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GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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OFFICE OF THE PRESIDENCY

No. 1536.

23 December 1999

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 46 of 1999: Nuclear Energy Act, 1999.

KANTOOR VAN DIE PRESIDENSIE

No. 1536.

23 Desember 1999

Hierby word bekend gemaak dat die President sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 46 van 1999: Wet op Kernenergie, 1999.

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the Deputy President.)
(Assented to 20 December 1999.)

ACT

To provide for the establishment of the South African Nuclear Energy Corporation Limited, a public company wholly owned by the State (the "Corporation"), to define the Corporation's functions and powers and its financial and operational accountability, and provide for its governance and management by a board of directors and a chief executive officer; to provide for responsibilities for the implementation and application of the Safeguards Agreement and any additional protocols entered into by the Republic and the International Atomic Energy Agency in support of the Nuclear Non-Proliferation Treaty acceded to by the Republic; to regulate the acquisition and possession of nuclear fuel, certain nuclear and related material and certain related equipment, as well as the importation and exportation of, and certain other acts and activities relating to, that fuel, material and equipment in order to comply with the international obligations of the Republic; to prescribe measures regarding the discarding of radioactive waste and the storage of irradiated nuclear fuel; and to provide for incidental matters.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

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ALGEMENE VERDUIDELIKENDE NOTA:

- [2] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.
- _____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

(Engelse teks deur die Adjunkpresident geteken.)
(Goedgekeur op 20 Desember 1999.)

WET

Om voorsiening te maak vir die Suid-Afrikaanse Kernenergiekorporasie Beperk, 'n publieke maatskappy wat in die geheel aan die Staat behoort (die "Korporasie") om die Korporasie se werksaamhede en bevoegdhede en finansiële en bedryftoerekenbaarheid te omskryf, en om voorsiening te maak vir sy beheer en bestuur deur 'n raad van direkteure en 'n hoof- uitvoerende beampte; om voorsiening te maak vir die verantwoordelikhede vir die implementering en toepassing van die Waarborgooreenkoms en enige addisionele protokolle aangaan deur die Republiek en die Internasionale Atoomenergie-agentskap ter ondersteuning van die Kernspervvertrag waartoe die Republiek toegetree het; om die verkryging en besit van kernbrandstof, sekere kern- en verwante materiaal en sekere verwante toerusting, sowel as die invoer en uitvoer van, en sekere ander handelinge en bedrywighede wat verband hou met, daardie brandstof, materiaal en toerusting te reguleer ten einde aan die internasionale verpligtinge van die Republiek te voldoen; om maatreëls aangaande die wegdoening van radioaktiewe afval en die opberging van bestraalde kernbrandstof voor te skryf; en om voorsiening te maak vir bykomstighede aangeleenthede.

DAAR WORD BEPAAL deur die Parlement van Suid-Afrika, soos volg:—

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CHAPTER I

INTRODUCTORY PROVISIONS

Definitions

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1. In this Act, unless the context indicates otherwise—

- (i) "Atomic Energy Corporation" means the Atomic Energy Corporation, Ltd contemplated in section 4(1) of the Nuclear Energy Act, 1993 (Act No. 131 of 1993);
- (ii) "Board" means the Board of Directors of the Corporation as provided for in section 16; 10
- (iii) "chief executive officer" means the chief executive officer of the Corporation contemplated in section 22;
- (iv) "Companies Act" means the Companies Act, 1973 (Act No. 61 of 1973);
- (v) "Corporation" means the South African Nuclear Energy Corporation, Limited, established by section 3; 15
- (vi) "Department" means the Department of Minerals and Energy;
- (vii) "director" means a member of the Board;
- (viii) "Director-General" means the Director-General of the Department of Minerals and Energy; 20
- (ix) "disposed of" used in the context of safeguards means sell, exchange, donate, distribute, lend or in any other manner transfer and "disposal of" has a corresponding meaning;
- (x) "enrich" means to increase the ratio of an isotopic constituent of an element to the remaining isotopic constituents of that element relative to the naturally occurring ratio, and "enrichment" has a corresponding meaning; 25
- (xi) "inspector" means a person appointed in terms of section 53(1);
- (xii) "institutional obligations" means the obligations of the Republic in terms of international agreements or in the national or public interest concerning matters arising from or otherwise involving the use of nuclear energy, such as— 30
 - (a) the decommissioning and decontamination of past strategic nuclear facilities;
 - (b) the management of nuclear waste disposal on a national basis;
 - (c) the application of radiation technology for medical or scientific purposes; 35
 - (d) the operation of the SAFARI nuclear reactor;
 - (e) the operation of the Atomic Energy Corporation's site at Pelindaba and accompanying services;
 - (f) the implementation and execution of the safeguards function with the International Atomic Energy Agency, the Nuclear Non-Proliferation Treaty, the African Co-operative Agreement, the Treaty of Pelindaba or any other treaty, agreement or protocol. 40
- (xiii) "invention" means an invention as defined in section 2 of the Patents Act, 1978, (Act No. 57 of 1978); 45
- (xiv) "ionizing radiation" means electromagnetic or corpuscular emission emitted from radioactive material and capable of producing ions, directly or indirectly, while passing through matter;
- (xv) "Minister" means the Minister of Minerals and Energy;
- (xvi) "nuclear energy" means all the energy released by a nuclear fission or nuclear fusion process; 50
- (xvii) "nuclear fuel" means any material capable of undergoing a nuclear fission or nuclear fusion process on its own or in combination with some other material and which is produced in a nuclear fuel assembly or other configuration;
- (xviii) "nuclear installation" means a nuclear installation as defined in section 1 of the National Nuclear Regulator Act, 1999; 55
- (xix) "nuclear material" means source material and special nuclear material;

HOOFSTUK V

51-61 ALGEMENE BEPALINGS

HOOFSTUK I

INLEIDENDE BEPALINGS

5 Woordoms krywing

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—

- (i) “aangewese datum” die datum bedoel in artikel 61;
- (ii) “aanleg” ook enige masjinerie, toerusting of toestel, hetsy dit aan die grond aangeheg is of nie;
- 10 (iii) “afvalwegdoeningsfasiliteit” ’n fasiliteit vir die ontvangs, hantering, berging en behandeling van radioaktiewe afval en bestraalde brandstof en die wegdoening van radioaktiewe afval;
- (iv) “Atoomenergiekorporasie” die Atoomenergiekorporasie van Suid-Afrika, Bpk, beoog in artikel 4(1) van die Wet op Kernenergie, 1993 (Wet No. 131
- 15 van 1993);
- (v) “beperkte goed” enige of alle van die volgende, naamlik—
 - (a) bronmateriaal;
 - (b) spesiale kernmateriaal;
 - (c) beperkte materiaal;
 - 20 (d) uraanheksafluoried (UF_6);
 - (e) kernbrandstof; en
 - (f) kernverwante toerusting en materiaal;
- (vi) “beperkte handeling of bedrywigheid” enige van die handelinge of bedrywigheede genoem in—
 - 25 (a) paragrawe (c) tot (u) van artikel 34(1); en
 - (b) artikel 35(1);
- (vii) “beperkte materiaal” berillium en sirkonium en enige ander stof wat kragtens artikel 2(a) tot beperkte materiaal verklaar is;
- (viii) “beskik oor”, gebruik in die konteks van waarborge, verkoop, ruil, skenk,
- 30 versprei, leen of op enige ander wyse oordra en het “beskikking” ’n ooreenstemmende betekenis;
- (ix) “bronmateriaal” enige materiaal wat kragtens artikel 2(b) as bronmateriaal verklaar is;
- (x) “Departement” die Departement van Minerale en Energie;
- 35 (xi) “direkteur” ’n lid van die Raad;
- (xii) “Direkteur-generaal” die Direkteur-generaal van die Departement van Minerale en Energie;
- (xiii) “filiaalmaatskappy” ’n “filiaalmaatskappy” beoog in artikel 1 van die Maatskappywet, 1973 (Wet No. 61 van 1973), en wat deur die Korporasie
- 40 opgerig is, hetsy alleen of in samewerking met enige ander persoon;
- (xiv) “herverwerk” om uit bronmateriaal of spesiale kernmateriaal wat aan straling blootgestel was, die bestanddele wat as gevolg van die straling transmutasies ondergaan het, of die bestanddele wat nie transmutasies ondergaan het nie en hergebruik kan word, te ekstraheer of af te skei;
- 45 (xv) “hierdie Wet” ook enige regulasies;
- (xvi) “hoof- uitvoerende beampte” die hoof- uitvoerende beampte van die Korporasie beoog in artikel 22;
- (xvii) “ioniserende straling” elektromagnetiese straling of deeltjestraling wat deur radioaktiewe materiaal uitgestraal word, en wat in staat is om ione regstreeks
- 50 of onregstreeks te produseer terwyl dit deur materie dring;
- (xviii) “inspekteur” ’n persoon ingevolge artikel 53(1) aangestel;
- (xix) “kernbrandstof” enige materiaal wat alleen of in samestelling met enige ander materiaal ’n kernklowing- of kernversmeltingsproses kan ondergaan en wat geproduseer is in ’n kernbrandstofbundel of ander vorm;
- 55 (xx) “kernenergie” al die energie wat deur ’n kernklowing- of kernversmeltingsproses vrygestel word;
- (xxi) “kerninstallasie” ’n kerninstallasie soos omskryf in artikel 1 van die Wet op die Nasionale Kernreguleerder, 1999;

- (xx) "Nuclear Non-Proliferation Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons acceded to by the Republic on 10 July 1991;
- (xxi) "nuclear-related equipment and material" means equipment and material declared under section 2(f) to be nuclear-related equipment and material;
- (xxii) "plant" includes any machinery, equipment or device, whether attached to the ground or not; 5
- (xxiii) "prescribed" means prescribed by regulation;
- (xxiv) "previous Act" means the Nuclear Energy Act, 1993 (Act No. 131 of 1993);
- (xxv) "process", when used as a verb in relation to source material, special nuclear material and restricted material, means to extract or recover such a material or to concentrate, refine or convert it in any manner without enriching it, and "processing" has a corresponding meaning; 10
- (xxvi) "radioactive material" means any substance consisting of, or containing, any radioactive nuclide, whether natural or artificial;
- (xxvii) "radioactive nuclide" means an unstable atomic nucleus which decays spontaneously with the accompanying emission of ionizing radiation; 15
- (xxviii) "radioactive waste" means any radioactive material destined to be disposed of as waste material;
- (xxix) "regulation" means any regulation in force under section 54;
- (xxx) "reprocess" means to extract or separate, from source material or special nuclear material that has been subjected to radiation, the constituents that have undergone transmutations as a result of the radiation, or the constituents that have not undergone those transmutations and are re-usable; 20
- (xxxi) "restricted act or activity" means any of the acts or activities mentioned in—
 - (a) paragraphs (c) to (u) of section 34(1); and 25
 - (b) section 35(1);
- (xxxii) "restricted material" means beryllium and zirconium and any other substance declared under section 2(a) to be restricted material;
- (xxxiii) "restricted matter" means any or all of the following, namely—
 - (a) source material; 30
 - (b) special nuclear material;
 - (c) restricted material;
 - (d) uranium hexafluoride (UF₆);
 - (e) nuclear fuel; and
 - (f) nuclear-related equipment and material; 35
- (xxxiv) "SAFARI nuclear reactor" means the South African Fundamental Atomic Research Installation located at the Atomic Energy Corporation's Pelindaba site, in North West Province;
- (xxxv) "Safeguards Agreement" means the comprehensive safeguards agreement entered into on 16 September 1991 between the Republic and the International Atomic Energy Agency with regard to the application of safeguards for the purposes of the Nuclear Non-Proliferation Treaty pursuant to the Republic's accession to that Treaty on 10 July 1991; 40
- (xxxvi) "site" means a site as defined in section 1 of the National Nuclear Regulator Act, 1999, for which a nuclear authorisation as defined in that Act is required; 45
- (xxxvii) "source material" means any material declared under section 2(b) to be source material;
- (xxxviii) "special nuclear material" means any material declared under section 2(c) to be special nuclear material;
- (xxxix) "specified date" means the date referred to in section 61; 50
- (xl) "storage facility" means a facility for the acceptance, handling and treatment of irradiated fuel and the storage thereof;
- (xli) "subsidiary company" means a "subsidiary company" contemplated in section 1 of the Companies Act, 1973 (Act No. 61 of 1973), and which has been established by the Corporation, either alone or in association with any other person; 55
- (xlii) "this Act" includes any regulations; and
- (xliii) "waste disposal facility" means a facility for the acceptance, handling, storage and treatment of radioactive waste and irradiated fuel and the disposal of radioactive waste. 60

