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CONTENTS

No.		Page
ACT		
7	Radiation Protection Agency Act, 2018	859
GOVERNMENT NOTICE		
45	Statement of Objects and Reasons of the Radiation Protection Agency Act, 2018	908

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ACT NO. 7 OF 2018

Radiation Protection Agency Act, 2018

ARRANGEMENT OF SECTIONS

PART I - PRELIMINARY

Sections

1. Short title and commencement
2. Interpretation
3. Exclusions and exemptions

PART II - RADIATION PROTECTION AGENCY

4. Establishment of Radiation Protection Agency
5. Objectives of the Agency
6. Functions of the Agency
7. Board
8. Tenure of office
9. Vacancy
10. Functions of the Board
11. Meetings of the Board
12. Allowances
13. Disclosure of interest

PART III - STAFF OF THE AGENCY

14. Appointment of Chief Executive Officer
15. Functions of the Chief Executive Officer
16. Employees of the Agency
17. Confidentiality

PART IV - AUTHORISATION

18. Licence
19. Renewal of licence
20. Change of circumstances
21. Modification, suspension or revocation of licence
22. Obligations of licensee

PART V - RADIATION PROTECTION

23. Radiation safety
24. Radiation protection requirements
25. Medical practices
26. Protection of patients
27. Protection of the public

PART VI - SAFETY AND SECURITY OF RADIOACTIVE SOURCES

28. Contractual arrangements
29. Recovery of orphan sources
30. Register

PART VII - RADIOACTIVE WASTE MANAGEMENT AND
DECOMMISSIONING OF RADIATION FACILITIES

31. Prohibition of importation of radioactive waste
32. Requirements for radioactive waste management
33. Responsibilities of the licensee in radioactive waste management
34. Decommissioning plan
35. Responsibilities of the licensee in decommissioning
36. Financing of decommissioning

PART VIII - EMERGENCY PREPAREDNESS AND RESPONSE

37. Emergency preparedness plans
38. National plan for nuclear or radiological emergencies
39. Transboundary emergencies

PART IX - TRANSPORT OF RADIOACTIVE MATERIAL

40. Regulation of the transport of radioactive material

PART X - SAFEGUARDS

41. Prohibition of non-peaceful uses of nuclear material
42. Prohibition of nuclear weapons and explosive devices

PART XI - EXTRACTION, MINING AND MILLING OF
RADIOACTIVE MATERIAL

- 43. Mining and milling
- 44. Licence for mining of radioactive materials
- 45. Responsibilities of licensee

* PART XII - NUCLEAR SECURITY, PHYSICAL
PROTECTION AND ILLICIT TRAFFICKING

- 46. Physical protection
- 47. Duties of the licensees on physical protection
- 48. International co-operation and assistance
- 49. Protection of confidential information

PART XIII - INSPECTION AND ENFORCEMENT

- 50. Appointment of inspectors
- 51. Powers and duties of inspectors
- 52. General penalty
- 53. Forfeiture

PART XIV - FINANCIAL PROVISIONS

- 54. Establishment of the Radiation Protection Fund
- 55. Revenue of the Agency
- 56. Borrowing powers
- 57. Accounts, audit and annual reports

PART XV - RADIATION PROTECTION TRIBUNAL

- 58. Establishment of the Radiation Protection Tribunal
- 59. Sittings of the Tribunal
- 60. Sitting allowances
- 61. Proceedings of the Tribunal
- 62. Appeals to the Tribunal

ACT NO. 7 OF 2018

Radiation Protection Agency Act, 2018

An Act to provide for the establishment of the Radiation Protection Agency; beneficial and peaceful uses of nuclear energy; protection of human health and the environment against harmful effects of ionizing radiation; safety and security of radiation sources and incidental matters.

Enacted by the Parliament of Lesotho.

PART 1 - PRELIMINARY

Short title and commencement

1. This Act may be cited as the Radiation Protection Agency Act, 2018 and shall come into operation on such a date as the Minister may, by notice published in the Gazette, appoint.

Interpretation

2. In this Act, unless the context otherwise requires -

“activity” means the production and use of radiation sources for industrial, research, agriculture and medical purposes, the transportation of radioactive material, the siting, construction, commissioning, operation, and decommissioning of facilities; radioactive waste management; mining and milling of radioactive ores and site rehabilitation;

“accident” means an unintended event, including operating errors, equipment failure or other mishap, the consequences or potential consequences of which are not negligible from the point of view of protection or safety;

“Additional Protocol” means the Protocol Additional to the Agreement between Lesotho and the International Atomic Energy Agency for the Application of Safeguards in connection with the Treaty on Non-Proliferation of Nuclear Weapons;

“Agency” means the Radiation Protection Agency established under section 4;

“Board” means the Board of Directors established under section 7;

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

“dose limit” means the value of the effective dose or the equivalent dose to individuals from controlled practices that must not be exceeded;

“exclusion” means the deliberate exclusion of a particular category of exposure from the scope of the Act on the grounds that the exposure or potential exposure is not amenable to regulatory control;

“exemption” means the release of a radiation source, activity or practice from some or all requirements of regulatory control on the grounds that the exposure or potential exposure is -

- (a) too small to warrant application of the requirements of regulatory control from which a radiation source, activity or practice is released;
- (b) low and the risk is irrelevant when assessed against the cost of achieving protection through regulatory control.

“export” means the physical transfer of radioactive material, radioactive sources, radiation sources, radioactive waste or related equipment from Lesotho;

“exposure” means any act or condition of being subjected to radiation;

“facility” means a mine, radioactive waste management facility or other place where radioactive material is produced, processed, handled, stored or disposed of;

“Fund” means the Radiation Protection Fund established under section 54;

“import” means the physical transfer of radioactive material, radioactive

sources, radiation sources or related equipment into Lesotho;

“inspector” means a person appointed as an inspector under section 50;

“ionizing radiation” means radiation capable of producing ion pairs in a biological material;

“licence” means a legal document issued by the Agency under this Act;

“licensee” means the natural or juristic person who holds a licence granted under this Act;

“medical practitioner” means a medical practitioner registered under the Medical, Dental and Pharmacy Order, 1970¹;

“member” means a member of the Board;

“Minister” means the Minister responsible for the environment;

“Ministry” means the Ministry responsible for the environment;

“nuclear material” means any source or any special fissionable material, but does not apply to ore or ore residue;

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

“personnel radiation dosimetry service” means the workplace monitoring of staff to measure their exposure to ionizing radiation;

“physical protection” means measures that are designed to deny unauthorised access to nuclear facilities or material, equipment and resources, and to protect personnel and property from damage or harm;

“practice” means any human activity that introduces additional sources of exposure or exposure pathways or extends exposure to additional people from an existing source, so as to increase the exposure or the likelihood of exposure of people or the number of people exposed;

“prescribed” means set out in the regulations;

“Radiation Protection Officer” means a person appointed as such under section 22(2);

“radiation source” means a radiation generator or other radioactive material outside the nuclear fuel cycles of research and power reactors;

“radioactive material” means a substance that contains one or more radio-nuclides of which the activity or concentration cannot be disregarded as far as radiation protection is concerned;

“radioactive source” means radioactive material that is permanently sealed in a capsule or closely bonded in a solid form and any radioactive material released through the breakage or leaking of the source but does not include nuclear material or material encapsulated for disposal;

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

- (i) 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
- (ii) exposure to which is not excluded under the applicable regulations;

“Safeguards Agreement” means the Agreement between the Kingdom of Lesotho and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons;

“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;

“security” means the prevention and detection of, and response to, theft, sabotage, unauthorised access, illegal transfer or other malicious acts

involving nuclear or other radioactive material, or their associated facilities;

“transport” means the conveyance of radioactive material by -

- (a) a vessel or boat within the territorial water ways of Lesotho;
- (b) an aircraft within the airspace of Lesotho; or
- (c) means of land transport within the territory of Lesotho; and

“Tribunal” means the Radiation Protection Tribunal established under section 58.

