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RADIATION PROTECTION ACT

CHAPTER 243

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CHAPTER 243

RADIATION PROTECTION ACT

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CHAPTER 243
RADIATION PROTECTION ACT

[Date of assent: 29th December, 1982.]

[Date of commencement: 1st November, 1984.]

An Act of Parliament to provide for the protection of the public and radiation workers from the dangers arising from the use of devices or material capable of producing ionizing radiation and for connected purposes

[Act No. 20 of 1982, L.N. 171/1984, Act No. 19 of 2014.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Radiation Protection Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“**authorized person**” means a medical practitioner who is a specialist in radiation medicine, a radiographer, a radio-physicist or any other person with special knowledge in safe handling of radiation sources;

“**Chief Radiation Protection Officer**” means the officer appointed under section 13;

“**facility**” means an assembly of devices, equipment, structures or natural features, whether simple or complex, which serves some specific purpose or performs some other function;

“**ionizing radiation**” means gamma rays, alpha and beta particles, high speed electrons, neutrons, protons and other particles capable of producing ions directly or indirectly in their passage through matter;

“**irradiating device**” means an apparatus capable of producing ionizing radiation of a prescribed type;

“**licence**” means a licence issued under section 11;

“**minimum significant quantity**” means the quantity of radioactive material above which administrative control is required;

“**owner**” means the person having administrative control over a radiation source;

“**public**” means any person not designated as a radiation worker;

“**radiation source**” means any irradiating device or radioactive material;

“**radiation worker**” includes any person potentially exposed to ionizing radiation as a result of his occupation;

“**radioactive material**” means any material or substance emitting ionizing radiation.

3. Exemptions from safety requirements, etc.

(1) The radiation safety requirements prescribed under this Act shall not apply to patients undergoing medical treatment by exposure to ionizing radiation by or under the supervision of an authorized person.

(2) Subject to this Act, the Minister may, by notice in the *Gazette*, exempt any radioactive material with minimum significant quantities from the provisions of this Act.

(3) Subject to such exemptions as may be made in regulations made, or in a licence issued, under this Act, the standards of radiation protection to be observed for the purposes of this Act shall be those published under this Act or any guidelines established and published by the International Commission on Radiological Protection, the International Atomic Energy Agency or the World Health Organization.

PART II – ESTABLISHMENT OF THE BOARD**4. Establishment of the Board**

There is hereby established a Board to be known as the Radiation Protection Board which shall perform the duties and have powers conferred on it by this Act.

5. Membership of the Board

(1) The Board shall consist of—

- (a) a chairman appointed by the Minister;
- (b) the Director of Medical Services;
- (c) the following persons appointed by the Minister—
 - (i) a public officer nominated by the Minister for the time being responsible for labour;
 - (ii) a public officer nominated by the Minister for the time being responsible for higher education;
 - (iii) a public officer nominated by the Minister for the time being responsible for industry;
 - (iv) a public officer nominated by the Minister for the time being responsible for agriculture;
 - (v) a person nominated by the National Council for Science and Technology;
 - (vi) not more than two persons having special knowledge in safe handling of radiation sources;
 - (vii) a public officer nominated by the Minister for the time being responsible for foreign affairs;
 - (viii) an officer from the Kenya Defence Forces;
 - (ix) an officer from the National Intelligence Service;
 - (x) an officer from the National Police Service; and
 - (xi) an officer from the Kenya Revenue Authority;
- (d) the Chief Radiation Protection Officer who shall act as the secretary to the Board but shall not vote on any matter brought before the Board.

(2) The members of the Board, other than *ex officio* members, shall hold office for a period of three years but shall be eligible for reappointment.

(3) The Board may exercise its powers and perform its duties notwithstanding any vacancy in its membership.

[Act No. 19 of 2014, s. 37.]

6. Meetings of the Board

(1) The Board shall meet at least four times in each year at such places and times as the chairman may appoint.

(2) The chairman shall preside at all meetings of the Board and in his absence such member of the Board as the members present may appoint shall preside at that particular meeting.

(3) The chairman or the person presiding at any meeting of the Board shall have a deliberative vote and in the case of an equality of votes shall also have a casting vote.

(4) The quorum necessary for the transaction of the business of the Board shall be six.

(5) Subject to the provisions of this section, the Board shall have power to regulate its own proceedings and may appoint such committees as it considers necessary for the transactions of its business.

7. Functions of the Board

Subject to the provisions of this Act, the Board shall have the following powers—

- (a) to advise the Minister on matters relating to radiation protection and radioactive waste disposal;
- (b) to implement the provisions of this Act and regulations made thereunder;
- (c) to grant or refuse to grant or to extend licences issued under this Act and to impose any necessary conditions on a licence so granted;
- (d) to keep a register of the owners of irradiating devices, radioactive materials and other sources of ionizing radiation imported into or manufactured in Kenya and of premises licensed to dispose of radioactive waste.