- (xxii) "kernmateriaal" bronmateriaal en spesiale kernmateriaal;
- (xxiii) "Kernsperverdrag" die Verdrag oor die Nie-proliferasie van Kernwapens waartoe die Republiek op 10 Julie 1991 toegetree het;
- (xxiv) "kernverwante toerusting en materiaal" toerusting en materiaal wat kragtens artikel 2(f) as kernverwante toerusting en materiaal verklaar is;
- (xxv) "Korporasie" die Suid-Afrikaanse Kernenergiekorporasie, Beperk, ingestel by artikel 3;
- (xxvi) "Maatskappywet" die Maatskappywet, 1973 (Wet No. 61 van 1973);
- (xxvii) "Minister" die Minister van Minerale en Energie;
- 10 (xxviii) "opbergingsfasiliteit" 'n fasiliteit vir die ontvangs, hantering en behandeling van bestraalde kernbrandstof en die opberging daarvan;
- (xxix) "Raad" die Raad van Direkteure van die Korporasie waarvoor in artikel 16 voorsiening gemaak word;
- (xxx) "radioaktiewe afval" enige radioaktiewe materiaal wat bestem is om as afvalmateriaal weggedoen te word;
- 15 (xxxi) "radioaktiewe materiaal" enige stof bestaande uit of bevattende enige radioaktiewe nuklied, hetsy natuurlik of kunsmatig;
- (xxxii) "radioaktiewe nuklied" 'n onstabiele atoomkern wat spontaan verval met gepaardgaande uitstraling van ioniserende straling;
- 20 (xxxiii) "regulasie" enige regulasie van krag kragtens artikel 54;
- (xxxiv) "SAFARI-kernreaktor" beteken die Suid-Afrikaanse Basiese Atoomnavorsingsinstallasie geleë by die terrein van die Atoomenergiekorporasie te Pelindaba, in die provinsie Noordwes;
- (xxxv) "spesiale kernmateriaal" enige materiaal wat kragtens artikel 2(c) as spesiale kernmateriaal verklaar is;
- 25 (xxxvi) "terrein" 'n terrein soos omskryf in artikel 1 van die Wet op die Nasionale Kernreguleerder, 1999, waarvoor 'n kernmagtiging soos omskryf in daardie Wet vereis word;
- (xxxvii) "uitvinding" 'n uitvinding soos omskryf in artikel 2 van die Wet op Patente, 1978 (Wet No. 57 van 1978);
- 30 (xxxviii) "vasgestelde verpligtinge" die verpligtinge van die Republiek ingevolge internasionale ooreenkomste of in nasionale of openbare belang betreffende aangeleenthede wat voortspruit uit of andersins die gebruik van kernenergie behels, soos—
- 35 (a) die buitediensstelling en ontsmetting van gewese strategiese kernfasiliteite;
- (b) die bestuur van kernafvalwegdoening op 'n nasionale grondslag;
- (c) die aanwending van stralingstechnologie vir mediese of wetenskaplike doeleindes;
- 40 (d) die bedryf van die SAFARI-kernreaktor;
- (e) die bedryf van die terrein van die Atoomenergiekorporasie te Pelindaba, en gepaardgaande dienste;
- (f) die implementering en uitvoering van die waarborgfunksie met die Internasionale Atoomenergie-agentskap, die Kernsperverdrag, die Afrika-samewerkingsooreenkoms, die Verdrag van Pelindaba of enige ander verdrag, ooreenkoms of protokol;
- 45 (xxxix) "verryk" om die verhouding van 'n isotoopbestanddeel van 'n element tot die oorblywende isotoopbestanddele van daardie element te verhoog relatief tot die verhouding wat in die natuur voorkom, en het "verryking" 'n ooreenstemmende betekenis;
- 50 (xl) "verwerk", wanneer gebruik word as 'n werkwoord met betrekking tot bronmateriaal, spesiale kernmateriaal en beperkte materiaal, om sodanige materiaal te ekstraheer of herwin of dit te konsentreer, suiwer of omskep op enige wyse sonder om dit te verryk, en het "verwerking" 'n ooreenstemmende betekenis;
- 55 (xli) "voorgeskryf" by regulasie voorgeskryf en het "voorgeskrewe" 'n ooreenstemmende betekenis;
- (xlii) "vorige Wet" die Wet op Kernenergie, 1993 (Wet No. 131 van 1993);
- 60 (xliii) "Waarborgooreenkoms" die omvattende waarborgooreenkoms wat op 16 September 1991 tussen die Republiek en die Internasionale Atoomenergie-agentskap gesluit is met betrekking tot die aanwending van veiligheidsmeganismes vir doeleindes van die Kernsperverdrag ooreenkomstig die Republiek se toetrede tot daardie Verdrag op 10 Julie 1991.

Declarations, determinations and exemptions relating to material, substances, equipment and premises, etc

2. The Minister, by notice in the *Gazette*, may—
- (a) declare any substance with a degree of purity as specified in the notice, to be restricted material for the purposes of this Act; 5
 - (b) declare any substance containing uranium or thorium with concentration and mass limits higher than those specified in the notice, to be source material for the purposes of this Act;
 - (c) declare any of the following with concentration and mass levels higher than those specified in the notice, to be special nuclear material for the purposes of this Act, namely— 10
 - (i) plutonium-239;
 - (ii) uranium-233;
 - (iii) uranium enriched in its 235 or 233 isotope;
 - (iv) transuranium elements; or 15
 - (v) any composition of any of the materials referred to in subparagraphs (i), (ii), (iii) and (iv), or any composition of those materials and any other substance or substances;
 - (d) declare any facility, installation, plant or structure designed or adapted for or involved with any process within the nuclear fuel cycle involving radioactive material, to be a nuclear installation for the purposes of this Act; 20
 - (e) exempt any radioactive material from the provisions of this Act;
 - (f) for the purposes of this Act, declare equipment and material specially designed or prepared for the processing, use or production of nuclear material, to be nuclear-related equipment and material; 25
 - (g) determine the levels of specific activity and total activity of radioactive material below which the provisions of this Act do not apply.

CHAPTER II

THE SOUTH AFRICAN NUCLEAR ENERGY CORPORATION, LIMITED

Establishment of South African Nuclear Energy Corporation, Limited 30

3. (1) There is hereby established a nuclear energy corporation for the Republic which will be a juristic person.

(2) Despite the provisions of the Companies Act or any other law, that corporation, with effect from the specified date, will be a public company incorporated in accordance with section 4. 35

(3) The main objects of that corporation and, accordingly, those of that company, are to perform the functions mentioned in section 13.

Incorporation of South African Nuclear Energy Corporation, Limited

4. (1) The Minister must take all the steps that are necessary for the formation and incorporation of that corporation as a public company with a share capital within the meaning of the Companies Act, subject to section 3, this section and section 5. 40

(2) Despite the provisions of the Companies Act, the State will be the only member and shareholder of that company upon its incorporation.

(3) Despite the provisions of the Companies Act—

- (a) the Minister, who represents the State, will sign the memorandum of association, articles of association and all other documents necessary in connection with the formation and incorporation of the company; 45
- (b) the Registrar of Companies must register the memorandum of association and articles of association as signed by the Minister, and incorporate the company as a public company under the name “The South African Nuclear Energy Corporation Limited”, with the State as its only member and shareholder, and issue to the company a certificate to commence business with effect from the date of the company’s incorporation. 50

(4) (a) The State’s rights as member and shareholder of the Corporation are to be exercised by the Minister. 55

Verklarings, vasstellings en vrystellings met betrekking tot materiaal, stowwe, toerusting en persele, ens

2. Die Minister kan by kennisgewing in die *Staatskoerant*—

- (a) vir die doeleindes van hierdie Wet, enige stof met 'n suiwerheidsgraad soos in die kennisgewing gespesifiseer, tot beperkte materiaal verklaar;
- (b) vir die doeleindes van hierdie Wet, enige stof wat uraan of torium met sterkte- en massaperke bo daardie in die kennisgewing gespesifiseer, tot bronmateriaal verklaar;
- (c) vir die doeleindes van hierdie Wet, enige van die volgende, met sterkte- en massaperke bo daardie in die kennisgewing gespesifiseer, tot spesiale kernmateriaal verklaar, naamlik—
 - (i) plutonium-239;
 - (ii) uraan-233;
 - (iii) uraan verryk in sy 235- of 233-isotoop;
 - (iv) transuraanelemente; of
 - (v) enige samestelling van enige van die materiale bedoel in subparagrafe (i), (ii), (iii) en (iv), of enige samestelling van daardie materiale en enige ander stof of stowwe;
- (d) vir die doeleindes van hierdie Wet, enige fasiliteit, installasie, aanleg of struktuur wat ontwerp of aangepas is vir, of betrokke is by, enige proses binne die kernbrandstofsiklus waarby radioaktiewe materiaal betrokke is, tot 'n kerninstallasie verklaar;
- (e) enige radioaktiewe materiaal van die bepalinge van hierdie Wet vrystel;
- (f) vir die doeleindes van hierdie Wet, toerusting en materiaal wat spesiaal ontwerp of voorberei is vir die verwerking, gebruik of vervaardiging van kernmateriaal, tot kernverwante toerusting en materiaal verklaar;
- (g) die vlakke van die spesifieke aktiwiteit en totale aktiwiteit van radioaktiewe materiaal waarbene die bepalinge van hierdie Wet nie van toepassing is nie, bepaal.

HOOFSTUK II

DIE SUID-AFRIKAANSE KERNENERGIEKORPORASIE, BEPERK

Instelling van Suid-Afrikaanse Kernenergiekorporasie, Beperk

3. (1) 'n Kernenergiekorporasie vir die Republiek word hierby as regspersoon ingestel.

35 (2) Ondanks die bepalinge van die Maatskappywet of enige ander wet, word daardie korporasie met ingang van die aangewese datum 'n publieke maatskappy ingelyf ooreenkomstig artikel 4.

(3) Die hoofdoelstellings van daardie korporasie, en gevolglik dié van daardie maatskappy, is om die werksaamhede in artikel 13 genoem, te verrig.

40 Inlywing van Suid-Afrikaanse Kernenergiekorporasie, Beperk

4. (1) Behoudens artikel 3, hierdie artikel en artikel 5 moet die Minister al die nodige stappe doen vir die stigting en inlywing van daardie korporasie as 'n publieke maatskappy met 'n aandeelkapitaal binne die bestek van die Maatskappywet.

(2) Ondanks die bepalinge van die Maatskappywet is die Staat die enigste lid en 45 aandeelhouer van daardie maatskappy by sy inlywing.

(3) Ondanks die bepalinge van die Maatskappywet moet—

- (a) die Minister, wat die Staat verteenwoordig, die akte van oprigting en statute en al die ander dokumente wat in verband met die stigting en inlywing van die maatskappy nodig is, onderteken;
- 50 (b) die Registrateur van Maatskappye die akte van oprigting en statute soos deur die Minister onderteken, registreer en die maatskappy inlyf as 'n publieke maatskappy met die naam "Die Suid-Afrikaanse Kernenergiekorporasie, Beperk", met die Staat as enigste lid en aandeelhouer, en aan die maatskappy 'n sertifikaat uitreik om met besigheid te begin, met ingang vanaf die datum 55 van die maatskappy se inlywing.

(4) (a) Die Staat se regte as lid en aandeelhouer van die Korporasie word deur die Minister uitgeoefen.

(b) The relationship between the Corporation and the Minister representing the State as the only member and shareholder, may be closer defined in an agreement entered into by the Corporation and the Minister for that purpose, subject to this Act.

Corporation's memorandum and articles of association

5. (1) The memorandum of association and articles of association of the Corporation must be so drawn up that the contents thereof are consistent with this Act. 5

(2) Despite the Companies Act, an amendment of the memorandum of association or articles of association affecting any arrangement made by any provision of this Act will not be operative or have any legal force unless and until the relevant provision of this Act has been amended accordingly and that amendment has come into effect. 10

Application of Companies Act to Corporation

6. (1) The provisions of the Companies Act, which are not in conflict with this Act, apply to the Corporation, subject to subsection (2).

(2) A provision of the Companies Act will not apply to the Corporation in the following circumstances, namely, where— 15

- (a) because of any special or contrary arrangement made by this Act, such a provision is clearly inappropriate or incapable of being applied; or
- (b) the Minister of Trade and Industry has issued a declaration under section 7(3) with regard to the provision.

Certain provisions of Companies Act may be declared not applicable to Corporation 20

7. (1) The Minister, after consultation with the Corporation, may from time to time, as and when considered necessary, request the Minister of Trade and Industry to declare any particular provision of the Companies Act, not to be applicable to the Corporation.

(2) The request must be fully motivated, and the necessary particulars about the request, together with the motivation therefor, must be made known by the Registrar of Companies by notice in the *Gazette*. In that notice that Registrar must also invite interested persons who may have any objections to such a declaration, to submit their objections and representations to a person named in the notice, or, if sent by post, to place that person in possession of their objections and representations, not later than 21 30 days after the date of the notice.