Exclusions and exemptions

3. (1) The Minister may, on the advice of the Agency, by notice published in the Gazette, exclude certain exposures from the application of this Act.

(2) The Minister may, on the advice of the Agency, by notice published in the Gazette, exempt low risk radiation sources from the provisions of this Act.

PART II - RADIATION PROTECTION AGENCY

Establishment of Radiation Protection Agency

4. (1) There is established a body to be known as the Radiation Protection Agency.

(2) The Agency is a body corporate with perpetual succession and a common seal and is capable of -

- (a) suing and being sued in its own name;
- (b) holding, purchasing or otherwise acquiring and disposing of any moveable or immovable property for purposes of or in the course of carrying out its functions;

- (c) doing or performing all such acts as are necessary or incidental to the performance of its functions; and
- (d) doing or performing all such acts as a body corporate may by law do or perform.

(3) The seal of the Agency shall be kept in the custody of the Chief Executive Officer.

(4) The affixing of the seal shall be authenticated by the signature of the Chairperson of the Board or such other member authorised by the Board to act for that purpose.

Objectives of the Agency

5. The objectives of the Agency are to -

- (a) ensure that radiation sources and other radioactive materials are used exclusively for beneficial and peaceful purposes; and
- (b) provide for protection of human health and the environment against harmful effects of radiation hazards.

Functions of the Agency

6. The functions of the Agency are to -

- (a) regulate activities and practices involving ionizing radiation;
- (b) maintain a personnel radiation dosimetry service;)
- (c) advise the Government on the development of policies related to activities and practices regulated under this Act;
- (d) issue, amend, suspend or revoke licences and set licence conditions for activities and practices involving ionizing

- radiation;
- (e) inspect, monitor and assess activities and practices to verify their compliance with -
 - (i) this Act;
 - (ii) the regulations made under this Act; and
 - (iii) the terms and conditions of a licence;
 - (f) take enforcement measures in the event of non-compliance with this Act;
 - (g) issue licences to Radiation Protection Officers;
 - (h) establish and maintain a national register of licences and radiation sources based on the categorisation of sources;
 - (i) develop safety principles, criteria and guidelines upon which its regulatory decisions and actions are based;
 - (j) exchange information and cooperate with regulatory bodies in other States and with relevant international organizations concerning matters arising from the exercise of its functions;
 - (k) through the Ministry, cooperate with the International Atomic Energy Agency;
 - (l) establish and maintain systems for tracking inventories and movement of, accounting for, and control of, nuclear material;
 - (m) establish a system for the registration of licenses for radioactive material;
 - (n) establish the necessary reporting and record keeping systems;

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- (o) establish such other systems as may be required under the Safeguards Agreement and Additional Protocols;
- (p) facilitate the conducting of inspections by inspectors of the International Atomic Energy Agency;
- (q) collect, collate and provide information to the Minister;
- (r) regulate the export and import of nuclear and other radioactive material, radiation sources and equipment, in consultation with relevant line Ministries;
- (s) report to the Ministry responsible for security any activity that constitutes a threat for the variety of radioactive materials within the country;
- (t) establish measures for the security of radioactive material and their associated facilities including measures to prevent, detect and to respond to unlicensed or malicious acts involving such material or facilities;
- (u) raise public awareness on nuclear and radiation matters;
- (v) inform the government authorities, the public and other stakeholders about the regulatory process and the safety, health and environmental aspects of regulated activities and practices, including incidents, accidents and abnormal occurrences;
- (w) protect information contained in the national register of radiation sources to ensure the safety and security of these sources;
- (x) establish plans and procedures for coping with a radiological emergency or abnormal occurrence involving a nuclear material, radiation source or other radioactive material;
- (y) provide emergency responses to radiological incidents and accidents;

Nuclear

- (z) ensure that a licensee provides training, information and guidance on nuclear safety, security and safeguards and on radiation protection to employees and to the public;
- (aa) collaborate with the Ministry to identify activities and practices that may require environmental impact assessment and develop guidelines for those activities and practices;
- (bb) establish a process or mechanism for the addition or removal of a facility, practice or activity from regulatory control;
- x14b (cc) impose an administrative penalty on a licensee, including a prohibition or confiscation of the nuclear and radioactive material or equipment and its source, for non-compliance with this Act, regulations made under this Act, or the terms and conditions of the licence;
- (dd) collect fees for licences granted under this Act and for services provided under this Act and regulations made under this Act;
- (ee) establish, in collaboration with the Agency responsible for the collection of revenue, a control system for the import and export of nuclear material, radiation sources and other controlled items;
- (ff) establish a procedure for assisting the Minister in reporting to the International Atomic Energy Agency in accordance with this Act and relevant international agreements to which Lesotho is a party;
- (gg) establish a radioactive waste collection and disposal center;
- (hh) establish a metrology and calibration service and a secondary standards dosimetry laboratory;
- (ii) establish procedures for conducting monitoring for

public exposure to ionizing radiation; and

- (jj) do anything necessary for the implementation of this Act.

Board (*पञ्चायत*)

7. (1) There is established a Board, which is the governing body of the Agency.

(2) The Board shall consist of -

- * (a) the Principal Secretary of the Ministry, who shall be the chairperson; and
- (b) four other members, appointed by the Minister through a competitive process, as follows -
 - (i) one person who has relevant knowledge, training and experience in financial matters;
 - (ii) one person who has relevant knowledge, training and experience in radiology;
 - (iii) one person who has relevant knowledge, training and experience in nuclear science or technology; and
 - (iv) one person who has relevant knowledge, training and experience in corporate law.

(3) A person shall not be appointed to or continue to act as a member of the Board if the person -

- (a) has been convicted of an offence involving fraud or dishonesty by a competent court of law;
- (b) is in a position of material conflict of interest between his duties as a member and his business interests;

- (c) has been declared insolvent or bankrupt under any law in any country and has not been rehabilitated;
- (d) knowingly fails to declare a conflict of interest relating to a matter under consideration by the Board; or
- (e) accepts or continues to hold office or employment with the Agency.

(4) The Minister shall, by notice published in the Gazette, notify of the appointment of a member.

Tenure of office

8. (1) A member referred to under section 7(2)(b) shall hold office for a period of three years from the date of appointment and may be reappointed for one term.