PART III – CONTROL AND USE OF RADIATION SOURCES

8. Control and use of radiation sources

(1) Subject to such exemptions as may be prescribed under regulations made under this Act, no person shall—

- (a) manufacture or otherwise produce;
- (b) possess or use;
- (c) sell, dispose of or lease, loan or deal with;
- (d) import or cause to be imported; or
- (e) export or cause to be exported,

any irradiating device or radioactive material except under and in accordance with a licence issued under this Act.

(2) No person shall sell an irradiating device or radioactive material unless at the time of sale the purchaser produces to the vendor a valid licence authorizing him to use that type of irradiating device or radioactive material.

(3) For the purposes of subsection (1), an irradiating device or radioactive material shall be deemed to have been exported when it is placed on a ship, aircraft, train or any other vehicle within Kenya for the purposes of export.

9. Application of ionizing radiation to persons, etc.

(1) No person shall cause ionizing radiation to be applied to any other person for the purpose of diagnosing or treating a disease unless the application is prescribed by a medical or dental practitioner registered under the Medical Practitioners and Dentists Act (Cap. 253).

(2) No person shall administer ionizing radiation to another person unless he is in possession of a valid licence issued under this Act.

10. Notification of sale, etc.

(1) A person who sells an irradiating device or radioactive material shall submit to the Board a notice of every sale in the prescribed manner.

(2) An owner or user of an irradiating device or radioactive material shall notify the Board in writing his intention to acquire, store, install or use the device or material specifying the purpose for which it is required and the type of building or facility where the device or material is to be stored, installed or used.

(3) A notification under subsection (2) may be made by a person in charge of the supervision of radiation safety.

(4) An owner or user of a radiation facility shall notify the Board, within a period of one month, of any change in the facility which renders the information supplied by him under subsection (2) inaccurate.

PART IV – LICENSING PROVISIONS

11. Application for, and issue of, a licence

(1) A person who owns, purchases, acquires, imports, manufactures, sells or deals in, stores, uses, disposes of or exports any kind of irradiating device or radioactive material or any other source of ionizing radiation shall apply, in the prescribed form, to the Board for an appropriate licence or for a renewal of the licence.

(2) On receiving an application for a licence or for a renewal of a licence the Board may, on payment of the prescribed fee, issue to the applicant the appropriate licence or renew the licence.

(3) A licence issued under this section shall—

- (a) be in the prescribed form;
- (b) authorize the licensee to own, purchase acquire, import, export, possess, sell or deal in, store, install, use or dispose of, as the case may require, irradiating devices, radioactive materials or other sources of ionizing radiation;
- (c) be specific with regard to the process, operation or facility;
- (d) be valid for such period as the Board may determine at the time of granting or renewal;
- (e) contain such other conditions as the Board deems necessary to impose for the safe disposal of all radioactive material resulting from the proposed operation, process or facility.

(4) A licence issued under this section may—

- (a) be amended at any time on written notice to the holder by the Board, if in its opinion, the amendment is necessary for the purposes of public safety;
- (b) be suspended or revoked by the Board if the holder fails to comply with the conditions contained in the licence or laid down in this Act or in any regulations made thereunder; and where a licence is suspended or revoked the holder shall take such steps as may be recommended by the Board to ensure that no radiation hazards occur.

12. Duties of licensees, etc.

(1) The holder of a licence shall be responsible for ensuring that exposure to ionizing radiation resulting directly or indirectly from its operation, conditions of storage, transport or disposal shall be kept as low as reasonably practicable below the prescribed limits.

(2) The owner of a facility shall appoint a person experienced in radiation health and safety measures as a radiation safety officer within the facility who shall ensure that—

- (a) all persons using or working in the facility are supplied with at least one monitoring device and any other protective accessories necessary to carry out radiation procedures with the lowest reasonably achievable risk;
- (b) all radiation workers employed within the facility are given proper instructions on radiation safety measures and receive a medical check-up after every six months;
- (c) proper care is taken of radioactive wastes if they appear in the course of the use of radiation sources as described in the code of practice for protection of persons exposed to ionizing radiation and that the wastes are only disposed of in accordance with the licence granted for that purpose;
- (d) exposure records are kept as prescribed in the code of practice for users of ionizing radiation;
- (e) any other instructions that may be issued from time to time by the Board are implemented.

PART V – MISCELLANEOUS PROVISIONS

13. The Chief Radiation Protection Officer

There shall be a Chief Radiation Protection Officer who shall exercise such powers and functions as are provided for in this Act and in regulations made thereunder.

14. Powers of radiation protection officers

(1) The Chief Radiation Protection Officer or any person appointed as a radiation protection officer may—

- (a) enter, inspect and examine any premises or any part thereof, booth, motor vehicle, vessel, aircraft or any other vehicle in or upon which he has reasonable cause to believe that an irradiating device, radioactive material or any other source of ionizing radiation is stored, used, transported or disposed of;

- (b) require the production of a licence authorizing the use of any irradiating device, radioactive material or any other source of ionizing radiation, or a register or document kept under this Act, and inspect, examine or take copies thereof;
- (c) make such examinations and enquiries as may be necessary to ascertain whether the provisions of this Act are being complied with;
- (d) exercise such other powers as may be necessary for carrying out the provisions of this Act or regulations made thereunder.