(3) After having considered the objections and representations received within the 21 day period, the Minister of Trade and Industry may, by notice in the *Gazette*, declare the whole or any part of any provision of the Companies Act about which the abovementioned request was made, not to be applicable to the Corporation with effect 35 from a date stated in that notice, if satisfied on reasonable grounds that the non-application of that provision to the Corporation—

- (a) will contribute to its efficiency or will reduce the Corporation's operating costs; and
- (b) will not reduce or limit the Corporation's accountability as a public institution 40 or detract from the requirements of transparency as regards its functioning and operations; and
- (c) will not be prejudicial to the rights, interests or claims of the Corporation's creditors or employees or to the rights or interests of any other interested parties. 45

Corporation successor to property, assets and liabilities of Atomic Energy Corporation

8. (1) On the specified date, the Corporation will become entitled to and have claim to any money which, immediately before that date, stood to the credit of the Atomic Energy Corporation. 50

(2) On the specified date, the following will pass to and vest in the Corporation:

- (a) All immovable property registered in the name of the Atomic Energy Corporation and consisting of land, and any servitudes or other real rights with regard to land;

(b) Behoudens hierdie Wet kan die verhouding tussen die Korporasie en die Minister, wat die Staat as die enigste lid en aandeelhouer verteenwoordig, nader omskryf word in 'n ooreenkoms deur die Korporasie en die Minister vir daardie doel aangegaan.

Korporasie se akte van oprigting en statute

- 5 **5.** (1) Die akte van oprigting en statute van die Korporasie moet so opgestel word dat die inhoud daarvan met hierdie Wet bestaanbaar is.
- (2) Ondanks die Maatskappywet sal 'n wysiging van die akte van oprigting of statute wat enige reëling raak wat deur 'n bepaling van hierdie Wet geraak word, nie in werking tree of enige regs-krag geniet tot tyd en wyl die betrokke bepaling van hierdie
- 10 Wet dien ooreenkomstig gewysig is en daardie wysiging in werking getree het nie.

Toepassing van Maatskappywet op Korporasie

6. (1) Behoudens subartikel (2) is die bepalings van die Maatskappywet wat nie met hierdie Wet in stryd is nie, van toepassing op die Korporasie.
- (2) 'n Bepaling van die Maatskappywet is nie in die volgende omstandighede op die
- 15 Korporasie van toepassing nie, naamlik waar—
- (a) weens enige besondere of teenstrydige reëling by hierdie Wet getref, so 'n bepaling duidelik onvanpas is of nie toegepas kan word nie; of
- (b) die Minister van Handel en Nywerheid 'n verklaring kragtens artikel 7(3) met betrekking tot die bepaling uitgereik het.
- 20 **Sekere bepalings van Maatskappywet kan verklaar word nie op Korporasie van toepassing te wees nie**

7. (1) Die Minister kan na oorlegpleging met die Korporasie van tyd tot tyd, soos en wanneer dit nodig geag word, die Minister van Handel en Nywerheid versoek om te verklaar dat enige besondere bepaling van die Maatskappywet nie op die Korporasie
- 25 van toepassing is nie.
- (2) Die versoek moet ten volle gemotiveer word, en die nodige besonderhede aangaande die versoek, tesame met die motivering daarvoor, moet deur die Registrateur van Maatskappye by kennisgewing in die *Staatskoerant* bekend gemaak word. Die Registrateur moet in daardie kennisgewing ook belanghebbendes wat enige besware
- 30 teen so 'n verklaring het, uitnooi om hul besware en vertoë voor te lê aan 'n persoon in die kennisgewing genoem, of, indien per pos afgestuur, daardie persoon hoogstens 21 dae na die datum van die kennisgewing in besit te stel van hul besware en vertoë.
- (3) Die Minister van Handel en Nywerheid kan, na oorweging van die besware en vertoë wat binne die tydperk van 21 dae ontvang is, by kennisgewing in die
- 35 *Staatskoerant* verklaar dat die geheel of 'n gedeelte van enige bepaling van die Maatskappywet waaroor bogenoemde versoek gerig is, met ingang van 'n datum in daardie kennisgewing vermeld, nie op die Korporasie van toepassing is nie, indien op redelike gronde daarvan oortuig dat die nie-toepassing van daardie bepaling op die Korporasie—
- 40 (a) tot die Korporasie se doeltreffendheid sal bydra of sy bedryfskoste sal verlaag; en
- (b) nie aan die Korporasie se rekenpligtigheid as 'n openbare instelling of aan die vereistes van deursigtigheid wat betref sy funksionering en bedryfswerk-saamhede sal afbreuk doen nie; en
- 45 (c) nie tot die nadeel van die regte, belange, eise of aansprake van die Korporasie se skuldeisers of werknemers of die regte of belange van enige ander belanghebbendes sal wees nie.

Korporasie die opvolger van eiendom, bates en laste van Atoomenergiekorporasie

8. (1) Op die aangewese datum word die Korporasie geregtig en het hy aanspraak op
- 50 enige geld wat onmiddellik voor daardie datum tot die krediet van die Atoom-energiekorporasie gestaan het.
- (2) Op die aangewese datum gaan die volgende oor op en berus by die Korporasie:
- (a) Alle onroerende eiendom geregistreer in die naam van die Atoomenergiekorporasie bestaande uit grond en enige serwitute of ander saaklike regte met
- 55 betrekking tot grond;

- (b) land and any servitudes or other real rights with regard to land (including any right to use land temporarily) acquired by the Atomic Energy Corporation in terms of the previous Act for the purposes of or in connection with the functions, business or operations of the Atomic Energy Corporation;
 - (c) any other assets of which the Atomic Energy Corporation is the owner, immediately before the specified date, for the purposes of or in terms of the previous Act; and 5
 - (d) any liabilities which were incurred by the Atomic Energy Corporation in terms of the previous Act or pursuant to its operations and activities thereunder, which are still outstanding immediately before the specified date. 10
- (3) The Registrar of Deeds concerned must make the entries and endorsements that may be necessary to give effect to subsection (2) in or on any relevant register, title deed or any other document that is filed or on record in the Deeds Registry or has been submitted to that Registrar, and no office fees or other money will be payable with regard to such an entry or endorsement. 15

Transfer of shares by Minister

9. (1) Despite any provisions of a law to the contrary, the Minister may transfer so much of the State's shares in a subsidiary company contemplated in section 14(1)(a)(i) as the Cabinet approves to such transferees in such manner and on such terms and conditions as the Cabinet approves. 20
- (2) The proceeds of any transfer in terms of subsection (1) may be used wholly or partially for such purpose as the Cabinet approves, but all proceeds not so used within the period determined by the Cabinet must be paid into the National Revenue Fund.

State's financial interest in Corporation

10. (1) In exchange for the nett value of the assets passing to and vesting in the Corporation in terms of section 8, the State, by virtue of having been the sole shareholder in the Atomic Energy Corporation, will hold fully paid-up shares in the Corporation— 25
- (a) for an amount equal to the nett value of the assets so invested in the Corporation; or 30
 - (b) for an amount equal to a percentage, specified in the agreement, of the nett value of the assets so invested, subject to subsection (2).
- (2) (a) If the amount for which shares in the Corporation are to be held by the State in terms of subsection (1), is less than the nett value of the assets so passing to and vesting in the Corporation, the Corporation will be indebted to the State for an amount equal to the difference between the nett value of those assets and the value of the shares to be so held. The amount of that difference will be regarded and treated as a loan granted to the Corporation by the State. 35
- (b) The terms and conditions of that loan must be set out in the agreement mentioned in subsection (1). In that agreement provision may be made that the Corporation issues the State with debentures for the whole or any part of the amount of the loan. 40
- (3) For the purposes of this section, any reference to the nett value of the assets invested in the Corporation, however expressed, must be understood to mean all the money mentioned in subsection (1) of section 8 *plus* the value of all the movable, immovable and other property passing to the Corporation in terms of subsection (2)(a), (b) and (c) of that section, an amount representing the sum of all the liabilities passing to the Corporation in terms of subsection (2)(d) of that section. 45
- (4) Where the value of any assets consisting of immovable property is to be determined for the purposes of this section, regard must be had to the criteria mentioned in sections 12(1) and (5)(b), (c), (d), (e), (f) and (h) of the Expropriation Act, 1975 (Act No. 63 of 1975). 50

Financial year

11. The Corporation's financial year will be from 1 April in any year to 31 March in the following year, both days included. However, the first financial year will run from the specified date to 31 March in the following year, both days included. 55

- (b) grond en enige servitute of ander saaklike regte met betrekking tot grond (insluitende enige reg om grond tydelik te gebruik) wat ingevolge die vorige Wet deur die Atoomenergiekorporasie vir die doeleindes van of in verband met die werksaamhede, besigheid of bedryf van die Atoomenergiekorporasie verkry is;
- (c) enige ander bates waarvan die Atoomenergiekorporasie, onmiddellik voor die aangewese datum, die eienaar vir doeleindes van of ingevolge die vorige Wet was; en
- (d) enige verpligtinge deur die Atoomenergiekorporasie opgeloop ingevolge die vorige Wet of ooreenkomstig sy bedryfswerksaamhede en bedrywighede daarkragtens, wat onmiddellik voor die aangewese datum uitstaande was.
- (3) Die betrokke Registrateur van Aktes moet die inskrywings en aantekeninge wat nodig is om uitvoering te gee aan subartikel (2), in of op enige betrokke register, titelbewys of enige ander dokument wat in die Aktekantoor geliasseer is of op rekord is of wat aan die Registrateur voorgelê is, aanbring, en geen kantoorgelde of ander gelde is met betrekking tot so 'n inskrywing of aantekening betaalbaar nie.

Oordrag van aandele deur Minister

9. (1) Ondanks enige bepalings van 'n wet tot die teendeel, kan die Minister soveel van die Staat se aandele in 'n filiaalmaatskappy soos bedoel in artikel 14(1)(a)(i), as wat die Kabinet goedkeur, aan sodanige oordragnemers oordra, op sodanige manier en op sodanige bepalings en voorwaardes as wat die Kabinet goedkeur.
- (2) Die opbrengs van enige oordrag ingevolge subartikel (1) kan ten volle of gedeeltelik aangewend word vir sodanige doeleindes soos deur die Kabinet goedgekeur, maar alle opbrengste wat nie aldus gebruik word binne die tydperk deur die Kabinet vasgestel nie, moet in die Nasionale Inkomstefonds inbetaal word.

Staat se finansiële belang in Korporasie

10. (1) In ruil vir die netto waarde van die bates wat ingevolge artikel 8 oorgaan op en berus in die Korporasie hou die Staat, synde die enigste aandeelhouer in die Atoomenergiekorporasie, vol-opbetaalde aandele in die Korporasie—
- (a) vir 'n bedrag gelykstaande aan die netto waarde van die bates aldus in die Korporasie belê; of
- (b) vir 'n bedrag gelykstaande aan 'n persentasie, in die ooreenkoms vermeld, van die netto waarde van die bates aldus belê, behoudens subartikel (2).
- (2) (a) Indien die bedrag waarvoor die Staat ingevolge subartikel (1) aandele in die Korporasie staan te hou minder is as die netto waarde van die bates wat aldus oorgaan op en berus in die Korporasie, is die Korporasie aan die Staat 'n bedrag verskuldig wat gelykstaan aan die verskil tussen die netto waarde van daardie bates en die waarde van die aandele wat aldus gehou staan te word. Die bedrag van daardie verskil word geag en behandel as 'n lening deur die Staat aan die Korporasie toegestaan.
- (b) Die bedinge en voorwaardes van daardie lening moet in die ooreenkoms genoem in subartikel (1) uiteengesit word. Voorsiening kan in daardie ooreenkoms gemaak word dat die Korporasie aan die Staat skuldbriewe vir die geheel of enige gedeelte van die leningsbedrag uitreik.
- (3) Vir doeleindes van hierdie artikel word 'n verwysing na die netto waarde van die bates in die Korporasie belê, hoe dit ook al uitgedruk word, verstaan as sou dit beteken al die geld in subartikel (1) van artikel 8 genoem *plus* die waarde van al die roerende, onroerende en ander eiendom wat aan die Korporasie ingevolge subartikel (2)(a), (b) en (c) van daardie artikel oorgaan, *minus* 'n bedrag wat die som verteenwoordig van al die laste wat ingevolge subartikel (2)(d) van daardie artikel op die Korporasie oorgaan.
- (4) Wanneer die waarde van enige bates wat uit onroerende eiendom bestaan vir die doeleindes van hierdie artikel bepaal moet word, moet die maatstawwe genoem in artikels 12(1) en (5)(b), (c), (d), (e), (f) en (h) van die Onteieningswet, 1975 (Wet No. 63 van 1975), in aanmerking geneem word.

Boekjaar

11. Die Korporasie se boekjaar strek vanaf 1 April in enige jaar tot 31 Maart in die volgende jaar, beide dae ingesluit. Die eerste boekjaar loop egter vanaf die aangewese datum tot 31 Maart in die daaropvolgende jaar, beide dae ingesluit.

Judicial management and liquidation

12. Despite the provisions of any other law, the Corporation may not be placed under judicial management or in liquidation except if authorised by an Act of Parliament adopted specially for that purpose.

Main functions of Corporation

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13. The main functions of the Corporation are—

- (a) to undertake and promote research and development in the field of nuclear energy and radiation sciences and technology and, subject to the Safeguards Agreement, to make these generally available;
- (b) to process source material, special nuclear material and restricted material and to reprocess and enrich source material and nuclear material; and
- (c) to co-operate with any person or institution in matters falling within these functions subject to the approval of the Minister.