(2) A member appointed in terms of section 7(2)(b) may resign from office by giving one month notice, in writing, to the Minister.

(3) The Minister may terminate the appointment of a member -

- (a) if the member is unable to exercise the functions of his office due to infirmity of mind or body;
- (b) has been absent, without leave of the Board, from three consecutive meetings of the Board;
- (c) if the member is convicted of an offence and is sentenced to imprisonment without the option of a fine; or
- (d) has been declared insolvent or bankrupt under any law in any country and has not been rehabilitated.

Vacancy

9. If a member dies, resigns or otherwise vacates office before expiry of his term of office, the Minister shall appoint another person in accordance with sections 7(2) (b) and 8(1).

Functions of the Board

10. The functions of the Board shall be to -
- (a) ensure the proper management of the resources of the Agency; and
 - (b) oversee implementation of this Act and its regulations.

Meetings of the Board

11. (1) The Board shall meet at least four times a year and whenever the business of the Board requires.
- (2) Three members of the Board shall form a quorum at a meeting of the Board.
- (3) The Chairperson shall preside at all meetings of the Board and, in his absence, the Board shall elect a presiding officer from among its members.
- (4) A question before the Board at a meeting shall be decided by the majority of the members present and voting and, in the event of an equality of votes, the Chairperson or the person presiding shall have a casting vote.
- (5) The Board may invite or co-opt any person to attend and participate in the discussions of the Board, but that person shall not have a right to vote.
- (6) The Board may determine its rules of procedure.
- (7) The Secretary shall keep the minutes of the proceedings of the Board.

Allowances

12. A member of the Board shall be paid such allowances as the Minister may, on the advice of the Minister responsible for finance, determine.

Disclosure of interest

13. (1) At a meeting of the Board a member who is directly or indirectly interested in a matter that is to be discussed -
- (a) shall immediately upon the commencement of the meeting, or becoming aware of the interest, disclose such interest; and
 - (b) shall not take part in the discussion or vote on the matter being discussed.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding M100,000.00 or to imprisonment for a term not exceeding 2 years or both.

PART III - STAFF OF THE AGENCY**Appointment of Chief Executive Officer**

14. (1) There shall be a Chief Executive Officer of the Agency who shall be appointed by the Board on merit and shall be secretary to the Board.
- (2) The Chief Executive Officer shall -
- (a) hold office for a period of five years and may be reappointed for one term; and
 - (b) have such qualifications, training and experience as the Board shall prescribe.
- (3) The Chief Executive Officer shall cease to hold office if -
- (a) he resigns;
 - (b) he is removed from office by the Board for any of the following reasons -
 - (i) he is unable to exercise the functions of his office due to infirmity of mind or body as

assessed and certified by a registered medical practitioner;

- (ii) he has been absent, without leave of the Board, from two consecutive meetings of the Board;
- (iii) gross misconduct as assessed by a competent authority;
- (iv) he is convicted of an offence and is sentenced to imprisonment without the option of a fine; or
- (v) he has been declared insolvent or bankrupt under any law in any country and has not been rehabilitated.

Functions of Chief Executive Officer

15. The Chief Executive Officer shall be responsible for the overall management and administration of the Agency.

Employees of the Agency

16. (1) The Board shall, on the advice of the Chief Executive Officer, appoint employees of the Agency and determine their terms and conditions of service.

(2) Public officers may be seconded to the Agency on such terms and conditions as the Board may determine.

(3) The Agency shall pay to its officers and employees such remuneration and allowances as the Board shall determine.

(4) The Agency may, from time to time, engage such technical or other consultants as the Board considers necessary to advise it in respect of any matter or issue in connection with the exercise of its functions under this Act.

Confidentiality

17. (1) A member of the Board, a staff member of the Agency or any

person assisting the Agency shall observe and preserve any information deemed confidential coming before the Board and the Agency and such confidentiality shall subsist after the termination of his term of office or expert mandate.

(2) A person to whom confidential information is revealed through working with the Agency shall not disclose that information to any other person unless he is required to do so by law.

(3) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding M100,000.00 or to imprisonment for a term not exceeding 2 years or both.

PART IV - AUTHORISATION

Licence

18. (1) A person shall not -

- (a) carry out an activity or practice involving ionizing radiation;
- * (b) import a radiation source, radioactive source or nuclear material; or
- (c) export a radiation source, radioactive source or nuclear material, unless he is issued a licence by the Agency, unless the activity is removed from regulatory control in accordance with section 6(bb) or the activity is exempt from the provisions of this Act.

(2) A person who applies for a licence under this section shall make an application in a prescribed form and -

- (a) make and submit to the Agency a safety assessment of the likelihood, nature and magnitude of the exposure attributable to radiation or radioactive sources and of all necessary steps to be taken for the protection and safety of human health and the environment;
- (b) furnish adequate information regarding the benefits to

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the exposed persons and the environment;

- (c) prepare and submit an emergency preparedness and response plan to the Agency;
- (d) furnish any additional information that the Agency may consider necessary; and
- (e) pay the prescribed fee.

(3) On receipt of an application under subsection (2), the Agency may, in order to ascertain whether the applicant is a proper person to be granted a licence, make such inquiry and consult such persons or authorities as it may consider appropriate.

(4) Where a person applies for a licence under subsection (1)(c), the Agency shall satisfy itself that the importing state has the appropriate technical capability, resources and regulatory structure for the safe and secure handling of the requested nuclear material, radiation source or radioactive material.

(5) The Agency shall, where it is satisfied that an application meets the requirements under this section, issue a licence to the applicant.

(6) A licence issued under this section -

- (a) shall be valid for a period of twelve months from the date of issue and may be renewed in accordance with section 19;
- (b) shall be subject to such conditions as may be specified by the Agency; and
- (c) is not transferrable.

(7) A licensee may surrender a licence issued under this section upon notice to and approval by the Agency, on the condition that the surrender will not jeopardise human health and the environment.

(8) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding M20,000,000.00 or to imprison-

ment for a term not exceeding 10 years, or both.

Renewal of licence

19. (1) A person who wishes to renew a licence issued under section 18 shall make a written application to the Agency in such form and within such period as may be prescribed by regulations.

(2) Upon receipt of an application under subsection (1), the Agency may require the applicant to comply with the requirements of section 18.

(3) Where the Agency renews a licence, it may impose such terms and conditions as it considers necessary.

(4) A licence shall not be renewed under this section unless the applicant pays a prescribed fee.

Change of circumstances

20. A new application for a licence shall be required in the case of -

- (a) the proposed use of different or significantly modified premises or sources;
- (b) the proposed use of different radioactive materials;
- (c) a change taking place at the premises or their surroundings which is likely to affect radiation protection, safety and security requirements; or
- (d) the incapacity, dissolution or death of a licensee.

Modification, suspension or revocation of licence

21. (1) A licensee under this Act may make a written application to the Agency to modify or vary the terms and conditions of his licence, and the Agency may agree to the request subject to such terms and conditions as it considers appropriate.

