equipment installed, put up or left by an officer in a work place or, in the case of personal monitoring equipment, on a worker.

Powers of the Secretariat.

20. (1) Any officer of the Secretariat may give an order, verbally or in writing, and every person shall obey such order forthwith until such time as it is revoked by the Secretariat or the Appeals Tribunal:

Provided that the person who receives the order, whether such person is a worker or an undertaking, may defend himself from the charge of having disobeyed the order if he proves that compliance with the order would have constituted a violation under this Act:

Provided further that any order given verbally shall be

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confirmed in writing and served upon the person to whom it was given within three working days.

(2) Any officer of the Secretariat may affix seals or use other means in order to ensure that any equipment cannot be operated, if ordered as such, until such a time that the order is revoked.

(3) Any officer of the Secretariat may order that a workplace or part of a workplace be condemned, and ordered to cease its operations therefrom, and may revoke any such order. When a workplace or part thereof is condemned according to the provisions of this sub-article, no person shall enter the condemned area without the Secretariat's written authorization.

(4) Any officer of the Secretariat when making an order in writing under this article, may affix in the workplace, or on any equipment, machine, apparatus, article or thing, a copy thereof, and no person except an officer authorized by the Secretariat shall remove such copy.

(5) Where any officer of the Secretariat makes an order in writing under this article, or issues a report of inspection to an undertaking or to a person in charge of work, the undertaking or person in charge of work shall forthwith cause a copy or copies thereof to be posted in a conspicuous place or places at the practice or activity where it is most likely to come to the attention of workers:

Provided that it shall also be at the discretion of the Secretariat, with the concurrence of the Commission, to publish such order in the Gazette, if it is such to safeguard the public interest.

(6) No pleas of breach of the right to a fair hearing shall be raised by the investigated party before the issuance of an order.

Penalties.

21. (1) Any person who fails to comply with the provisions of this Act, or any regulations made thereunder shall be guilty of an offence and shall be subject to the penalties established by this Act and any applicable regulations.

(2) Any person who acts in contravention of the provisions of articles 5, 6, 7, 8, 15, 16, 18, 19, 20, 25, 28, 34, 35, 37, 38, 39, 40, 45, 47, 49, 53, 54 or 55 or in contravention of any of the provisions of any regulations made under this Act, and any person who conspires or attempts, or aids, abets, counsels or procures any other person, to contravene the provisions aforementioned, shall be guilty of an offence against this Act.

(3) Any person who, in connection with any matter under this

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Act, or under any regulations made by virtue of this Act -

(a) furnishes any information which that person knows to be false in a particular detail, or recklessly furnishes any information which is false in a particular detail; or

(b) with intent to deceive, produce, furnish, send or otherwise make use of any document which is false in a particular detail; or

(c) wilfully refuses or without lawful excuse, the proof whereof shall lie on that person, withholds any material information; or

(d) knowingly or recklessly makes any incorrect statement or entry in any record or return or on any document kept or furnished under this Act or under any regulations made thereunder; or

(e) unlawfully refuses or fails to answer to the best of that person's knowledge any question made to him by an officer in the exercise of that officer's functions; or fails to co-operate fully with an officer in the pursuance of that officer's duties; or

(f) unlawfully refuses or fails to comply with any requirement duly provided under this Act or under any regulations made by virtue of this Act; or

(g) hinders an officer in the performance of that officer's duty under this Act or under any regulations made by virtue of this Act,

shall be guilty of an offence against this Act or regulations made by virtue of this Act.

(4) Except in the case of article 39, any person who commits an offence against this Act, or regulations made by virtue of this Act, shall, on conviction, be liable to imprisonment for a period of not more than two years or to a fine (*multa*) of not less than five hundred euro (€500) but not exceeding twelve thousand euro (€12,000), or to both such fine and imprisonment; and moreover the court may, at the request of the prosecution, cancel all or any licences, warrants or permits issued to or in the name of the person found guilty in connection with the workplace where the offence was committed:

Provided that no proceedings shall be taken against any person who, after receiving an intimation by the Commission for the payment of a penalty not exceeding five hundred euro (€500) for

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having contravened the provisions of this Act or of any regulations made by virtue of this Act, pays such penalty to the Commission in either case within fifteen days from the date of receipt of such intimation.