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Ancillary powers and functions of Corporation

14. (1) In connection with its main functions, the Corporation may—

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- (a) for the purpose of developing or in any manner exploiting any invention or technological expertise, subject to the approval of the Minister granted with the agreement of the Minister of Finance—
 - (i) establish a subsidiary company in terms of the Companies Act or in association with any person so establish a company, or acquire an interest in or control over a company;
 - (ii) purchase or otherwise acquire immovable property and encumber or dispose thereof;
 - (iii) purchase, erect, or cause to be erected, any buildings, installations, works or plants;
- (b) establish and manage facilities for collecting and disseminating information regarding activities falling within the scope of the Corporation's functions and powers;
- (c) utilise or let buildings, works or plants for the benefit of the Corporation or such a subsidiary company;
- (d) purchase, hire or otherwise acquire, or hold, movable property, and let, pledge, encumber or dispose of such property of which it is the owner;
- (e) hire services or let its own services or make them otherwise available;
- (f) conclude agreements with producers for the production and delivery of any quantities of source material that may be required from time to time by the Corporation or any subsidiary company of the Corporation;
- (g) cede or assign to any person any or all of the rights or obligations of the Corporation in terms of any contract relating to the sale or supply of source material, subject to this Act;
- (h) promote the prospection for and mining of source material and restricted material;
- (i) undertake, cause to be undertaken or promote the development of nuclear technology, nuclear-related technology and know-how, and nuclear research;
- (j) manufacture or otherwise produce, acquire or possess uranium hexafluoride (UF₆), or dispose thereof, subject to section 34;
- (k) acquire, possess, utilise, dispose of or process source material, special nuclear material and restricted material, and enrich and reprocess source material and special nuclear material subject to section 34;
- (l) manufacture, acquire or possess nuclear fuel and dispose thereof subject to section 34;
- (m) import into or export from the Republic any source material, special nuclear material, restricted material and nuclear related equipment and material and technology, subject to section 34 or 35;
- (n) store irradiated fuel and operate facilities for that purpose, subject to section 34;
- (o) undertake the transportation of source material, special nuclear material, nuclear fuel, irradiated nuclear fuel, radioactive material and radioactive waste or cause it to be undertaken, subject to section 34;
- (p) make any arrangements that the Minister considers necessary for the stockpiling of strategic raw materials, materials and equipment;

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Geregtelike bestuur en likwidasië

12. Ondanks enige ander wetsbepaling mag die Korporasie nie onder geregtelike bestuur of in likwidasië geplaas word nie behalwe wanneer 'n Wet van die Parlement wat spesiaal vir daardie doel aangeneem is, dit magtig.

5 Hoofwerkzaamhede van Korporasie

13. Die hoofwerkzaamhede van die Korporasie is om—

- (a) navorsing en ontwikkeling op die gebied van kernenergie en stralingswetenskappe en tegnologie te onderneem en te bevorder, en dit, behoudens die Waarborgooreenkoms, algemeen beskikbaar te stel;
- 10 (b) bronmateriaal, spesiale kernmateriaal en beperkte materiaal te verwerk en om bronmateriaal en kernmateriaal te herverwerk en te verryk; en
- (c) onderhewig aan die goedkeuring van die Minister met enige persoon of instelling saam te werk oor aangeleenthede wat binne hierdie werkzaamhede val.

15 Bykomstige bevoegdhede en werkzaamhede van Korporasie

14. (1) Die Korporasie kan, in verband met sy hoofwerkzaamhede—

- (a) onderhewig aan die goedkeuring van die Minister verleen met die toestemming van die Minister van Finansies, met die doel om enige uitvinding of tegnologiese kundigheid op enige wyse te ontwikkel of te benut—
 - 20 (i) 'n filiaalmaatskappy ingevolge die Maatskappywet oprig, of in medewerking met enige persoon 'n maatskappy aldus oprig of 'n belang in of beheer oor 'n maatskappy verkry;
 - (ii) onroerende goed koop of andersins verkry en dit beswaar of vervreem;
 - (iii) enige geboue, installasies, werke of aanleg koop, oprig of laat oprig;
- 25 (b) fasiliteite vir die insameling en verspreiding van inligting aangaande bedrywighede wat binne die raamwerk van die Korporasie se werkzaamhede en bevoegdhede val, oprig en bestuur;
- (c) geboue, werke of aanlegte tot voordeel van die Korporasie of so 'n filiaalmaatskappy benut of verhuur;
- 30 (d) roerende goed koop, huur of andersins verkry of besit en daardie goed waarvan dit die eienaar is, verhuur, verpand of vervreem;
- (e) dienste huur of sy eie dienste verhuur of dit andersins beskikbaar stel;
- (f) ooreenkomste met produsente aangaan om enige hoeveelhede bronmateriaal voort te bring en te lewer wat die Korporasie of enige filiaalmaatskappy van die Korporasie van tyd tot tyd benodig;
- 35 (g) behoudens hierdie Wet enige van of al die regte en verpligtinge van die Korporasie ingevolge 'n kontrak betreffende die verkoop of verskaffing van bronmateriaal, aan enigiemand sodeer of oordra;
- (h) die prospektering na en ontginning van bronmateriaal en beperkte materiaal bevorder;
- 40 (i) die ontwikkeling van kerntegnologie, kernverwante tegnologie en kundigheid en kernnavorsing onderneem, laat onderneem of bevorder;
- (j) behoudens artikel 34 uraanheksafluoried (UF₆), vervaardig of andersins voortbring, verkry of besit of daarvoor beskik;
- 45 (k) behoudens artikel 34 bronmateriaal, spesiale kernmateriaal en beperkte materiaal verkry, besit, gebruik, daarvoor beskik of dit verwerk en bronmateriaal en spesiale kernmateriaal verryk en herverwerk;
- (l) behoudens artikel 34 kernbrandstof vervaardig, verkry, besit en daarvoor beskik;
- 50 (m) behoudens artikel 34 of 35 enige bronmateriaal, spesiale kernmateriaal, beperkte materiaal en kernverwante toerusting en materiaal en tegnologie invoer na, of uitvoer van, die Republiek;
- (n) behoudens artikel 34 bestraalde brandstof opberg en vir dié doeleindes opbergingsfasiliteite bedryf;
- 55 (o) behoudens artikel 34 die vervoer van bronmateriaal, spesiale kernmateriaal, kernbrandstof, bestraalde kernbrandstof, radioaktiewe materiaal en radioaktiewe afval onderneem of laat onderneem;
- (p) reëlins tref wat die Minister nodig ag vir die opstapeling van strategiese grondstowwe, materiaal en toerusting;

(2) The permission may be granted subject to any conditions determined by the Minister acting with the agreement of the Minister of Finance.

(3) The State, represented by the Minister acting with the agreement of the Minister of Finance, may guarantee any loan raised by the Corporation in terms of subsection (1).

(4) The Corporation with the agreement of the Minister so acting, may issue debentures in respect of a loan so raised. 5

Control and management of affairs of Corporation

16. (1) (a) The Corporation is governed and controlled, in accordance with this Act, by a Board of Directors.

(b) The Board must ensure that the goals of this Act are actively pursued, and must exercise general control over the performance of the Corporation's functions. 10

(c) The Board represents the Corporation, and all acts performed by the Board or on its authority will be the acts of the Corporation.

(2) The Board consists of—

(a) a chairperson, appointed by the Minister; 15

(b) not fewer than five and not more than seven suitably qualified directors appointed by the Minister;

(c) the chief executive officer, who is a member of the Board by virtue of holding the office;

(d) an official of the Department, designated by the Minister; and 20

(e) an official of the Department of Foreign Affairs designated by the Minister after consultation with the Minister of Foreign Affairs.

(3) A person will be disqualified from being appointed or designated or remaining a director—

(a) if not a South African citizen who is permanently resident in the Republic; 25

(b) upon being declared insolvent or the person's estate having been handed over to creditors;

(c) upon being convicted of an offence and sentenced to imprisonment without the option of a fine;

(d) upon having been nominated— 30

(i) as a candidate in any election of members of Parliament or a provincial legislature in terms of the Electoral Act, 1998 (Act No. 73 of 1998);

(ii) to fill a vacant seat in Parliament or a provincial legislature;

(e) if appointed to any other public office under the State;

(f) if disqualified on any other grounds in terms of the Companies Act from being a director of a company. 35

(4) The Minister may, for a director appointed in terms of subsection (2)(d) and (e), appoint a suitably qualified alternate director to act in the place of that director during his or her absence.

(5) (a) The chairperson of the Board holds office for a period specified in the person's letter of appointment but not exceeding three years, and may be reappointed upon expiry of that term of office. 40

(b) A director mentioned in subsection (2)(b) holds office for a period specified in the person's letter of appointment but not exceeding three years, and may be reappointed upon expiry of that term of office. 45

(6) (a) Any director mentioned in subsection (2)(a) or (b), will be appointed on the terms and conditions, including terms and conditions relating to the remuneration and allowances payable, as the Minister may determine with the agreement of the Minister of Finance.

(b) Those terms and conditions must be stipulated in such a director's letter of appointment. 50

(7) The Minister must designate one of the directors as deputy chairperson.

(8) If any appointed or designated director dies or vacates office, the Minister, subject to subsection (2), may appoint or designate another person as director. The person so appointed or designated will serve for the unexpired portion of the predecessor's term of office. 55

(2) Die toestemming kan verleen word onderworpe aan enige voorwaardes wat die Minister met die instemming van die Minister van Finansies bepaal.

(3) Die Staat, verteenwoordig deur die Minister handelende met die instemming van die Minister van Finansies, kan enige lening waarborg wat die Korporasie ingevolge subartikel (1) aangegaan het.

(4) Die Korporasie kan met die instemming van die Minister wat aldus handel, skuldbriewe ten opsigte van sodanige lening uitreik.

Beheer en bestuur van sake van Korporasie

16. (1) (a) Die Korporasie word ooreenkomstig hierdie Wet deur 'n Raad van Direkteure bestuur en beheer.

(b) Die Raad moet verseker dat die doelstellings van hierdie Wet daadwerklik nagestreef word en moet in die algemeen beheer uitoeven oor die verrigting van die Korporasie se werksaamhede.

(c) Die Raad verteenwoordig die Korporasie en alle handelinge van of onder gesag van die Raad verrig, is handelinge van die Korporasie.

(2) Die Raad bestaan uit—

(a) 'n voorsitter, deur die Minister aangestel;

(b) minstens vyf en hoogstens sewe behoorlik gekwalifiseerde direkteure deur die Minister aangestel;

(c) die hoof- uitvoerende beampte, wat 'n lid van die Raad uit hoofde van die bekleding van daardie amp is;

(d) 'n beampte van die Departement deur die Minister aangewys; en

(e) 'n beampte van die Departement van Buitelandse Sake deur die Minister aangewys na oorleg met die Minister van Buitelandse Sake.

(3) 'n Persoon is onbevoeg om as direkteur aangestel of aangewys te word of aan te bly—

(a) indien sodanige persoon nie 'n Suid-Afrikaanse burger is wat permanent in die Republiek woonagtig is nie;

(b) wanneer sodanige persoon insolvent verklaar word of die persoon se boedel aan krediteure oorgegee is;

(c) wanneer sodanige persoon aan 'n misdryf skuldig bevind word en tot gevangenisstraf sonder die keuse van 'n boete gevonnissen word;

(d) indien sodanige persoon benoem word—

(i) as 'n kandidaat vir verkiesing as 'n lid van die Parlement of enige provinsiale wetgewer ingevolge die Kieswet, 1998 (Wet No. 73 van 1998);

(ii) om 'n vakature in die Parlement of 'n provinsiale wetgewer te vul;

(e) indien sodanige persoon aangestel word om enige ander openbare amp in die Staat te beklee;

(f) indien sodanige persoon op enige ander grond onbevoeg is om ingevolge die Maatskappywet 'n direkteur van 'n maatskappy te wees.

(4) Die Minister kan, vir elke direkteur aangestel ingevolge subartikel (2)(d) en (e), 'n behoorlik gekwalifiseerde plaasvervanger aanstel om namens sodanige direkteur op te tree in sy of haar afwesigheid.

(5) (a) Die voorsitter van die Raad beklee die amp vir 'n tydperk in die persoon se aanstellingsbrief vermeld maar vir hoogstens drie jaar, en kan heraangestel word na afloop van daardie ampstermyn.

(b) 'n Direkteur genoem in subartikel (2)(b) beklee die amp vir 'n tydperk in die persoon se aanstellingsbrief vermeld, maar vir hoogstens drie jaar, en kan weer aangestel word na afloop van daardie ampstermyn.

(6) (a) 'n Direkteur genoem in subartikel (2)(a) of (b) word aangestel op die bedinge en voorwaardes, met inbegrip van bedinge en voorwaardes betreffende die vergoeding en toelaes betaalbaar, wat die Minister met die instemming van die Minister van Finansies bepaal.

(b) Daardie bedinge en voorwaardes moet in sodanige direkteur se aanstellingsbrief bepaal word.

(7) Die Minister moet een van die direkteure as ondervoorsitter aanwys.

(8) Indien 'n aangestelde of aangewese direkteur sterf of die amp ontruim, kan die Minister, behoudens subartikel (2), 'n ander persoon as direkteur aanstel of aanwys.