(2) The Agency may suspend, revoke, modify or vary a licence

where it is satisfied that -

- (a) the licensee has contravened this Act, the regulations made under this Act or a term or condition of the licence;
- (b) the licensee has ceased to operate;
- (c) the licensee gave information to the Agency which is false or misleading, at the time of applying for a licence; or
- (d) there is imminent and significant risk of affecting human health and the environment.

(3) Where the Agency intends to suspend, revoke, modify or vary the terms of a licence pursuant to subsections (1) or (2), it shall notify the licensee of its intention to do so, and shall give its reasons for the decision.

(4) The Agency shall, in the notice referred to in subsection (3), require the licensee to show cause in writing, within such time as may be specified in the notice, as to why the licence should not be suspended, revoked, modified or varied.

(5) The Agency shall, after considering the explanations of the licensee under subsection (4), make a decision and inform the licensee in writing within 14 days of the decision and the reasons for the decision.

(6) Where there is imminent and significant risk of affecting human health and the environment the Agency may immediately suspend or revoke a licence.

(7) Where a licence is suspended or revoked -

- (a) the licensee shall take such steps as may be directed by the Agency; and
- (b) the Agency may cause seals to be affixed, at the licensee premises or site, to any facilities or equipment emitting ionizing radiation or to any radioactive material for which the licence was issued, in such a way that the

facilities or equipment are incapable of being used without the seals affixed to them being broken.

Obligations of licensee

22. (1) A licensee under this Act shall -
- (a) not transfer a right or an obligation under the licence to another person;
 - (b) have a primary responsibility for the safe and secure conduct of the activity or practice in compliance with this Act and the regulations made under this Act;
 - (c) take measures as set out in the regulations, including financial arrangements, to handle and finally dispose of radioactive waste arising from the licensed activity or practice in a safe manner;
 - (d) put in place measures as set out in the regulations, including financial arrangements, for the decommissioning and dismantling of facilities in which the licensed activity or practice is conducted;
 - (e) ensure that persons employed for purposes of the licensed activity or practice and the public are protected from harmful effects of ionizing radiation;
 - (f) comply with terms and conditions of a licence;
 - (g) ensure that radiation doses to the public, the number of persons exposed and persons employed for purposes of the activity or practice are within prescribed limits;
 - (h) ensure that radiation doses are not released into the environment;
 - (i) before the cessation of the licensed activity or practice, inform the Agency of his decision to cease the activity or practice;

- (j) keep records of his activities and make them available for inspection as required; and
- (k) provide -
 - (i) information to the Agency as required under this Act; and
 - (ii) the Agency access to his premises for purposes of inspection by the Inspector.

(2) A licensee shall appoint a licenced Radiation Protection Officer, who shall be a person technically competent in radiation protection matters relevant for a given type of activity or practice, to oversee the application of ionizing radiation.

(3) A person who contravenes the provisions of this section commits an offence and is liable, on conviction, to a fine not exceeding M30,000,000.00 or to imprisonment for a term not exceeding 15 years or both.

PART V - RADIATION PROTECTION

Radiation safety

23. (1) The Agency shall establish guidelines for the protection of human health and the environment against exposure to ionizing radiation.

→ (2) The Agency shall prescribe dose limits for conducting activities under this Act.

(3) The Minister shall identify and publish, in the Gazette, sources or practices to be exempted from regulatory control based on the following criteria -

- (a) that the radiation risk for persons is sufficiently low;
- (b) that the collective radiological impact is sufficiently low;
or
- (c) that the source or practice is considered to be inherently

safe.

Radiation protection requirements

24. The Agency shall establish requirements for radiation protection that must be met before an activity can be licensed.

Medical practices

25. (1) A person shall not apply a medical diagnosis or therapy which uses radioactive material or any radiation sources on a patient unless the person is licensed by the Agency to do so.

(2) A person who wishes to apply a medical diagnosis or therapy which uses radioactive material or any radiation sources on a patient shall submit an application in a prescribed form to the Agency.

(3) The application made pursuant to subsection (2) shall be accompanied by the prescribed fee.

(4) Where the Agency is satisfied with the requirements of the application, the Agency shall issue a licence on such terms and conditions as the Agency may consider necessary.

(5) Where the Agency refuses to issue a licence under this section, the Agency shall inform the applicant in writing of the reasons for the refusal.

(6) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding M500,000.00 or to imprisonment for a term not exceeding 5 years or both.

Protection of patients

26. (1) A person licensed to apply a medical procedure shall not administer a patient with diagnostic or therapeutic exposure unless the exposure is prescribed by a registered medical practitioner.

(2) A person performing or overseeing the radiological procedure referred to in subsection (1) shall be responsible for ensuring the overall protection and safety of patients.

(3) A person who contravenes subsections (1) and (2) commits an offence and is liable, on conviction, to a fine not exceeding M500,000.00 or to imprisonment for a term not exceeding 5 years or both.

Protection of the public

27. (1) A licensee licensed to apply a medical procedure shall take appropriate or necessary measures to protect the public from radiation exposure.

(2) A licensee who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding M30,000,000.00 or to imprisonment for a term not exceeding 15 years or both.

PART VI - SAFETY AND SECURITY OF RADIOACTIVE SOURCES

Contractual arrangements

28. A licensee shall, before the import of a radioactive source, radioactive material or radiation source, enter into a contractual arrangement with the supplier of the source or such disposal facility approved by the Agency for the eventual return of the disused source.

Recovery of orphan sources

29. (1) The Agency shall be responsible for the recovery of orphan sources.

(2) The licensee shall promptly report to the Agency any loss of control over radioactive sources, or any other situation or incident in connection with a radioactive source, that may pose a significant risk of radiological injury to persons or substantial damage to property or the environment.

(3) A licensee who contravenes the provisions of subsection (2) commits an offence and is liable, on conviction, to a fine not exceeding M30,000,000.00 or to imprisonment for a term not exceeding 15 years or both.

Register

30. The Agency shall keep and maintain a register of -

- (a) applications received;
- (b) licences issued;
- (c) radioactive sources and radioactive material for which a licence has been -
 - (i) granted or denied;
 - (ii) suspended or revoked;
- (d) recovered orphan sources; and
- (e) records confirming completion of decommissioning activities in line with the decommissioning plan as referred to in section 34.

PART VII - RADIOACTIVE WASTE MANAGEMENT AND DECOMMISSIONING OF RADIATION FACILITIES

Prohibition of importation of radioactive waste

31. (1) A person shall not import radioactive waste into Lesotho.

(2) A person who contravenes the provisions of this section commits an offence and is liable, on conviction, to a fine not exceeding M100,000,000.00 or to imprisonment for a term not exceeding 30 years or both.

Requirements for radioactive waste management

32. (1) A person shall not store, condition, transport, dispose of or export radioactive waste unless he is issued a licence to do so by the Agency.

(2) A licensee under this section shall store, condition, transport, dispose of or export radioactive waste in such manner as prescribed and approved by the Agency.

(3) The exporter of radioactive waste shall, before a licence is issued, produce to the Agency written confirmation from an appropriate authority of the receiving country that the radioactive waste may be exported to that coun-

try.