(5) Any person who commits an offence against article 39 or acts listed in articles 57 and 59 shall be punishable with imprisonment for a period of two (2) years but not exceeding five (5) years, and, or a fine (*multa*) not exceeding five hundred thousand euro (€500,000).

(6) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against this Act shall be taken before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, sitting as courts of criminal judicature. Cap. 9.

(7) In criminal proceedings instituted by the Police before the Court of Magistrates for an offence against the provisions of this Act, the Executive Secretary may assist the Police in the conduct of the prosecution and in the production of the evidence.

(8) The Executive Secretary or any officer deputed by him for the purposes of sub-article (5) may nevertheless be produced as a witness but should his evidence be required as part of the case for the prosecution, his evidence shall be heard before that of any other witness for the prosecution unless the necessity of his evidence arises subsequently.

(9) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal from any judgement given by the Courts of Magistrates (Malta) or by the Court of Magistrates (Gozo) in respect of proceedings for any offence against this Act or any regulations made by virtue of this Act. Cap. 9.

(10) The punishments provided in this Act shall apply unless the fact constitutes a more serious offence under the Criminal Code or any other law, in which case the provision of the Criminal Code or of such other law shall apply. Cap. 9.

(11) Notwithstanding the provisions of the Criminal Code proceedings for an offence under this Act may be commenced at any time within six years from the commission of the offence. Cap. 9.

22. Administrative remedial measures carried out by the Secretariat may include suspension, modification or revocation of a licence or authorization. Administrative remedial measures.

23. Any decision issued by the Secretariat, in terms of article Appeals.

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12, shall be subject to appeal on points of law and fact before the Appeals Tribunal:

Provided that any appeal on points of law shall be heard by the Court of Appeal (Civil Jurisdiction):

Provided further that any appeal from any decision referred to in article 12(5), which carries a criminal fine upon conviction, shall be subject to prosecution before the Criminal Court and subject to appeal before the Court of Appeal (Criminal Jurisdiction).

Part V - Radiation Protection

Establishment of legal requirements and regime of regulatory control.

24. (1) Without prejudice to the generality of articles 10 and 12, the Commission shall establish legal requirements and an appropriate regime of regulatory control for all exposure situations, reflecting a system of radiation protection based on the principles of justification, optimisation and limitation of exposure.

(2) The Commission shall set criteria to be met for different categories of persons involved in radiation protection activities covered by this Act or any regulations made under this Act.

Obligations of undertakings on radiation protection.

25. (1) All undertakings shall implement an appropriate radiation protection programme.

(2) Undertakings shall ensure that only workers who have undergone adequate radiation protection training, including the use of related equipment used in the course of their employment, shall carry out work with radiation sources or in radiation environments.

Part VI - Regulatory Control of Sources

Establishment of system of control on sources of radiation.

26. (1) The Secretariat shall establish a system of control over sources and equipment in which such sources are incorporated to ensure that they are safely managed and securely protected during their useful lives and at the end of their useful lives.

(2) Based on internationally recognized guidance, the Commission shall adopt a categorization of radioactive sources based on the potential injury to people and the environment that could result if such sources are not safely managed or securely protected.

Part VII - Environmental Monitoring

Environmental monitoring.

27. (1) The Commission shall ensure that a system for the routine monitoring of the environment, food, water, milk and animal feeds is in place.

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(2) The Secretariat shall collate results and distribute and, or publish the said results as required.

(3) Other governmental agencies or other technical support organisations shall provide all support necessary for the collection and testing of samples and for monitoring the environment.

Part VIII - Discharges of Radionuclides to the Environment

Function of Commission and Secretariat on discharges of radionuclides to the environment.

28. (1) The Commission shall establish requirements for discharges to the environment including exemption levels and clearance levels.

(2) Prior approval must be obtained from the Secretariat for discharges of radioactivity to the environment above clearance and, or exemption levels.

Issuance of discharge licenses.

29. The Secretariat shall issue discharge licences for any discharge activities it approves. Discharge licences shall specify activity limits and shall specify conditions.

Part IX - Emergency Response

Authorized party's emergency plans.

30. No licence to conduct an activity or practice, operate a facility, or possess or use a source may be granted unless and until an appropriate emergency preparedness and response plan has been developed by the applicant and reviewed by the Secretariat.

Establishment and maintenance of a national emergency plan.