Die persoon aldus aangestel of aangewys, beklee die amp vir die onverstreke gedeelte van die voorganger se ampstermyn.

- (9) (a) Despite the preceding provisions of this section, the persons who, immediately before the specified date, served as members of the board of directors of the Atomic Energy Corporation in terms of the previous Act, will, as from the specified date until the day immediately before the Corporation's Board, duly constituted in accordance with subsection (2), meets for the first time, act as the directors of the Corporation's Board. 5
- (b) The meetings of those acting directors will be held at the times and places determined by their chairperson.

Vacation of office

17. (1) The Minister may at any time discharge a director from office—
- (a) if the director repeatedly has failed to perform the duties of that office efficiently; 10
 - (b) if, because of any physical or mental illness or disability, the director has become incapable of performing the functions of that office or performing them efficiently; or
 - (c) for misconduct. 15
- (2) A director vacates office—
- (a) upon becoming disqualified in terms of section 16(3);
 - (b) when discharged in terms of subsection (1);
 - (c) upon having been absent from three consecutive meetings of the Board without the chairperson's permission, unless the Board has condoned the absence on good reasons advanced; and 20
 - (d) when the person's resignation as a director takes effect.

Meetings of Board

18. (1) The first meeting of the first Board constituted under section 16, must be held at the time and place determined by the Minister. All meetings thereafter will be held at the times and places that the Board determines. 25
- (2) The chairperson may at any time call a special meeting of the Board to be held at a time and place as determined by the chairperson.
- (3) All directors must be notified in writing of any meeting mentioned in subsection (1) or (2). 30
- (4) A majority of the total number of directors forms a quorum at any meeting of the Board.
- (5) Subject to subsection (4), a decision agreed on by a majority of the directors present at a meeting of the Board is a decision of the Board, and in the event of an equality of votes on any matter, the chairperson of the relevant meeting, has a casting vote in addition to a deliberative vote. 35
- (6) A decision taken by the Board or an act performed under its authority, is not invalid merely because—
- (a) there is a vacancy in the Board; or
 - (b) any person not entitled to do so, sat as a director at the time that decision was taken, 40
- if that decision was taken or that act was authorised by the required majority of directors present at the meeting who were entitled to sit as directors.
- (7) In the case where the chairperson is absent or incapacitated or for any reason unable to act, or when the office of chairperson is vacant, the deputy chairperson will perform the functions of the chairperson. However, if the deputy chairperson is also absent or incapacitated or for any reason unable to act, or where the office of the deputy chairperson is vacant, the remaining directors must designate one from their number to act as chairperson. 45
- (8) The Board must hold at least one meeting every three months. 50

Committees of Board

19. (1) The Board may from time to time appoint one or more committees to assist the Board in performing its functions.
- (2) A committee may consist of one or more members, and may be a standing committee or an *ad hoc* committee appointed for a particular task and period only. A committee must at all times have at least one director as member. 55

(9) (a) Ondanks die voorafgaande bepalings van hierdie artikel, tree die persone wat onmiddellik voor die aangewese datum ingevolge die vorige Wet as lede van die raad van direkteure van die Atoomenergiekorporasie gedien het, op as die direkteure van die Korporasie se Raad vanaf die aangewese datum tot die dag onmiddellik voordat die 5 Korporasie se Raad, behoorlik saamgestel ooreenkomstig subartikel (2), vir die eerste keer vergader.

(b) Die vergaderings van daardie waarnemende direkteure word gehou op die tye en plekke deur hulle voorsitter bepaal.

Ontruiming van amp

- 10 17. (1) Die Minister kan te eniger tyd 'n direkteur van die amp onthef—
- (a) indien die direkteur herhaaldelik versuim het om die pligte van daardie amp doeltreffend te verrig;
 - (b) indien die direkteur weens enige fisiese of geestelike siekte of gebrek 15 onbevoeg geword het om die werksaamhede van daardie amp te verrig of dit doeltreffend te verrig; of
 - (c) weens wangedrag.
- (2) 'n Direkteur ontruim die amp—
- (a) indien sodanige direkteur onbevoeg word ingevolge artikel 16(3);
 - (b) indien sodanige direkteur ontslaan word ingevolge subartikel (1);
 - 20 (c) weens afwesigheid van drie agtereenvolgende vergaderings van die Raad sonder toestemming van die voorsitter, tensy die Raad die afwesigheid op grond van goeie redes verskoon; en
 - (d) sodra die persoon se bedanking as 'n direkteur van krag word.

Vergaderings van Raad

- 25 18. (1) Die eerste vergadering van die eerste Raad saamgestel kragtens artikel 16, word gehou op die tyd en die plek deur die Minister bepaal. Alle vergaderings daarna word gehou op die tye en die plekke deur die Raad bepaal.
- (2) Die voorsitter kan te eniger tyd 'n spesiale vergadering van die Raad belê, wat gehou word op die tyd en die plek wat die voorsitter bepaal.
- 30 (3) Alle direkteure moet skriftelik in kennis gestel word van enige vergadering vermeld in subartikel (1) of (2).
- (4) 'n Meerderheid van die totale getal direkteure is 'n kworum by enige vergadering van die Raad.
- (5) Behoudens subartikel (4) is 'n besluit deur 'n meerderheid van die direkteure wat 35 by 'n vergadering teenwoordig is, 'n besluit van die Raad, en indien daar 'n staking van stemme oor enige aangeleentheid is, het die voorsitter van die betrokke vergadering, benewens 'n raadplegende stem, ook 'n beslissende stem.
- (6) 'n Besluit van die Raad of 'n handeling op sy gesag verrig, is nie ongeldig nie bloot aangesien—
- 40 (a) daar 'n vakature in die Raad is; of
- (b) 'n persoon wat nie daarop geregtig was nie, as direkteur sitting geneem het op die tydstip toe die besluit geneem is,
- indien daardie besluit geneem of handeling gemagtig is deur die vereiste meerderheid van die direkteure by die vergadering aanwesig en wat geregtig was om as direkteure 45 sitting te neem.
- (7) In die geval waar die voorsitter afwesig of onbevoeg is of om enige rede nie in staat is om op te tree nie, of wanneer die amp van voorsitter vakant is, verrig die ondervoorsitter die werksaamhede van die voorsitter. Indien die ondervoorsitter egter ook afwesig of onbevoeg is of om enige rede nie in staat is om op te tree nie of waar 50 die amp van ondervoorsitter vakant is, moet die oorblywende direkteure een uit hulle geledere aanwys om as voorsitter waar te neem.
- (8) Die Raad moet minstens een vergadering elke drie maande hou.

Komitees van Raad

19. (1) Die Raad kan van tyd tot tyd een of meer komitees aanstel om die Raad by 55 die uitvoering van sy werksaamhede by te staan.
- (2) 'n Komitee kan bestaan uit een of meer lede en kan 'n staande komitee of 'n *ad hoc*-komitee wees wat net vir 'n bepaalde taak en tydperk aangestel is. 'n Komitee moet te alle tye minstens een direkteur as lid hê.

(3) If such a committee has two or more members, the Board must designate one of them as the committee's chairperson, who must be a director of the Board.

(4) The Corporation may pay a member of a committee who is not in the full-time service of the State or an employee of the Corporation, the remuneration and allowances determined by the Minister with the agreement of the Minister of Finance.

(5) A member of a committee holds office at the Boards' pleasure.

(6) The Board may fill a vacancy in any committee.

Board and committees to keep minutes

20. (1) The Board and any committee must have minutes prepared and kept of the proceedings of their respective meetings and must have copies of the minutes circulated to their respective members.

(2) The minutes so prepared, when confirmed at a next meeting and signed by the person who chairs that meeting, will, in the absence of proof of error therein, be regarded and treated as a true and correct record of the proceedings and matters that they purport to minute and will be sufficient evidence of those proceedings and matters at any proceedings before a court of law or any tribunal or commission of inquiry.

Delegation and assignment of powers and functions by Board

21. (1) (a) Subject to subsections (2), (3) and (4), the Board, by special resolution, may delegate any of the powers and assign any of the functions or duties conferred or imposed on it by the operation of section 16(1) or conferred or imposed on it elsewhere by this Act, to its chairperson, any other appointed director, the chief executive officer or any committee of the Board.

(b) However, the Board will not be divested of any power nor be relieved of any function or duty it may have delegated or assigned.

(2) The delegation or assignment—

(a) may be made on and subject to any conditions determined by the Board;

(b) may, subject to subsection (4), be given together with the power to subdelegate or further assign, on and subject to any conditions so determined (if any);

(c) must be communicated to the delegatee or assignee in writing. The written communication must contain full particulars of the matters being delegated or assigned and of the conditions determined under paragraph (a), if any, and, where the power of subdelegation or further assignment is conferred, must state that fact as well as any conditions determined under paragraph (b), if any.

(3) The Board, by special resolution, may at any time—

(a) amend or revoke a delegation or assignment made under subsection (1);

(b) withdraw any decision made by the delegatee or assignee with regard to a delegated or assigned matter, and decide the matter itself. However, a decision made by a delegatee or assignee may not be withdrawn where it confers a right or entitlement on any third party.

(4) The Minister, may by notice in the *Gazette*, from time to time—

(a) prohibit the delegation by the Board of any particular power or its assignment of any particular function or duty, whether generally or in the circumstances specified in the notice;

(b) limit the circumstances in which any particular power, function or duty of the Board may be delegated or assigned (as the case may be);

(c) prescribe conditions for the delegation of any particular power or assignment of any particular function or duty;

(d) in relation to any power, function or duty of the Board specified in the notice, prohibit subdelegation or further assignment (as the case may be), in the event of the Board's delegation of that power or assignment of that function or duty.

(3) Indien so 'n komitee twee of meer lede het, moet die Raad een van hulle, wat 'n direkteur van die Raad moet wees, as die komitee se voorsitter aanwys.

(4) Die Korporasie kan aan 'n lid van 'n komitee wat nie in die voltydse diens van die Staat of 'n werknemer van die Korporasie is nie, die besoldiging en toelaes betaal wat die Minister met die instemming van die Minister van Finansies bepaal.

(5) 'n Lid van 'n komitee beklee die amp solank dit die Raad behaag.

(6) Die Raad kan 'n vakature in enige komitee vul.

Raad en komitees moet notule hou

20. (1) Die Raad en enige komitee moet 'n notule laat opstel en hou van die verrigtinge van hul onderskeie vergaderings en moet afskrifte van die notule onder hul onderskeie lede laat versprei.

(2) Wanneer die notule aldus opgestel by 'n volgende vergadering onderteken word deur die persoon wat by die vergadering voorsit, word dit by gebrek aan bewys van 'n fout daarin beskou en behandel as 'n ware en korrekte rekord van die verrigtinge en aangeleenthede wat dit voorgee te notuleer en is dit by enige verrigtinge voor 'n geregshof, 'n tribunaal of 'n kommissie van ondersoek genoegsame bewys van daardie verrigtinge en aangeleenthede.

Delegering en opdragting van bevoegdthede en werksaamhede deur Raad

21. (1) (a) Behoudens subartikels (2), (3) en (4) kan die Raad by spesiale besluit enige van die bevoegdthede, werksaamhede of pligte wat hom deur die werking van artikel 16(1) verleen of opgelê word of hom elders by hierdie Wet verleen of opgelê word, aan sy voorsitter, enige ander aangestelde direkteur, die hoof- uitvoerende beampte of enige komitee van die Raad, deleger of opdra.

(b) Die Raad word egter nie ontnem van enige bevoegdheid of onthef van enige werksaamheid of plig wat hy gedelegeer of opgedra het nie.

(2) Die delegering of opdragting—

(a) kan op en onderhewig aan enige voorwaardes deur die Raad bepaal, gedoen word;

(b) kan, behoudens subartikel (4), gedoen word tesame met die bevoegdheid om te subdeleger, of verder toe te wys, op en onderhewig aan enige voorwaardes aldus bepaal (indien daar is);

(c) moet skriftelik aan die gedelegeerde of gevolmagtigde bekend gemaak word. Die skriftelike mededeling moet volledige besonderhede bevat oor die aangeleenthede wat gedelegeer of toegewys word en oor die voorwaardes kragtens paragraaf (a) bepaal, indien daar is, en wanneer die bevoegdheid om te subdeleger of verder toe te wys ook verleen is, daardie feit vermeld asook enige voorwaardes kragtens paragraaf (b) bepaal, indien daar is.

(3) Die Raad kan te eniger tyd by spesiale besluit—

(a) 'n delegering of toewysing kragtens subartikel (1) gedoen, wysig of intrek;

(b) enige besluit van die gedelegeerde of gevolmagtigde met betrekking tot 'n gedelegeerde of toegewysde aangeleentheid geneem, intrek en self oor die aangeleentheid besluit. Waar 'n besluit deur 'n gedelegeerde of gevolmagtigde geneem 'n reg of aanspraak aan 'n derde party verleen, kan dit egter nie ingetrek word nie.