(4) The Agency shall apply the following criteria in determining whether to approve a license to export radioactive waste -

- (a) whether the importing State has been notified of the transfer of the radioactive waste prior to its export and has consented to such transfer;
- (b) whether movement of the exported material will be conducted in conformity with relevant international obligations in all states through which the radioactive waste will transit;
- (c) whether the importing state possesses the technical capacity and the regulatory structure needed to manage the exported radioactive waste in a manner that ensures its safety and security, consistent with relevant internationally recognised standards.

Responsibilities of the licensee in radioactive waste management

33. (1) The licensee shall, in carrying out radioactive waste management activities, take into account the following -

- (a) that the employees, the public and the environment are protected against radiological and other hazards;
- (b) that the generation of radioactive waste is kept to a minimum;
- (c) that the interdependency among the different steps in radioactive waste management are taken into account at all levels in accordance with the regulations and guidelines;
- (d) that protective measures for radioactive waste management in the country are implemented in accordance with international best practices;

- (e) that biological, chemical, physical and other hazards that may be associated with radioactive waste management are adequately addressed in accordance with the regulations and guidelines;
- (f) that critical waste removal or residual emissions generated during radioactive waste management are adequately addressed;
- (g) that undue burdens on future generations are avoided; and
- (h) that appropriate funding arrangements are in place.

(2) A person who contravenes the provisions of this section commits an offence and is liable, on conviction, to a fine not exceeding M30,000,000.00 or to imprisonment for a term not exceeding 15 years or both.

Decommissioning plan

34. (1) A person who wishes to apply for a licence to construct, operate or decommission a facility shall submit a decommissioning plan for approval by the Agency.

(2) A decommissioning plan shall -

- (a) be commensurate with the guidelines for the type and status of the facility and the hazards that may be associated with its decommissioning; and
- (b) in case of accidents, outline emergency procedures that will be followed during decommissioning.

(3) The Agency shall -

- (a) provide the relevant stakeholders with the opportunity to review and comment on the decommissioning plan prior to its approval; and
- (b) continue enforcing regulatory requirements during the

decommissioning phase.

- (4) A licensee under this section shall -
- (a) provide the Agency with -
 - (i) periodic reviews and updates of the decommissioning plan;
 - (ii) significant changes to the final decommissioning plan for approval by the Agency prior to the implementation phase of decommissioning activities; and
 - (iii) the final decommissioning plan for approval prior to the implementation phase of decommissioning activities; and
 - (b) keep records confirming completion of decommissioning activities in line with the decommissioning plan.

Responsibilities of the licensee in decommissioning

35. (1) A licensee under sections 36 and 37 shall -
- (a) ensure safety, security and environmental protection, including any activities conducted by contractors or subcontractors;
 - (b) prepare the safety and environmental impact assessments necessary for implementation of the decommissioning plan in accordance with the Environment Act, 2008²;
 - (c) keep a record of any modifications during the life time of the facility that may have an impact on decommissioning;
 - (d) in the case of deferred decommissioning, provide for measures to ascertain that the facility has been placed

and will be maintained in a safe configuration on terms and conditions imposed by the Agency;

- (e) provide supervisory and staffing resources to ensure that the decommissioning can be completed safely, including ascertaining that the responsible persons possess the necessary skills, expertise and training for safe decommissioning;
- (f) implement the approved emergency preparedness and response plan in accordance with section 18 and report significant incidents to the Agency; and
- (g) provide adequate financial arrangements for all stages of the decommissioning process.

(2) A person who contravenes the provisions of subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding M100,000,000.00 or to imprisonment for a term not exceeding 30 years or both.

Financing of decommissioning

36. (1) An applicant for a licence to construct, operate or decommission a facility shall provide sufficient financial resources to cover the costs associated with safe decommissioning including management of the resulting waste.

(2) A person who contravenes the provisions of subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding M100,000,000.00 or to imprisonment for a term not exceeding 30 years or both.

PART VIII - EMERGENCY PREPAREDNESS AND RESPONSE

Emergency preparedness plans

37. (1) An applicant for a licence to export a radioactive source or radioactive material shall, in preparing the emergency plan referred to in section 18(2)(c), take into account the following -

- (a) an assessment of the nature, likelihood and potential magnitude of resulting damage, including the population

which is potentially at risk from an accident, malicious act or incident; and

- (b) the results of any accident analysis and lessons learned from that accident or incidents that have occurred in connection with similar activities or practices.
- (2) An emergency plan shall -
- (a) identify the conditions that could create a need for emergency intervention;
 - (b) require the applicant to immediately notify the Agency and other Government institutions and agencies determined by the Agency of any situation or incident that poses a risk of radiological injury and requires emergency intervention;
 - (c) state who is responsible for -
 - (i) initiating intervention; and
 - (ii) notifying relevant emergency intervention and response organisations;
 - (d) specify procedures, including communication arrangements, for contacting and obtaining assistance from emergency intervention organisations;
 - (e) specify intervention levels for protective actions and the scope of their application, taking into account the possible severity of emergencies that could occur;
 - (f) describe the methods and instruments necessary for assessing an emergency situation and its consequences;
 - (g) specify the procedure for terminating each emergency response or action;
 - (h) specify the training required of emergency response

personnel and for conducting appropriate drills to test the adequacy of the plan and to ensure that persons who may be involved in the emergency interventions are adequately informed and prepared for possible emergencies;

- (i) ensure persons likely to be affected by an emergency are adequately informed about the potential risks of that emergency; and
- (j) be prepared in consultation with relevant emergency intervention or emergency response personnel, including the local agencies and districts.

(3) An emergency plan shall be reviewed annually, updated and tested.

(4) In the event of a nuclear or radiological emergency, the licensed person shall implement the emergency plan as approved by the Agency.

National plan for nuclear or radiological emergencies

38. (1) The Minister shall, on the advice of the Agency, submit the national emergency plan for responding to potential nuclear or radiological emergencies for approval by the Prime Minister.

(2) The national emergency plan for nuclear or radiological emergencies shall be aligned to other national emergency response plans or programmes.

(3) The national emergency plan for nuclear or radiological emergencies shall detail an allocation of responsibilities and actions among relevant Governmental bodies, including arrangements for communications and public information.

(4) The Ministry shall, in collaboration with the Agency, review and update the plan every four years and the updated national emergency plan shall be approved in accordance with subsection (1).

Transboundary emergencies

39. (1) In the event of a radiological emergency that poses a risk of radioactive contamination beyond the boundaries of Lesotho, the Agency shall immediately notify the International Atomic Energy Agency and the relevant authorities of any state that could be affected by the release.

(2) The Agency shall, in collaboration with the Ministry, serve as the point of contact for receiving and providing any information or assistance regarding nuclear or radiological emergencies under the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the Case of Nuclear Accident and Radiological Emergency.



PART IX - TRANSPORT OF RADIOACTIVE MATERIAL

Regulation of the transport of radioactive material

40. (1) A person shall not transport radiation sources, radioactive sources or radioactive material unless the person has been issued a license to do so by the Agency or by the agency of the country from which the radiation sources, radioactive sources or radioactive material are exported.

(2) The Agency shall determine the manner in which the transportation of radioactive material shall be carried out.