(2) Every radiation protection officer shall be furnished with a certificate of his appointment signed by the Minister and when visiting a place to which the provisions of this Act apply, shall, if so required, produce that certificate to the occupier or person holding a responsible position of management or control of the facility at the premises in which an irradiating device, radioactive material or other source of ionizing radiation are believed to be present or to exist.

15. Appeals

(1) An applicant or licensee may appeal to the Minister against the cancellation, suspension or refusal to grant or renew a licence within one month of a notice given to him to that effect.

(2) The Minister may, on consideration of an appeal made under subsection (1), make such order as he deems proper and the order shall be final.

16. Offences and penalties

(1) A person who—

- (a) wilfully obstructs the Chief Radiation Protection Officer or any other radiation protection officer in the exercise of his duties under this Act; or
- (b) without reasonable excuse, fails to produce a register, licence, notice or document which he is required by or in pursuance of the provisions of this Act to produce; or
- (c) wilfully withholds any information as to who is the owner or responsible for the management of a radiation source; or
- (d) wilfully prevents or attempts to prevent any person from appearing before or being examined by a radiation protection officer,

shall be guilty of an offence and be liable to a fine not exceeding twenty thousand shillings or imprisonment for a term not exceeding one year or both.

(2) Notwithstanding subsection (1), a person who contravenes any of the provision of this Act relating to or in connection with the importation, possession, transportation, use or disposal of irradiating devices, radioactive materials or any other sources of ionizing radiation without being in possession of a valid licence shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding two years.

(3) Any act or omission which is an offence under this Act or any regulations made thereunder shall, if done by a body corporate, be deemed to be an offence committed by every director, secretary or manager of the body corporate unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions and the circumstances of the case.

(4) If an offence under this Act or any regulations made thereunder is committed by a partner in a firm, every person who, at the time of the commission of the offence, was a partner in that firm or was purporting to act in that office shall be deemed to have committed the offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions and the circumstances of the case.

17. Institution of proceedings

The Chief Radiation Protection Officer or any radiation protection officer authorized by him in that behalf may institute proceedings in respect of an offence under this Act or any regulations made thereunder and may appear and prosecute in those proceedings.

18. Regulations

The Minister may, in consultation with the Board, make regulations for the better carrying out of the purposes and provisions of this Act and for prescribing—

- (a) the precautions to be taken to prevent injury being caused by ionizing radiation to the health of persons employed in places where irradiating devices or radioactive materials are manufactured, produced, treated, stored, or used, or of other persons likely to be exposed to harmful radiation;
- (b) methods of disposing of radioactive waste products from any source;
- (c) the structural requirements of buildings, including dark-rooms used in connection with x-ray photography, where any radiation device, material or substance is manufactured, produced, treated, used or stored;
- (d) the precautions to be taken to prevent injury being caused by the transportation of irradiating devices or radioactive materials to the health of persons engaged therein and other persons;
- (e) the method of packing irradiating devices, radioactive materials or any other sources of ionizing radiation;
- (f) marks to be placed on vessels, vehicles, packages or containers containing any irradiating devices, radioactive materials or any other sources of ionizing radiation;
- (g) the method of treatment or disposal of any vessel, vehicle, package or container that has been used to convey, hold or store any irradiating device or radioactive material;
- (h) the manner in which and the conditions subject to which irradiating devices or radioactive materials may be stored or used;
- (i) the purpose for which any irradiating device or radioactive material may be exempted from the licensing requirements of this Act;
- (j) the use of any specified irradiating device or radioactive material exempted from the licensing requirements of this Act;
- (k) the maximum working hours of persons employed in the manufacture, production, treatment, storage or use of irradiating devices or radioactive materials, regulating the employment of those persons, the maximum holidays to be taken by such persons and the medical examination of those persons;

- (l) the issue by medical and dental practitioners of prescriptions involving radiation sources;
- (m) the dispensing and compounding of any prescription containing any radioactive material or substance;
- (n) the making of returns by owners and persons in possession of irradiating devices, radioactive materials or other sources of ionizing radiation giving such details as may be required;
- (o) the keeping by purchasers of irradiating devices, radioactive materials or any other sources of ionizing radiation of records specifying the purpose to which those substances are put, and the inspection of the records, and for the making of returns of entries in those records;
- (p) the keeping of records of all applications of x-rays or radioactive materials for any specified purpose;
- (q) the fees payable in respect of any licence;
- (r) the classification of licences;
- (s) the inspection, at such intervals as may be deemed to be necessary, of irradiating devices or radioactive materials and the fees to be paid in respect of such inspections;
- (t) anything required or permitted to be prescribed under this Act.

19. Repeal

The Radiation Act (Cap. 243) is repealed.