(4) Die Minister kan van tyd tot tyd by kennisgewing in die *Staatskoerant*—

(a) die delegering deur die Raad van enige besondere bevoegdheid of sy toewysing van enige besondere werksaamheid of plig verbied, hetsy in die algemeen of onder die omstandighede in die kennisgewing vermeld;

(b) die omstandighede beperk waaronder enige besondere bevoegdheid, werksaamheid of plig van die Raad gedelegeer of toegewys kan word (na gelang van die geval);

(c) voorwaardes voorskryf vir die delegering van enige besondere bevoegdheid of toewysing van enige besondere werksaamheid of plig;

(d) in verband met enige bevoegdheid, werksaamheid of plig van die Raad in die kennisgewing vermeld, subdelegering of verdere toewysing (na gelang van die geval) verbied in die geval van die Raad se delegering van daardie bevoegdheid of toewysing van daardie werksaamheid of plig.

Chief executive officer

22. (1) The Minister must after consultation with the board appoint a suitable person as chief executive officer of the Corporation.

(2) A person will be disqualified from being appointed or remaining a chief executive officer if subject to any of the disqualifications mentioned in paragraphs (a) to (f) of section 16(3). 5

(3) The chief executive officer holds office for a period specified in the letter of appointment but not exceeding three years, and may be reappointed upon expiry of that term of office.

(4) The Minister may at any time remove the chief executive officer from office— 10

(a) if the chief executive officer repeatedly has failed to perform the duties of office efficiently;

(b) if, because of any physical or mental illness or disability, the chief executive officer has become incapable of performing the functions of that office or performing them efficiently; or 15

(c) for misconduct.

(5) (a) The person who, immediately before the specified date was the chief executive officer of the Atomic Energy Corporation by virtue of appointment in that office under section 11 of the previous Act, will from the specified date until the date on which the appointment of the Corporation's first chief executive officer under subsection (1) of this section takes effect, act as, and perform the functions imposed by or in terms of this Act on, the Corporation's chief executive officer. 20

(b) A person so acting is not precluded from being appointed as the Corporation's chief executive officer under this section.

General management of Corporation

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23. (1) The Corporation's day to day business and operations will be under the general management of the chief executive officer, subject to the general or specific directions and instructions, if any, that the Board may issue from time to time.

(2) The chief executive officer must—

(a) ensure that the functions of the Corporation in terms of this Act are complied with; 30

(b) report to the Board on the proper performance and functioning of the Corporation;

(c) compile a report on the activities of the Corporation for each financial year and submit the report to the Board for approval; 35

(d) each financial year, after consulting the Board furnish the Minister with a plan of action for the activities of the Corporation.

(3) The chief executive officer is the accounting officer of the Board charged with the responsibility of accounting for all money received, payments made and assets of the Corporation. 40

(4) The chief executive officer must exercise all the powers and perform all the duties conferred or imposed on the accounting officer by—

(a) this Act, the Reporting by Public Entities Act, 1992 (Act No. 93 of 1992), or any other law;

(b) the Board. 45

(5) (a) Whenever, due to absence or for any other reason, the chief executive officer is temporarily unable to perform the functions of that office, or when that office is vacant, the Board may designate an employee of the Corporation to act as chief executive officer until the incumbent of that office resumes the functions of chief executive officer, or, as the case may be, the vacancy is filled by the Minister through the appointment of another person as chief executive officer under section 22. 50

(c) While so acting, the designated employee will be competent to exercise and perform all the powers, functions and duties of the chief executive officer in terms of this Act.

Delegations and assignments by chief executive officer

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24. (1) The chief executive officer may delegate any of the powers, and assign any

Hoof- uitvoerende beampte

22. (1) Die Minister moet, na oorlegpleging met die raad, 'n geskikte persoon as hoof- uitvoerende beampte van die korporasie aanstel.

(2) 'n Persoon is onbevoeg om as hoof- uitvoerende beampte aangestel te word of
5 aan te bly indien daardie persoon onderworpe is aan enige van die diskwalifikasies genoem in paragraaf (a) tot (f) van artikel 16(3).

(3) Die hoof- uitvoerende beampte beklee die amp vir 'n tydperk in die aanstellingsbrief bepaal maar vir hoogstens drie jaar, en kan heraangestel word by die verstryking van daardie ampstermyn.

10 (4) Die Minister kan te eniger tyd die hoof- uitvoerende beampte van die amp onthef—

(a) indien die hoof- uitvoerende beampte herhaaldelik versuim het om sy of haar ampspilte doeltreffend te verrig;

15 (b) indien die hoof- uitvoerende beampte weens 'n fisiese of geestelike siekte of gebrek, onbevoeg geword het om die werksaamhede van daardie amp te verrig of dit doeltreffend te verrig; of

(c) weens wangedrag.

(5) (a) Die persoon wat onmiddellik voor die aangewese datum uit hoofde van aanstelling kragtens artikel 11 van die vorige Wet in daardie amp die hoof- uitvoerende
20 beampte van die Atoomenergiekorporasie was, neem vanaf die aangewese datum tot die datum waarop die aanstelling van die Korporasie se eerste hoof- uitvoerende beampte van krag word waar as, en verrig die werksaamhede by of kragtens 'n bepaling van hierdie Wet opgelê aan, die Korporasie se hoof- uitvoerende beampte.

Algemene bestuur van Korporasie

25 23. (1) Die Korporasie se daaglikse besigheid en bedryfwerksaamhede staan onder die algemene bestuur van die hoof- uitvoerende beampte, onderworpe aan die algemene of spesiale voorskrifte en opdragte, indien enige, wat die Raad van tyd tot tyd uitreik.

(2) Die hoof- uitvoerende beampte moet—

30 (a) toesien dat die werksaamhede van die Korporasie ingevolge hierdie Wet nagekom word;

(b) aan die Raad verslag doen aangaande die behoorlike werkverrigting en funksionering van die Korporasie;

35 (c) 'n verslag oor die bedrywighede van die Korporasie vir elke boekjaar opstel en die verslag vir goedkeuring aan die Raad voorlê;

(d) elke boekjaar, na oorlegpleging met die Raad, 'n aksieplan van die bedrywighede van die Korporasie aan die Minister verskaf.

(3) Die hoof- uitvoerende beampte is die rekenpligtige beampte van die Raad belas met die verantwoordelikheid om rekenskap te gee van alle gelde ontvang en betalings
40 gemaak en bates van die Korporasie.

(4) Die hoof- uitvoerende beampte moet al die bevoegdhede uitoefen en al die pligte verrig wat deur—

(a) hierdie Wet, die Wet op Verslagdoening deur Openbare Entiteite, 1992 (Wet No. 93 van 1992), of enige ander wet;

45 (b) die Raad,
aan die rekenpligtige beampte opgedra of opgelê word.

(5) (a) Wanneer die hoof- uitvoerende beampte afwesig is of om enige ander rede tydelik nie in staat is om die werksaamhede van daardie amp uit te voer nie, of wanneer daardie amp vakant is, kan die Raad 'n werknemer van die Korporasie aanwys om as
50 hoof- uitvoerende beampte waar te neem totdat die posbekleër van daardie amp die werksaamhede van hoof- uitvoerende beampte hervat of, na gelang van die geval, die vakature deur die Minister gevul word deur die aanstelling kragtens artikel 22 van 'n ander persoon as hoof- uitvoerende beampte.

(b) Terwyl die aangewese werknemer aldus waarneem, is hy of sy bevoeg om al die
55 bevoegdhede, werksaamhede en pligte van die hoof- uitvoerende beampte ingevolge hierdie Wet uit te oefen en te verrig.

Delegerings en toewysings deur hoof- uitvoerende beampte

24. (1) Die hoof- uitvoerende beampte kan enige van die bevoegdhede delegeer, en

of the functions or duties attached to that office, to any employee of the Corporation.

(2) Section 21(1)(b), (2)(a) and (c), (3) and (4) will apply, reading in the changes necessary in the context, to any delegation or assignment in terms of this section.

Staff of Corporation

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25. (1) Subject to the general or special directions of the Board, if any, the chief executive officer may appoint the staff for the Corporation that may be necessary to perform the work arising from or connected with the Corporation's functions, business and operations in terms of this Act.

(2) (a) The terms and conditions of service of the Corporation's staff, and their remuneration, allowances, subsidies and other service benefits will be as determined by the Board. 10

(b) That remuneration and those allowances, subsidies and other benefits must be determined in accordance with a system approved by the Minister with the agreement of the Minister of Finance. 15

(3) (a) The persons who, immediately before the specified date, were employees of the Atomic Energy Corporation appointed in terms of section 13(1) of the previous Act, or deemed by section 13(2) of that Act to have been so appointed, will from the specified date be deemed to be staff members of the Corporation who have been appointed in terms of subsection (1) of this section. 20

(b) The terms and conditions of service, salary or pay, allowances, subsidies and service benefits that were applicable to those employees immediately before the specified date, will, with effect from the specified date, continue to apply until redetermined by the Board under subsection (2).

(c) The terms and conditions of service, salary or pay, allowances, subsidies and service benefits so redetermined, may not be less than those applicable before the redetermination. 25

(d) Those employees' respective periods of pensionable service with the Atomic Energy Corporation and (where applicable) with its predecessor in terms of any law will be regarded and treated as pensionable service for the purposes of membership of any pension fund or scheme of which they are or may become members after the specified date. 30

(e) The leave which has been accumulated by each of those employees while in the service of the Atomic Energy Corporation, will be regarded and treated as if it were leave accumulated by such an employee in the service of the Corporation. 35

(4) Subject to subsection (5), the Corporation is deemed to be an associated institution for the purposes of the Associated Institutions Pension Fund Act, 1963 (Act No. 41 of 1963).

(5) The Corporation, with the approval of the Minister granted with the agreement of the Minister of Finance, may establish, and manage and administer, any pension or provident fund or medical scheme for the benefit of its employees or have such a scheme or fund managed and administered by any other body or person. 40

Finances of Corporation

26. (1) The Corporation will be funded and provided with capital from—

(a) the capital invested in or lent to the Corporation as contemplated in section 10; 45

(b) money appropriated by Parliament for that purpose;

(c) income derived from the sale or other commercial exploitation of its products, technology, services or expertise in terms of this Act;

(d) loans raised by the Corporation in terms of section 15;

(e) the proceeds of any sale of assets authorised in terms of this Act; 50

(f) income or interest earned on the Corporation's cash balances or on money invested by it; and

(g) money received by way of grant, contribution, donation or inheritance from any source inside or outside the Republic. However, money from abroad may be received only with the Minister's approval. 55

(2) Money that in terms of subsection (1) are the funds of the Corporation, will be utilised to meet the expenditure incurred by the Corporation in connection with its functioning, business and operations in terms of this Act.

(3) (a) Those money may be so utilised only as provided for in a statement of the

enige van die werksaamhede of pligte verbonde aan daardie amp toewys, aan enige werknemer van die Korporasie.

(2) Artikel 21(1)(b), (2)(a) en (c), (3) en (4) is, met inagneming van die veranderings wat in die konteks nodig is, van toepassing op enige delegering of
5 toewysing ingevolge hierdie artikel.

Personeel van Korporasie

25. (1) Behoudens die algemene of spesiale voorskrifte van die Raad, indien daar is, kan die hoof- uitvoerende beampte die personeel vir die Korporasie aanstel wat nodig mag wees om die werk voortspruitend uit of in verband met die Korporasie se
10 werksaamhede, besigheid en bedryf ingevolge hierdie Wet te verrig.

(2) (a) Die diensvoorwaardes van die Korporasie se personeel en hul besoldiging, toelaes, subsidies en ander diensvoordele is soos deur die Raad bepaal.

(b) Daardie besoldiging en toelaes, subsidies en ander voordele moet bepaal word ooreenkomstig 'n stelsel wat deur die Minister goedgekeur is met die instemming van
15 die Minister van Finansies.

(3) (a) Die persone wat onmiddellik voor die aangewese datum werknemers van die Atoomenergiekorporasie was, aangestel ingevolge artikel 13(1) van die vorige Wet, of ingevolge artikel 13(2) van daardie Wet geag word as sodanig aangestel te gewees het, word vanaf die aangewese datum geag ingevolge subartikel (1) van hierdie artikel as
20 werknemers van die Korporasie aangestel te wees.

(b) Die diensvoorwaardes, salaris of betaling, toelaes, subsidies en diensvoordele wat onmiddellik voor die aangewese datum op daardie werknemers van toepassing was, bly van toepassing met ingang van die aangewese datum totdat dit deur die Raad ingevolge subartikel (2) herbepaal word.

25 (c) Die diensvoorwaardes, salaris, of betaling, toelaes, subsidies en diensvoordele wat aldus herbepaal word, mag nie minder wees as dit wat voor die herbepaling van toepassing was nie.

(d) Daardie werknemers se onderskeie tydperke van pensioengewende diens by die Atoomenergiekorporasie en, waar toepaslik, by sy voorganger ingevolge enige wet,
30 word beskou en behandel as pensioengewende diens vir die doeleindes van lidmaatskap van enige pensioenfonds of -skema waarvan hulle lede is of mag word na die aangewese datum.

(e) Die verlof wat deur elk van die werknemers opgehoop is tydens hulle diens by die Atoomenergiekorporasie, word beskou en behandel asof dit verlof is wat so 'n
35 werknemer in die diens van die Korporasie opgehoop het.