(3) A person who contravenes subsections (1) commits an offence and is liable, on conviction, to a fine not exceeding M30,000,000.00 or to imprisonment for a term not exceeding 15 years or both.

PART X - SAFEGUARDS

Prohibition of non-peaceful uses of nuclear material

41. (1) A person shall not use nuclear material or conduct activities using nuclear material other than for peaceful purposes.

(2) The Agency shall -

(a) facilitate collection and provision of information required for the implementation of safeguards

- agreements and protocols to which Lesotho is a party;
- (b) facilitate access to International Atomic Energy Agency inspectors within the territory of Lesotho; and
 - (c) coordinate with relevant Government institutions or agencies in connection with the provision of information to the International Atomic Energy Agency regarding the Safeguards Agreement and any protocols to which Lesotho is a party.

 ^{security} **Prohibition of nuclear weapons and explosive devices**

42. (1) A person shall not -
- (a) manufacture, seek or receive assistance in the manufacture of;
 - (b) possess;
 - (c) acquire; or
 - (d) undertake research and development relating to the manufacture and production of,

nuclear weapons and explosive devices.

(2) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding M10,000,000,000.00 or to imprisonment for a term not exceeding 50 years or both.

(3) A person engaged in an activity specified in the Safeguards Agreement and any protocols to that Agreement shall submit to the Agency information and data required by the Agency to meet its reporting obligations under the Agreement.

(4) A licensee shall grant any duly authorised inspector from the International Atomic Energy Agency access to any facilities, sites or other locations to carry out any measures that the International Atomic Energy Agency considers necessary or appropriate for achieving compliance with the undertakings of

Lesotho arising from such instruments.

PART XI - EXTRACTION, MINING AND MILLING OF RADIOACTIVE MATERIAL

Mining and milling

43. Notwithstanding any law to the contrary, a person shall not conduct any extraction, mining or milling activities that involve any material that could pose a health or safety risk from exposure to ionizing radiation, including the following -

- (a) any exploration activity involving possible exposure to radiation;
- (b) removal of uranium or thorium from a site for testing or evaluation;
- (c) excavation activities at a site, including a test mine, for evaluation or declination of the ore body;
- (d) siting, construction or operation of a mine processing facility;
- (e) transport of the product of mining or milling activities;
- (f) decommissioning or closure of a mine or processing facility; or
- (g) radioactive waste management,

unless the person is issued a licence by the Agency.

Licence for mining of radioactive materials

44. (1) An applicant for a licence to conduct mining or milling that involves uranium or thorium ore from a site shall provide information to the Agency on the following -

- (a) the mining lease;

- (b) the site characteristics, including geology and mineralogy;
 - (c) the siting or construction plans;
 - (d) the conceptual design of the mining or processing facility;
 - (e) proposed work activities, extraction techniques and types of equipment involved;
 - (f) quantities of uranium or thorium to be removed with the ore;
 - (g) transport of the ore;
 - (h) estimates of exposures for accident prevention;
 - (i) the measures to be taken for radiation protection;
 - (j) the procedures for accident prevention;
 - (k) the plans for effluent management systems and procedures;
 - (l) procedures for dealing with accidental releases of radioactive or non-radioactive contaminants to the environment, including mitigation of hazards;
 - (m) impacts on public health and safety and the environment;
 - (n) the siting of tailings and storage facilities or stockpiles of ore and waste rock;
 - (o) the proposed decommissioning plans, including financial arrangements for decommissioning; and
 - (p) security measures.
- (2) An applicant under this section shall not be issued a licence un-

less he has in place a radioactive waste management plan approved by the Agency.

(3) Where the information provided to the Agency is confidential, the Agency shall not disclose the information without the authorisation of the owner.

Responsibilities of licensee

45. (1) A licensee referred to in sections 43 and 44 is primarily responsible for ensuring the safety and security of his mining and milling activity.

(2) The licensee shall notify the Agency of his intention to modify any activity or practice he is licensed to undertake, if the modifications could have significant implications for the safety and security of persons and the protection of the environment, and shall not implement those modifications until the notice is received and the modifications approved by the Agency.

(3) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding M100,000,000.00 or to imprisonment for a term not exceeding 30 years or both.

PART XII - NUCLEAR SECURITY, PHYSICAL PROTECTION AND ILLICIT TRAFFICKING

Physical protection

46. (1) The Agency shall -
- (a) establish requirements for the physical protection of nuclear and radioactive material and related facilities; and
 - (b) prescribe measures to be taken for physical protection in the event of emergency.
- (2) The requirements referred to in subsection (1) shall include -
- (a) categorization of nuclear and radioactive material based on an assessment of the damage that could result from

theft or diversion of a certain type and quality of material from licensees or from sabotage of a facility in which nuclear and radioactive material is produced, used, handled, stored or disposed of;

- (b) protection measures necessary for different categories of material;
- (c) accounting and control measures for nuclear or radioactive material;
- (d) licensing requirements and procedures that include licence conditions for physical protection; and
- (e) inspection and monitoring measures to verify compliance with applicable physical protection requirements.

Duties of licensees on physical protection

47. (1) A licensee shall be responsible for the physical protection of nuclear material, radioactive material and facilities in accordance with the provisions of section 46.

(2) Where there has been a theft, attempted theft or loss of nuclear material or radioactive material, the licensee shall -

- (a) notify the Agency of the circumstances of the theft, attempted theft or loss;
- (b) notify the Agency of any action taken or proposed to be taken in relation to the theft, attempted theft or loss; and
- (c) provide any additional information as the Agency may request.

(3) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding M30,000,000.00 or to imprisonment for a term not exceeding 15 years or both.

International co-operation and assistance

48. (1) In the event of theft, robbery, attempted theft, attempted robbery or unlawful possession of nuclear material or radioactive material the Minister, in collaboration with the ministries responsible for public safety and defence shall take appropriate steps as soon as possible to inform other states or international organisations that may be affected by the circumstances of the incident.

(2) The ministries responsible for public safety and defence shall be responsible for coordinating recovery and response in the event of any theft or unlawful taking of nuclear material or radioactive material.

(3) In the event of theft or any other unlawful taking of nuclear material or radioactive material, the ministries responsible for public safety and defence 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 organisations that so request.

(4) The Minister shall, in accordance with section 6(ff), provide information on incidents involving the theft, robbery, attempted theft or attempted robbery of nuclear or radioactive material, equipment or technology to the International Atomic Energy Agency.

Protection of confidential information

49. (1) A person shall not disclose confidential information unless the communication is authorised by a person who has been granted a licence to possess radioactive material.

(2) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding M10,000,000.00 or to imprisonment for a term not exceeding 10 years or both.