31. A national emergency plan for responding to potential nuclear or radiological emergencies shall be developed and maintained by the Secretariat in conjunction with the Commission and approved by the Minister, after consultation with the Commission and other Ministers, if the Minister believes that their consultation is necessary to fulfill his functions under this Act.

Trans-frontier emergencies.

32. In the event of a nuclear or radiological emergency that poses a risk that radioactive contamination could spread beyond the territorial waters of Malta, the Commission shall immediately notify the International Atomic Energy Agency and the European Commission.

The Commission may also decide to notify to the International Atomic Energy Agency and the European Commission of other incidents it deems relevant:

Provided that the Secretariat shall serve as the point of contact for providing any information or assistance regarding nuclear or radiological emergencies under the terms of relevant international instruments, including the Convention on Early Notification of a

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Nuclear Accident and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency:

Provided further that, subject to the international conventions, including the Vienna Convention on Civil Liability for Nuclear Damage, the Commission in conjunction with the Secretariat shall be obliged to develop the state nuclear safety plan in the event of accidents in nuclear facilities in other countries, which can affect nuclear safety status in Malta.

Part X - Transport, Import and Export of Radioactive Material

Regulation of the transportation of radioactive material.

33. The Commission shall establish requirements for the transport of radioactive material to, from and within the jurisdiction of Malta after consultation with government entities responsible for transport and the import and export of goods.

Authorization for the transportation of radioactive material.

34. (1) No person or entity shall engage in the transport of radioactive material without appropriate authorization from the Secretariat.

(2) Any transport of radioactive material shall be carried out in compliance with the applicable national transport regulations and with the technical requirements of the Regulations for the Safe Transport of Radioactive Material of the International Atomic Energy Agency, and applicable requirements of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), the International Maritime Organisation (IMO) and the International Civil Aviation Organisation (ICAO), as amended from time to time.

Mandatory prior notification.

35. (1) No import or export of radioactive material is permitted prior to notification to the Secretariat.

(2) Upon notification the Secretariat will then approve or otherwise the import or export of radioactive material.

Part XI - Waste

National policy and strategy.

36. To ensure the safe and secure management of radioactive waste in Malta, the Commission in conjunction with the Secretariat shall maintain:

(a) a national policy and strategy for radioactive waste management;

(b) applicable safety and security requirements and regulations for the protection of people and the environment

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from adverse impacts of radioactive waste management activities.

37. The prime responsibility for ensuring the safety and security of radioactive waste inside or outside a radioactive waste facility throughout its life rests with the holder of the relevant authorization or licence: Prime responsibility upon authorization.

Provided that the responsibility for ensuring the safety and security of radioactive waste for which no undertaking or entity can be determined shall rest with the relevant body governing matters related to the disposal of radioactive waste.

38. The licensee who is in possession of the radioactive waste shall be responsible for financing the disposal of the waste. Responsibility for the financing of the disposal of waste.

39. The importation of radioactive waste is an offence under this Act and is punishable with imprisonment for a period of two (2) years but not exceeding five (5) years, and, or a fine (*multa*) not exceeding five hundred thousand euro (€500,000). Illicit importation of radioactive waste.

40. Radioactive waste generated within Malta may be exported only upon the issuance of an authorisation or a licence by the Secretariat and provided the obligations set in the Supervision and Control of Shipments of Radioactive Waste Regulations have been met. Export of radioactive waste is permitted upon authorization. S.L. 549.51

Part XII - Reduction of Existing or Unregulated Risks

41. The Commission shall ensure that existing exposure situations that have been identified are evaluated to determine which occupational exposures and public exposures are of concern from the point of view of radiation protection. Evaluation of exposures.

42. The Commission shall recommend to the Minister the justified remedial actions that need to be taken for the protection of the public and which ensure that protection and safety is optimized. Remedial actions.

43. The Commission shall collate information on levels of radon indoors and the associated health risks and, if appropriate, shall establish and implement an action plan for controlling public exposure due to radon indoors. Levels of radon.

44. The Commission shall establish reference levels for exposure due to radionuclides in commodities, and enforce requirements for the protection of workers in existing exposure situations. Exposure of radionuclides.

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Part XIII - Safeguards

Peaceful use of nuclear material.

45. Nuclear material in Malta shall be used exclusively for peaceful purposes and in accordance with relevant international obligations undertaken by Malta.