(4) Behoudens subartikel (5) word die Korporasie vir doeleindes van die Wet op die Pensioenfonds vir Geassosieerde Inrigtings, 1963 (Wet No. 41 van 1963), geag 'n geassosieerde inrigting te wees.

(5) Die Korporasie kan, met die instemming van die Minister van Finansies, 'n
40 pensioen- of voorsorgfonds of mediese skema tot voordeel van sy werknemers instel, bestuur of administreer of so 'n skema of fonds deur 'n ander liggaam of persoon laat bestuur.

Fondse van Korporasie

26. (1) Die Korporasie word befonds en voorsien van kapitaal uit—

45 (a) die kapitaal belê in of geleen aan die Korporasie soos beoog in artikel 10;

(b) geld vir daardie doel deur die Parlement bewillig;

(c) inkomste verkry uit die verkoop van of ander ekonomiese benutting van sy produkte, tegnologie, dienste of kundigheid ingevolge hierdie Wet;

(d) lenings deur die Korporasie ingevolge artikel 15 aangegaan;

50 (e) die opbrengs van die verkoop van bates gemagtig ingevolge hierdie Wet;

(f) inkomste of rente verdien op die Korporasie se kontantbalans of op geld deur hom belê; en

(g) geld ontvang by wyse van toekenning, bydrae, skenking of erfenis uit enige bron binne of buite die Republiek. Geld van die buiteland mag egter net met
55 die goedkeuring van die Minister ontvang word.

(2) Geld wat ingevolge subartikel (1) die fondse van die Korporasie is, word gebruik om die uitgawes wat die Korporasie aangegaan het in verband met sy werking, besigheid en bedryf ingevolge hierdie Wet te bestry.

(3) (a) Daardie geld mag slegs aldus gebruik word soos voorsien in 'n staat van die

Corporation's estimated income and expenditure contemplated in subsection (4), that has been approved by the Minister.

(b) Money received by way of grant, contribution, donation or inheritance in terms of subsection (1)(g), must be utilised in accordance with the conditions (if any) imposed by the grantor, contributor, donor or testator concerned.

(4) (a) The Board must in each financial year, at a time determined by the Minister, submit to the Minister for approval a statement of the Corporation's estimated income and expenditure for the next financial year. However, the Board may at any time during the course of a financial year concerned, submit a supplementary statement of estimated income and expenditure of the Corporation for that financial year, to the Minister for approval.

(b) The Minister may grant the approval of the statement referred to in subsection (4)(a), with the agreement of the Minister of Finance.

(c) The Corporation may not incur any expenditure in excess of the total amount approved under paragraph (b).

(5) The Board may establish a reserve fund for any purpose that is connected with the Corporation's functions under this Act and has been approved by the Minister, and may allocate to the reserve fund the money that may be made available for that purpose in the statement of estimated income and expenditure (including any supplementary statement) approved under subsection (4)(b).

(6) (a) The chief executive officer, subject to the conditions set by the Board, must open an account in the name of the Corporation with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990), and deposit therein all money contemplated in section (1).

(b) The money of the Corporation that are not required for immediate use or as a reasonable working balance, may be invested with the Corporation for Public Deposits established by section 2 of the Corporation for Public Deposits Act, 1984 (Act No. 46 of 1984).

Accounting and auditing

27. The Corporation is deemed to be a listed entity as defined in section 1 of the Reporting by Public Entities Act, 1992 (Act No. 93 of 1992).

Rights to discoveries, inventions and improvements made by Corporation's employees and certain other persons

28. (1) Subject to the provisions of subsections (4) and (5), the rights in all discoveries, inventions and improvements made by employees of the Corporation in the course of their work as its employees, will vest in the Corporation which, with the Minister's permission, may make any such discovery, invention or improvement available for use in the public interest, subject to any conditions and the payment of any fees and royalties that may be determined by the Corporation and approved by the Minister.

(2) The Corporation may, for such a discovery, invention or improvement, pay out of its funds to the employee concerned any bonus, reward or other financial benefit that the Board may determine.

(3) (a) The chief executive officer, on the instruction of the Board, may apply on behalf of the Corporation for a patent in terms of the Patents Act, 1978 (Act No. 57 of 1978), for any invention or improvement referred to in subsection (1).

(b) The chief executive officer may direct the registrar of patents to keep secret any such invention and the manner in which it is to be applied.

(4) The rights in respect of any discovery, invention or improvement made by employees of the Corporation in the course of any work done by them as in that capacity on behalf of or for the benefit of another person or institution, will vest in the Corporation unless otherwise agreed between the Corporation and the person or institution concerned.

(5) The rights in respect of any discovery, invention or improvement made in the course of work or during a special investigation done or carried out by any other person or institution on behalf of or for the benefit of the Corporation, will vest in the Corporation or in the other person or institution, or in the Corporation and the person or institution jointly, as may be agreed in writing by the parties beforehand, and the party or parties whom the rights in such an invention or improvement are vested, may apply for a patent for the invention or improvement.

geraamde inkomste en uitgawes beoog in subartikel (4) wat deur die Minister goedgekeur is.

(b) Geld wat by wyse van toekenning, bydrae, skenking of erfenis ingevolge subartikel (1)(g) ontvang is moet in ooreenstemming met die voorwaardes (indien 5 enige) opgelê deur die betrokke toekener, bydraer, skenker of erflater gebruik word.

(4)(a) Die Raad moet in elke boekjaar op die tydstip deur die Minister bepaal 'n staat van die Korporasie se geraamde inkomste en uitgawes vir die volgende boekjaar aan die Minister vir goedkeuring voorlê. Die Raad mag egter te eniger tyd gedurende die loop van 'n betrokke boekjaar 'n aanvullende staat van geraamde inkomste en 10 uitgawes van die Korporasie vir daardie boekjaar vir goedkeuring aan die Minister voorlê.

(b) Die Minister kan die staat vermeld in subartikel (4)(a) met die instemming van die Minister van Finansies goedgekeur.

(c) Die Korporasie mag nie enige uitgawes aangaan wat die totale bedrag 15 goedgekeur kragtens paragraaf (b) oorskry nie.

(5) Die Raad kan vir enige doel wat verband hou met die werksaamhede van die Korporasie kragtens hierdie Wet en wat deur die Minister goedgekeur is 'n reserwefonds instel en kan aan die reserwefonds die geld toeken wat vir daardie doel in die staat van geraamde inkomste en uitgawes (insluitende enige aanvullende staat) 20 goedgekeur kragtens subartikel (4)(b) beskikbaar gestel word.

(6)(a) Die hoof- uitvoerende beampte moet, onderhewig aan die voorwaardes deur die Raad gestel, 'n bankrekening in die naam van die Korporasie open by 'n instelling wat ingevolge die Bankwet, 1990 (Wet No. 94 van 1990), as bank geregistreer is en daarin al die geld beoog in subartikel (1) stort.

(b) Die geld van die Korporasie wat nie vir onmiddellike gebruik of as 'n redelike bedryfskapitaal benodig word nie, kan by die Korporasie vir Openbare Deposito's ingestel by die Wet op die Korporasie vir Openbare Deposito's, 1984 (Wet No. 46 van 1984), belê word. 25

Boekhouding en ouditering

30 27. Die Korporasie word geag 'n gelysde entiteit te wees soos omskryf in artikel 1 van die Wet op Verslagdoening deur Openbare Entiteite, 1992 (Wet No. 93 van 1992).

Regte op ontdekkings, uitvindings en verbeterings gedoen deur Korporasie se werknemers en sekere ander persone

35 28. (1) Behoudens die bepalinge van subartikels (4) en (5) berus die regte op alle ontdekkings, uitvindings en verbeterings gedoen deur werknemers van die Korporasie in die loop van hulle werk as werknemers, by die Korporasie wat, met die toestemming van die Minister, enige sodanige ontdekking, uitvinding of verbetering vir gebruik in die openbare belang beskikbaar stel op die voorwaardes en teen die betaling van die gelde en tantièmes wat die Korporasie mag bepaal en deur die Minister goedgekeur 40 word.

(2) Die Korporasie kan vir sodanige ontdekking, uitvinding of verbetering uit sy fondse aan die betrokke werknemer enige bonus, vergoeding of ander finansiële voordeel betaal wat die Raad bepaal.

(3)(a) Die hoof- uitvoerende beampte kan, ingevolge die Wet op Patente, 1978 (Wet 45 No. 57 of 1978), in opdrag van die Raad namens die Korporasie aansoek doen om 'n patent vir enige uitvinding of verbetering bedoel in subartikel (1).

(b) Die hoof- uitvoerende beampte kan die registrateur van patente beveel om sodanige uitvinding, en die wyse van aanwending daarvan, geheim te hou.

(4) Die regte ten opsigte van enige ontdekking, uitvinding of verbetering gedoen 50 deur werknemers van die Korporasie in die loop van enige werk wat in daardie hoedanigheid namens of ten behoeve van 'n ander persoon of instelling gedoen is, berus by die Korporasie tensy anders ooreengekom tussen die Korporasie en die betrokke persoon of instelling.

(5) Die regte ten opsigte van 'n ontdekking, uitvinding of verbetering wat gedoen is 55 in die loop van werk of tydens 'n spesiale ondersoek wat deur 'n ander persoon of instelling namens of ten behoeve van die Korporasie gedoen of ingestel is, berus by die Korporasie of by die ander persoon of instelling of by die Korporasie en die ander persoon of instelling gesamentlik soos vooraf skriftelik deur die partye ooreengekom is, en die party of partye by wie die regte op sodanige uitvinding of verbetering berus, 60 kan om 'n patent vir die uitvinding of verbetering aansoek doen.

Provisions with regard to security of Corporation's installations, sites and premises, etc

29. (1) The installations, sites, premises and land belonging to or under the control of the Corporation, on which any of its business, operations and activities in terms of this Act are conducted or performed or any records in connection therewith are kept, stored or to be found, are restricted areas. 5

(2) In view thereof, the Corporation, subject to subsection (3), may make any arrangements it considers reasonably necessary for the proper protection of—

- (a) those installations, sites, premises and land (hereinafter called high security areas); 10
- (b) the persons employed or present at or in the high security areas;
- (c) all property of the Corporation, whether of a physical or intellectual nature, at or in the high security areas; and
- (d) the records and information of the Corporation that are kept, stored or to be found thereat or therein, irrespective of the manner in which or the medium on or by means of which the records and information are kept, stored or recorded. 15

(3) No person will be allowed to enter or be present in a high security area unless the person has consented to any search that may be conducted in terms of subsection (4)(a).

(4) Any person authorised thereto in writing by the chief executive officer, may—

- (a) search any person or vehicle about to enter or leave any high security area, and may open and inspect any container or parcel and inspect any object, device, article, item or thing (including any material or substance) which is in the possession of such a person or is on or in that vehicle; 20
- (b) search any person present or any vehicle found in the high security area if there are reasonable grounds to suspect that any person or anything in the person's possession or in or on the vehicle, constitutes a threat to or endangers the lives or physical integrity of persons or the physical safety of property; 25
- (c) seize or attach any object, device, article, item or thing (including any material or substance) in the possession of a person mentioned in paragraph (a) or (b) or found on or in such a vehicle— 30
 - (i) if such an object, device, article, item or thing belongs to the Corporation or is subject to its control and is not in the lawful possession of the person or lawfully being conveyed in or on the vehicle for the purpose of performing any function or work of the Corporation; or
 - (ii) if, in the opinion of the authorised person, it constitutes a threat or danger of the nature contemplated in paragraph (b), or may be used by the person from whom it was taken or any other person for the purposes of a threat or danger of that nature; 35
- (d) arrest any person found in unlawful possession of restricted matter or anything else contemplated in paragraph (c)(i), or any person mentioned in paragraph (b). 40

Exemption from duties and fees

30. The Corporation, but not its subsidiary companies, is exempt from the payment of any duty or fee which, were it not for the provisions of this section, would have been payable by it to the State in terms of any law, except the Customs and Excise Act, 1964 (Act No. 91 of 1964), or the Value Added Tax Act, 1991 (Act No. 105 of 1991), in respect of an act or transaction to which the Corporation is a party, or any document connected with such an act or transaction. 45

Disclosure of confidential information concerning Corporation's activities

31. (1) Subject to subsection (2), no information concerning any operation, transaction, project, work or activity of the Corporation in connection with restricted matter or any restricted act or activity which is not yet public knowledge, may be 50

Bepalings met betrekking tot beveiliging van Korporasie se installasies, terreine en persele, ens

29. (1) Die installasies, terreine, persele en grond wat behoort aan of onder beheer is van die Korporasie waarop enige van sy besigheid, bedryf en bedrywighede verrig of uitgevoer word of waar enige rekords in verband daarmee gehou, geberg of aangetref word, is beperkte gebiede.

(2) In die lig daarvan kan die Korporasie behoudens subartikel (3) die reëlins tref wat die redelik noodsaaklik ag vir die behoorlike beveiliging van—

- (a) daardie installasies, terreine, persele en grond (hieronder hoë risiko-gebiede genoem);
- (b) die persone op of in die hoë risiko-gebiede in diens of teenwoordig;
- (c) alle eiendom van die Korporasie op of in die hoë risiko-gebiede, hetsy van 'n fisiese of intellektuele aard;
- (d) die rekords en inligting van die Korporasie wat daarop of daarin gehou, geberg of aangetref kan word ongeag die wyse of middel waarop of by wyse waarvan die rekords en inligting gehou, geberg of opgeteken word.