PART XIII - INSPECTION AND ENFORCEMENT

Appointment of inspectors

50. The Board shall appoint or designate inspectors who possess such qualifications as the Agency may determine.

Powers and duties of inspectors

51. (1) An inspector may, in the performance of his duties under this Act or regulations made under it, without warrant -
- (a) enter any land, premises, vessel or vehicle or any other thing or facility for purposes of determining whether the provisions of this Act are being complied with;
 - (b) require the production of registers, records and any other document or thing relating to this Act;
 - (c) inspect, examine or make a copy of registers, records, document or any other thing relating to this Act;
 - (d) take samples of any articles and substances to which this Act relates and submit them for tests and analysis;
 - (e) carry out periodic inspections, including unannounced inspections, of all facilities which manufacture, produce as by-products, import, export, store, sell, distribute, or use any substances, devices or equipment that are likely to pose significant radiation hazards, to ensure that the provisions of this Act are complied with;
 - (f) issue a written notice requiring the owner or operator of a facility or activity to take appropriate remedial measures, where necessary;
 - (g) require the owner or operator of a facility or activity referred to in paragraph (e) to implement remedial measures that the inspector may, in the notice closing down that facility or activity, direct;
 - (h) issue a notice requiring the owner or operator of a facility or activity to cease activities causing radiation hazards;
 - (i) seize any equipment, vessel, vehicle, manufacturing facility, substance or any other thing which he believes

has been used in the commission of an offence against this Act or regulations made under this Act;

- (j) close a facility or stop an activity which is causing or is likely to cause radiation hazards;
- (k) request a police officer to arrest a person whom he reasonably believes has committed an offence under this Act; or
- (l) investigate any incident or accident involving radioactive material or radiation sources.

(2) The Agency shall define the form and manner in which samples for analysis shall be taken.

(3) Subsection (1) shall apply, with necessary modifications, to an International Atomic Energy Agency inspector.

(4) A person who -

- (a) fails or refuses to produce any licence, authorisation, notice or other document required of him by an inspector in the performance of his functions under this Act;
- (b) conceals, prevents or attempts to prevent a person from appearing before or being examined by an inspector; or
- (c) in any manner, obstructs an inspector while performing his functions under this Act,

commits an offence and is liable, on conviction, to a fine not exceeding M10,000,000.00 or to imprisonment for a term not exceeding 10 years or both.

General penalty

52. A person who contravenes any provision of this Act in relation to which a specific penalty is not provided, commits an offence and is liable, on conviction, to a fine not exceeding M10,000,000.00 or to imprisonment for a term not exceeding 10 years or both.

Forfeiture

53. (1) Where any person is convicted of an offence under this Act, the court may, in addition to any penalty that is imposed, make an order for the forfeiture, impoundment, destruction, incapacitation, sealing or disposal in any other manner, of any radioactive material, equipment or substance in respect of which the offence in question may have been committed.

(2) A person convicted of an offence under this Act shall bear the costs of executing the order of court made in terms of subsection (1).

PART XIV - FINANCIAL PROVISIONS

Establishment of the Radiation Protection Fund

54. (1) There is established the Radiation Protection Fund into which all monies received by the Agency shall be paid, in the first instance, and out of which all payments shall be made.

- (2) The sources of the Fund shall consist of -
- (a) sums of money appropriated by Parliament for the purposes of the Act;
 - (b) any fees generated by the Agency from licencing;
 - (c) donations from lawful sources;
 - (d) all investments acquired by or vested in the Agency and all money earned or arising from them;
 - (e) all sums received or falling due to the Agency in respect of the repayment of any loan or advance made by the Agency or the interest payable in respect of any such loan or advance;
 - (f) monies raised or borrowed by the Agency in accordance with section 56; and
 - (g) all other monies that may in any manner become payable

to or vested in the Agency in respect of any matter incidental to its purpose, powers and duties.

Revenue of the Agency

55. All income and property and all revenues of the Agency acquired from whatever source are to be applied exclusively to the authorised purposes of the Agency.

Borrowing powers

56. (1) The Agency may -

- (a) borrow temporarily, by way of bank overdraft or otherwise from inside or outside Lesotho, such sums as it may require for meeting its obligations or performing its functions; and
- (b) from inside or outside Lesotho, raise money by way of loans, in such amounts and for such purpose and periods as may be authorised by the Board.

(2) The repayment of monies borrowed by the Agency and the payment of interest thereon and of all charges connected with such borrowing shall be a liability of the Agency and shall be charged as such on its assets and revenue and on such conditions as may be agreed upon between the Agency and the lender.

(3) The Minister may from time to time, after consultation with the Minister responsible for finance, specify the amount of capital commitment of the Agency, which amount shall not be exceeded by the Agency.

Accounts, audit and annual reports

57. (1) The Agency shall keep proper books of accounts and bank statements and prepare records in respect of income and expenditure, assets and liabilities and any other transaction of the Agency.

(2) The Auditor-General, or an auditor authorised by him under the Audit Act 2016³, shall audit the accounts of the Agency.

(3) The Agency shall, within three months of the end of the financial year, prepare and submit to the Minister an annual report relating to the activities and actions of the Agency during that financial year.

(4) The report referred to in subsection (3) shall include -

- (a) audited financial statements for the financial year ended;
- (b) a report on the operations of the Fund; and
- (c) any other information which the Minister may require.

(5) The financial year of the Agency shall be the period of 12 months commencing on the 1st day of April and ending on the 31st day of March.

(6) The Minister shall, within three months of receipt of the annual report, submit the report to Parliament.

PART XV - RADIATION PROTECTION TRIBUNAL

Establishment of the Radiation Protection Tribunal

58. (1) There is established a Tribunal to be known as the Radiation Protection Tribunal.

(2) The Tribunal shall consist of three members as follows -

- (i) one legal practitioner who has at least five years of experience, nominated by the Chief Justice;
- (ii) one legal practitioner who has at least three years of experience, nominated by the Law Society; and
- (iii) one person who holds a degree in nuclear physics or radiology and who has at least three years of experience, nominated by a relevant association.

(3) At a meeting of the Tribunal, the chairperson shall have a deliberative vote and, in the case of equality of votes, shall also have a casting vote.

(4) The Tribunal -

(a) may regulate its own procedure; and

(b) shall appoint one of its members to act as chairperson where the chairperson is absent.

(5) There shall be a secretary to the Tribunal who shall be an officer of the Agency.

(6) A member of the Tribunal who has an interest in a matter which is the subject of the proceedings before the Tribunal shall not take part in those proceedings.

(7) A vacancy in the Tribunal shall be filled in accordance with subsection (2).

(8) The Minister shall publish names of members of the Tribunal by notice in the Gazette.

Sittings of the Tribunal

59. The Tribunal shall sit in such place and at such times as the Chairperson may determine.

Sitting Allowances

60. A member of the Tribunal shall be paid such sitting allowances as the Minister may, after consultation with the Minister responsible for finance, determine.

Proceedings of the Tribunal

61. The proceedings of the Tribunal shall be open to members of the public except where the Tribunal, for good cause, otherwise directs.

Appeals to the Tribunal

62. (1) A person who is aggrieved by -
- (a) a decision to refuse issuing a licence and any other regulatory decision under this Act or regulations made under this Act;
 - (b) the imposition of any condition, limitation or restriction in a licence issued under this Act or regulations made under this Act;
 - (c) the revocation, suspension or variation of a licence issued under this Act or regulations made under this Act; or
 - (d) the imposition of a restriction order made under this Act or regulations made under this Act,

may, within 21 days of the date upon which he is informed of the decision or order of the Agency, appeal to the Tribunal against that decision or order.