Verification of compliance.

46. To ensure compliance with the relevant commitments of Malta to the Safeguards Agreement and the Additional Protocol the Secretariat shall:

(a) verify the implementation of the obligations of Malta arising from Safeguards Agreement and the Additional Protocol;

(b) collect and provide to the European Atomic Energy Community and the International Atomic Energy Agency the information required to fully implement the Safeguards Agreement and the Additional Protocol; and

(c) facilitate access by European Atomic Energy Community and the International Atomic Energy Agency inspectors within the territory of Malta.

Cooperation in the application of safeguard measures.

47. All agencies of the Government of Malta and authorized or licensed persons and entities shall cooperate fully with the European Atomic Energy Community and the International Atomic Energy Agency in the application of safeguards measures, including by:

(a) promptly providing all necessary information under the Safeguards Agreement and the Additional Protocol;

(b) providing access to locations as required by the Safeguards Agreement and the Additional Protocol;

(c) providing support to the Commission, the Secretariat, the European Atomic Energy Community and the International Atomic Energy Agency inspectors in the performance of their tasks; and

(d) rendering to the Secretariat, the European Atomic Energy Community and the International Atomic Energy Agency inspectors all necessary services in connection with their inspections.

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48. Duly authorized representatives of the Secretariat and designated inspectors of the European Atomic Energy Community and the International Atomic Energy Agency shall have access to any location or facility as provided for under the Safeguards Agreement and any protocols thereto, with a view to conducting the verification activities authorized by these instruments.

Right of access of inspectors of the European Atomic Energy Community and the International Atomic Energy Agency and the Secretariat.

49. Any person performing activities subject to the Safeguards Agreement and any protocols thereto shall allow the Secretariat and duly designated inspectors of the European Atomic Energy Community and the International Atomic Energy Agency to carry out any measures the Secretariat or the European Atomic Energy Community and the International Atomic Energy Agency, respectively, consider necessary or appropriate for achieving compliance with the undertakings of Malta arising from the Safeguards Agreement and additional protocol.

Obligation of access.

50. The Commission shall be responsible for approving the designation to Malta of inspectors proposed by the European Atomic Energy Community and the International Atomic Energy Agency.

Approval of inspectors proposed by the European Atomic Energy Community and the International Energy Agency.

51. The Secretariat shall arrange with other governmental entities, as required, to ensure that any necessary permission(s), including visas, where required, are issued, in an expedited manner, to enable designated inspectors of the International Atomic Energy Agency to Malta to enter and remain in the territory of Malta for the purpose of carrying out their safeguards functions in accordance with the Safeguards Agreement and any protocols thereto.

Arrangements for safeguards functions in Malta.

52. The Commission shall ensure the effective implementation of safeguards in Malta by establishing and implementing:

Implementation of safeguards in Malta.

(a) a system for the measurement of nuclear material;

(b) procedures for carrying out physical inventories;

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

(d) procedures for ensuring that accounting procedures and arrangements are being operated correctly; and

(e) procedures for reporting to the International Atomic Energy Agency.

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Obligations of undertakings authorized to handle, use, or process nuclear material.

53. Undertakings authorized to possess, use, handle or process nuclear material subject to the Safeguards Agreement and any protocol thereto shall:

(a) maintain records as prescribed by the Secretariat;

(b) submit the prescribed reports to the Secretariat;

(c) give notice to the Secretariat of the import or export of nuclear material, as specified by the Secretariat;

(d) maintain physical protection and other security measures with respect to nuclear material, as specified by the Secretariat;

(e) without delay, report to the Secretariat any loss of nuclear material in excess of limits prescribed by the Commission;

(f) provide reports on planned future activities, as specified by the Commission;

(g) allow authorized representatives of the Secretariat and designated officials of the European Atomic Energy Community and the International Atomic Energy Agency to carry out, without hindrance, inspections at any facility or other location as provided for under this Act, the Safeguards Agreement or any protocol thereto.

Obligation of persons conducting research and development related to the nuclear cycle.

54. Any person intending to carry out research and development activities related to the nuclear fuel cycle, as defined in the Safeguards Agreement and any protocols thereto, shall provide to the Secretariat information on these activities prior to their commencement.

Obligation concerning submission of information to Secretariat.

55. Any undertaking performing activities subject to the Safeguards Agreement or any protocol thereto shall submit to the Secretariat the information and data necessary for compliance by Malta with the undertakings by Malta arising from this Act.

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Part XIV - Nuclear Security, Physical Protection and Illicit Trafficking

Functions of the Secretariat on the protection of nuclear and other radioactive material.

56. The Commission shall establish requirements for the physical protection of nuclear (and other radioactive) material, including:

(a) a categorization of nuclear (and other radioactive) material based on an assessment of the damage that could result from theft or diversion of a certain type and quantity of material from authorized uses, or from sabotage of a facility in which nuclear and other radioactive material is produced, processed, used, handled, stored or disposed of;

(b) protection measures necessary for different categories of material; and

(c) accounting and control measures for nuclear (and other radioactive) material.

Theft, robbery or unlawful possession of radioactive material.

57. In the event of theft, robbery or unlawful taking, or credible threat of unlawful taking, of nuclear (or other radioactive) material, the Secretariat shall take appropriate steps as soon as possible to inform other States or international organizations that may be affected of the circumstances of the incident.

Physical protection of nuclear materials.

58. The Secretariat shall be the central authority responsible for physical protection of nuclear material and for coordinating recovery and response in the event of any theft or unlawful taking of nuclear (or other radioactive) material.

Cooperation and assistance arrangements in the event of illicit possession of nuclear materials.

59. In the event of theft or any other unlawful taking of nuclear (or other radioactive) material, the Secretariat shall be responsible for determining the necessary cooperation and assistance arrangements in the recovery and protection of such material to be agreed with any State or international organization that so requests.

Provision of information on incidents involving the illicit possession of nuclear materials.

60. The Secretariat shall provide information on incidents involving the theft, robbery or any other unlawful taking of nuclear (or other radioactive) material, equipment and technology to the International Atomic Energy Agency under arrangements established by that Agency.

Part XV - Financial Provisions

Financial provisions.

61. (1) The Commission and the Secretariat shall be provided with adequate financial and human resources, through the national budget, to fulfil their responsibilities under this Act and applicable regulations.

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(2) The Commission may charge fees pursuant to article 10(2)(g):

Provided that any fees or fines collected by the Secretariat shall be paid to the Ministry for Finance.

(3) The Minister responsible for Finance may, after consultation with the Minister, make advances to the Commission of such sums as the Minister responsible for Finance may agree to be required by the Commission for carrying out any of its functions under this Act, and may make such advances on such terms and conditions as the Minister responsible for Finance may, after consultation as aforesaid, deem appropriate. Any such advance may be made by the Minister responsible for Finance out of the Consolidated Fund, and without further appropriation other than this Act, by warrant, authorising the Accountant General to make such advance.

(4) The Commission shall be responsible for developing its own budget and for presenting it to the Minister for approval.

(5) The Commission shall cause to be prepared, at the end of every financial year, a financial report recording the income and expenditure of the Commission and the Secretariat and the projected estimates of the income and expenditure of Commission and the Secretariat for the next following financial year:

Provided that the estimates of the Commission for the first financial year of the Commission shall be prepared and adopted within such time as Minister may, by notice in writing to the Commission, specify.

Part XVI - Final Provisions

Power to make regulations.

62. The Minister may make regulations generally so as to give effect to the provisions of this Act, and for the better carrying out of any of the provisions of this Act including regulations implementing all international legal instruments relating to ionising and non-ionising radiation, nuclear safety and security.

Language of regulations.

63. (1) Regulations made under any provision of this Act may be made in the English language only.

(2) In the event of conflict or incompatibility between the Maltese and English texts of any regulations made under this Act, the English language version shall prevail.

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Transitory provisions. S.L. 365.15

64. (1) Authorisations issued by virtue of the Nuclear Safety and Radiation Protection Regulations shall remain valid until their expiry date.

(2) All other existing regulations relating to the use of ionising radiation shall remain in force until they are expressly revoked.

Passed by the House of Representatives at Sitting No. 114 of the 21st May, 2018.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

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Ippubblikat mid-Dipartiment tal-Informazzjoni (doi.gov.mt) — Valletta — ***Published by the Department of Information (doi.gov.mt) — Valletta***
Mitbugħ fl-Istamperija tal-Gvern fuq karta FSC — ***Printed at the Government Printing Press on FSC certified paper***

Prezz/*Price*
€3.42