- (2) A person making an appeal in accordance with subsection (1) shall -
- (a) submit to the secretary a written notice of appeal; and
 - (b) set out in the notice of appeal the grounds upon which the appeal is based.
- (3) The Tribunal -
- (a) shall hear and resolve the appeal within 30 days of the notice of appeal; and
 - (b) may summon any person who has relevant information to appear before it to testify or produce anything that is necessary to enable it to discharge its functions.

PART XVI - MISCELLANEOUS

Transitional provisions

63. (1) A person who, at the commencement of this Act, is undertaking any activity or practice involving the use of any radioactive material, radioactive source or radiation source or has such material or source in his possession, custody or under his control, shall within six months after commencement of this Act -

- (a) apply to the Agency for a licence in accordance with section 18; or
- (b) if the person does not wish to continue with the activity, practice or possession of the material or source, dispose of or surrender it to the Agency in terms of this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding M100,000,000.00 or imprisonment for a term not exceeding 30 years or both.

Regulations

64. The Minister may make regulations for the better carrying out of the purposes and provisions of this Act.

Guidelines

65. The Agency may issue guidelines, codes and standards for the better carrying into effect of this Act.

Consequential amendment

66. Sections 33, 49 and 50 of the Environment Act, 2008¹ are repealed.

NOTE

1. Order No. 13 of 1970
2. Act No. 10 of 2008
3. Act No. 6 of 2016
4. Act No. 10 2008

GOVERNMENT NOTICE NO. 45 OF 2018

The Parliament of Lesotho

Statement of Objects and Reasons of the
Radiation Protection Agency Act, 2018

(Circulated by the Authority of the Minister responsible for
tourism, environment and culture Honourable Temeki Phoenix Tšolo)

1. The objective of this Bill is to establish the Radiation Protection Agency, to provide for the beneficial and peaceful uses of nuclear energy and to provide for the protection of individuals, society and the environment against the harmful effects of ionizing radiation.
2. The increase in the peaceful uses of nuclear materials and radioactive substances for health, agriculture and industry makes it imperative that the necessary structures are put in place to ensure that these materials and substances are well regulated for the safety of persons and the environment and for the physical protection of the materials and substances.
3. The country's research and educational facilities cannot operate without delving into the areas of nuclear technology and ionizing radiation and their effects.
4. The Bill applies to all activities and practices involving the peaceful use of ionizing radioactive material in the jurisdiction and control of the country, and to the management or any other activity or practice identified by the Radiation Protection Agency.
5. The Bill empowers the Minister, on the advice of the Agency, to define exposures excluded from the application of the Act, once enacted.
6. The Bill establishes the Radiation Protection Agency as a body corporate, capable of suing and being sued in its own name.
7. The Bill establishes the governing body of the Agency as a Board consisting of the Principal Secretary of the Ministry responsible for radiation protection - who shall be the Chairperson, and four other

members.

8. The Bill provides for staffing of the Agency and for secondment of public officers to the Agency.
9. The Bill provides that a person who intends to carry out any activity or practice involving ionizing radiation should apply to the Agency for a licence.
10. The Bill specifies the obligations of the licensee. The licensee shall not transfer the licence, and he has the primary responsibility for the safe and secure conduct of activities or practices involving the use of ionizing radiation, and shall put in place appropriate measures - including financial measures - to handle and dispose of radioactive waste. The licensee must also ensure the protection of his employees and the members of the public from harmful effects of radiation.
11. The Bill empowers the Agency to adopt rules for protection of persons and the environment from harmful effects arising from exposure to radiation. The Agency shall adopt dose limits aimed at minimizing exposure of persons from radiation.
12. The Bill provides that the licensee shall enter into a contract with the supplier of a radioactive source for the return of the disused source.
13. The Bill also provides for recovery of orphan sources. A licensee who has lost control of a radioactive source shall report the loss or any other incident that could pose a significant risk to the safety or security of persons and the environment.
14. The Bill imposes an obligation on a licensee for the physical protection of nuclear material or radioactive material in his possession, and requires that the licensee notify the Agency where there has been theft or loss of such materials in his charge.
15. The Bill also makes provision for international cooperation in the event of theft or robbery of nuclear and radioactive materials.
16. The Bill regulates the transportation of nuclear and radioactive material and makes it an offence to transport such material without a licence from

the Agency. It empowers the Agency to determine the manner in which the transportation of the material shall be carried out.

17. The Bill bans the importation of radioactive waste.
18. The Bill prohibits a person from operating a radioactive waste management facility unless the person is in possession of a license. An application is to be submitted to the Agency together with a plan for the decommissioning of the facility once it ceases operation, and the Agency is required to approve the plan before granting a licence for the operation of such a facility.
19. The Bill specifies the duties of a person authorised to manage radioactive waste to take certain measures into account so that the public and the environment are protected against radiological and other hazards. It also obliges a licensee to ensure the safety of the radioactive waste management facility throughout its operational life.
20. The Bill provides for the applicant for a license to construct or operate a facility to submit a decommissioning plan which is commensurate with the type and status of the facility and the hazards that may be associated with its decommissioning, and to arrange for adequate financing at each stage of the decommissioning process.
21. The Bill requires an applicant for a licence to have in place an emergency plan before being granted a licence. The plan addresses, among others, identifying the conditions that could create a need for emergency intervention. A licensee is required to ensure that persons likely to be affected by any emergency are well informed about the potential risk of that emergency, and that the emergency plan is prepared in consultation with relevant agencies.
22. The Bill provides for radiological emergencies that pose a risk of radiological contamination beyond the borders of Lesotho.
23. The Bill prohibits the use of nuclear material for any purpose other than for peaceful purposes. It requires a person to use nuclear material exclusively for peaceful activities in accordance with national and international treaties and legal instruments to which Lesotho is a party. The Bill prohibits a person from manufacturing, controlling or acquiring a nuclear

weapon or other nuclear explosive device.

24. The Bill prohibits persons from conducting any mining operation that involves any material that could pose a health and safety risk from exposure to ionizing radiation, and also prohibits the processing of radioactive materials resulting from mining operations.
25. The Bill requires the Agency to collaborate with agencies responsible for emergency response to establish plans and procedures for coping with any radiological emergency or abnormal occurrence involving nuclear material, a radiation source or any other radioactive sources.
26. The Bill provides for the Agency to appoint inspectors who may, at any time and without a warrant, enter any premises, vehicle, vessel or aircraft in order to inspect, carry out tests and take samples, measurements and photographs as well as to investigate any incident involving radiation sources, nuclear or other radioactive material.
27. The Bill makes it an offence for any person to disclose confidential information.
28. The Bill provides for funds of the Agency, which will include moneys appropriated for the Agency by the Parliament, grants, fees and charges due to the Agency from services rendered by or through the Agency, donations and gifts.
29. The Bill establishes the Radiation Protection Tribunal, which shall consist of three people.
30. The Bill repeals sections 33, 49 and 50 of the Environment Act, 2008 which deal with radioactive materials and radiation sources.