(3) Geen persoon word toegelaat om 'n hoë risiko-gebied binne te gaan of daarop teenwoordig te wees nie tensy die persoon toegestem het tot enige deursoeking wat ingevolge subartikel (4)(a) gedoen kan word.

(4) Enige persoon deur die hoof- uitvoerende beampte skriftelik daartoe gemagtig kan—

- (a) enige persoon of voertuig wat besig is om enige hoë risiko-gebied binne te gaan of te verlaat, ondersoek en kan enige houer of pakkie oopmaak en nagaan en enige voorwerp, toestel, artikel, item of ding (insluitende enige materiaal of stof) nagaan wat in besit van sodanige persoon of op of in daardie voertuig is;
- (b) enige persoon teenwoordig of enige voertuig gevind op 'n hoë risiko-terrein deursoek indien daar redelike gronde is om te vermoed dat enige persoon of enigiets in die besit van die persoon of in of op die voertuig 'n gevaar skep of die lewens of liggaamlike integriteit van persone of die fisiese veiligheid van eiendom in die gevaar stel;
- (c) enige voorwerp, toestel, artikel, item of ding (insluitende enige materiaal of stof) in die besit van 'n persoon vermeld in paragraaf (a) of (b) of gevind of op in sodanige voertuig in beslag neem of konfiskeer—
 - (i) indien sodanige voorwerp, toestel, artikel, item of ding aan die Korporasie behoort of onderwerpe is aan sy beheer en nie in die regmatige besit van die persoon is nie of nie regmatig vervoer word in of op die voertuig vir die doeleindes van die verrigting van enige werksaamheid of werk van die Korporasie is nie; of
 - (ii) indien, na die mening van die gemagtigde persoon, dit 'n bedreiging of gevaar van die aard beoog in paragraaf (b) uitmaak of gebruik kan word deur die persoon van wie dit weggeneem is of enige ander persoon vir doeleindes van 'n bedreiging of gevaar van daardie aard;
- (d) enige persoon in die onregmatige besit van beperkte goed of enigiets ander beoog in paragraaf (c)(i) gevind of enige persoon vermeld in paragraaf (b), arresteer.

Vrystelling van regte en geld

30. Die Korporasie, maar nie sy filiaalmaatskappye nie, is vrygestel van die betaling van regte of geld wat, as dit nie vir die bepaling van hierdie artikel was nie, ingevolge 'n bepaling van enige wet, behalwe die Doeane- en Aksynswet, 1964 (Wet No. 91 van 1964), of die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 105 van 1991), aan die Staat betaalbaar sou gewees het ten opsigte van 'n handeling of transaksie waarby die Korporasie 'n party is of enige dokument wat verband hou met sodanige handeling of transaksie.

Bekendmaking van vertroulike inligting aangaande Korporasie se bedrywighede

31. (1) Behoudens die bepaling van subartikel (2) mag geen inligting rakende enige handeling, transaksie, projek, werk of bedrywigheid van die Korporasie in verband met beperkte goed of enige beperkte handeling of bedrywigheid wat nie reeds openbare

published or made known or be transmitted or otherwise disclosed, except with the written permission of the chief executive officer acting on the authority of the Board, by any—

- (a) employee or former employee of the Corporation or of a subsidiary company;
- (b) any person who is or was involved in the business, operations or activities of the Corporation or subsidiary company in the capacity of agent, contractor or consultant or in any similar or related capacity, as well as the employee, partner or associate of such a person. 5
- (2) Subsection (1) does not preclude the disclosure of information—
- (a) in so far as may be necessary for the exercise of any power or performance of any function or duty of the Corporation in terms of this Act or for the performance of any work in connection therewith, or 10
- (b) on the order of a competent court of law.

Minister may authorise performance of Corporation's functions by other person or body in certain circumstances 15

32. (1) If, in any particular case, the Corporation should fail, in relation to any matter or matters, to perform any function imposed on the Corporation in terms of this Act in circumstances where, in law, it is under a duty to perform that function, the Minister, by notice in writing to the Board, may order the Corporation to perform the function concerned, which must be specified in the notice. 20

(2) The Board and the chief executive officer must ensure that any lawful order issued under subsection (1) is complied with.

(3) If the Corporation should fail to comply with such an order, the Minister, in writing, may authorise any person or other body that is competent and has the necessary capacity for that purpose, to perform that function in relation to the particular matter or matters (as the case may be). 25

(4) The Minister may recover from the Corporation the costs of having such a function performed by a person or body so authorised.

CHAPTER III

NUCLEAR NON-PROLIFERATION 30

Minister's responsibilities concerning Republic's international obligations with regard to nuclear non-proliferation

33. (1) The Minister acts as the national authority of the Republic for the purposes of the implementation and application of the Safeguards Agreement and any additional protocols in order to timeously detect and identify nuclear material intended to be used for peaceful nuclear activities and deter the diversion of such nuclear material to the manufacture of nuclear weapons or other nuclear explosive devices or for use in connection with any other purpose that is unknown. 35

(2) In order to fulfill the responsibilities referred to in subsection (1)—

- (a) the Minister must liaise with the International Atomic Energy Agency on an ongoing basis as regards— 40
 - (i) negotiations on subsidiary arrangements under the Safeguards Agreement;
 - (ii) the furnishing and updating of information regarding the design of nuclear installations and sites; 45
 - (iii) the furnishing of reports required by or in terms of the Safeguards Agreement and the subsidiary arrangements thereunder;
 - (iv) requests for exemption from or termination of safeguards relating to nuclear material;
 - (v) the provision of facilities and support to the inspectors of the International Atomic Energy Agency; 50
 - (vi) the selection of inspectors nominated in respect of the Republic by the International Atomic Energy Agency;

kennis is nie, gepubliseer of bekend gemaak of versend of andersins geopenbaar word nie tensy die hoof- uitvoerende beampte wat op gesag van die Raad optree, dit skriftelik magtig deur enige—

- 5 (a) werknemer of voormalige werknemer van die Korporasie of 'n filiaal-maatskappy;
- (b) enige persoon wat betrokke is of was by die besigheid, bedryf of bedrywighede van die Korporasie of 'n filiaal in die hoedanigheid van 'n agent, kontrakteur of konsultant of in enige soortgelyke of verwante hoedanigheid sowel as die werknemer, vennoot of kollega van sodanige persoon.
- 10 (2) Subartikel (1) belet nie die openbaarmaking nie van inligting—
 - (a) vir sover dit nodig mag wees vir die uitoefening van enige bevoegdheid of verrigting van enige werksaamheid of plig van die Korporasie ingevolge hierdie Wet of vir die verrigting van enige werk in verband daarmee; of
 - (b) in opdrag van 'n bevoegde geregshof.

15 Minister kan goedkeur dat werksaamhede van Korporasie in bepaalde omstandighede deur 'n ander persoon of liggaam verrig word

32. (1) Indien die Korporasie in enige besondere geval sou versuim om met betrekking tot enige aangeleentheid of aangeleenthede enige werksaamheid die Korporasie opgelê ingevolge hierdie Wet te verrig onder omstandighede waar dit regtens onder 'n verpligting is om daardie werksaamheid te verrig, kan die Minister by

20 skriftelike kennisgewing aan die Raad die Korporasie gelas om die betrokke werksaamheid, wat in die kennisgewing uiteengesit moet word, te verrig.

(2) Die Raad en die hoof- uitvoerende beampte moet toesien dat enige wettige opdrag kragtens subartikel (1) uitgereik, nagekom word.

25 (3) Indien die Korporasie sou versuim om sodanige opdrag na te kom kan die Minister skriftelik enige ander persoon of ander liggaam wat bevoeg is en oor die nodige vermoë vir daardie doel beskik, magtig om daardie werksaamheid ten opsigte van die besondere aangeleentheid of aangeleenthede (na gelang die geval) te verrig.

(4) Die Minister kan van die Korporasie die koste verbonde aan die verrigting van

30 sodanige werksaamheid deur so 'n gemagtigde persoon of liggaam verhaal.

HOOFTUK III

KERN NIE-PROLIFERASIE

Verantwoordelikhede van Minister betreffende die internasionale verpligtinge van Republiek ten opsigte van kern nie-proliferasie

35 33. (1) Die Minister tree op as die nasionale gesag van die Republiek vir doeleindes van die implementering en toepassing van die Waarborgooreenkoms en enige bykomstige protokolle ten einde tydig kernmateriaal wat bestem is om vir vreedsame kernaktiwiteite gebruik te word, op te spoor en te identifiseer en die aanwending van sodanige kernmateriaal vir die vervaardiging van kernwapens of ander kernplofstoe-

40 stelle of vir gebruik in verband met enige ander onbekende doeleindes te voorkom.

(2) Ten einde die verantwoordelikhede vermeld in subartikel (1) na te kom—

- (a) moet die Minister op 'n deurlopende grondslag met die Internasionale Atoomenergie-agentskap skakel ten opsigte van—
 - 45 (i) onderhandelinge oor aanvullende reëlings kragtens die Waarborgooreenkoms;
 - (ii) die verskaffing en bywerking van inligting rakende die ontwerp van kerninstallasies en -terreine;
 - (iii) die verskaffing van verslae kragtens of ingevolge die Waarborgooreenkoms en aanvullende reëlings daarkragtens vereis;
 - 50 (iv) versoeke vir vrystelling van of beëindiging van waarborge ten opsigte van kernmateriaal;
 - (v) die verskaffing van geriewe aan en die ondersteuning van die inspekteurs van die Internasionale Atoomenergie-agentskap;
 - 55 (vi) die keuring van inspekteurs ten opsigte van die Republiek deur die Internasionale Atoomenergie-agentskap benoem;

- (vii) the accompaniment of that Agency's inspectors during inspections;
 - (viii) the handling of importation into, and exportation from, the Republic of equipment and samples;
 - (b) the Minister may issue instructions—
 - (i) concerning the measuring methods and systems with regard to nuclear material; 5
 - (ii) on the procedures for the handling of shipper-receiver differences in respect of nuclear material;
 - (iii) requiring and otherwise relating to the undertaking of periodic physical stocktaking of nuclear material; 10
 - (iv) on the operation of accounting systems in relation to any materials;
 - (v) relating to the keeping of records and reporting on nuclear material;
 - (vi) relating to the furnishing of information regarding the design, and changes to the design of nuclear installations and sites;
 - (vii) on the provision of information about the importation into, and exportation from, the Republic of nuclear material and nuclear-related equipment and material; 15
 - (viii) about applications for the exemption from or termination of requirements or safeguards in relation to nuclear material;
 - (ix) about the physical protection of nuclear material; 20
 - (c) the Minister may—
 - (i) have the arrangement and verification undertaken of the physical inventory of any nuclear material in the Republic;
 - (ii) have inspections and investigations undertaken in accordance with and subject to sections 37, 38 and 39; 25
 - (iii) cause the measuring methods and systems employed by any person or body with regard to nuclear material to be verified;
 - (iv) have samples taken of and analysis undertaken of any product, article, object or thing subject to section 38;
 - (v) have independent measurements of nuclear material taken; 30
 - (d) the Minister may apply any measures he or she considers necessary for the containment and surveillance of nuclear material;
 - (e) the Minister must consult with the South African Council for the Non-Proliferation of Weapons of Mass Destruction, established by section 4 of the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993), on any matter affecting the proliferation of weapons of mass destruction. 35
- (3) Any person in possession of, using, handling or processing nuclear material must—
- (a) keep the prescribed records; 40
 - (b) submit the prescribed reports to the Minister at the times or intervals or on the occurrence of any event as prescribed;
 - (c) perform the prescribed measurements on nuclear material and maintain the prescribed measuring control programmes;
 - (d) in the prescribed manner provide the Minister with information regarding the design of any nuclear installation and site concerned and all changes effected to the design thereof; 45
 - (e) periodically undertake the physical stocktaking of nuclear material in the manner and at the times as prescribed;
 - (f) in the prescribed manner give prior notice of the importation or exportation of nuclear material and nuclear-related equipment and material; 50
 - (g) implement and maintain the prescribed physical protective measures in respect of nuclear material;
 - (h) without delay report to the Minister any loss of nuclear material in excess of the prescribed limits; 55
 - (i) periodically, at the times and in the manner as prescribed, provide the Minister with schedules of planned activities;
 - (j) allow the designated officials of the International Atomic Energy Agency and any inspectors appointed under section 53 to carry out, without hindrance, inspections at any nuclear installation or site with a view to monitoring compliance with the provisions of this Chapter. 60
- (4) (a) All information furnished or disclosed by any person in compliance or supposed compliance with this section, as well as all accompanying information

- (vii) die begeleiding van daardie Agentskap se inspekteurs tydens inspeksies;
- (viii) die hantering van die invoer na en die uitvoer uit die Republiek van toerusting en monsters;
- 5 (b) kan die Minister voorskrifte uitreik—
 - (i) betreffende die meetmetodes en stelsels rakende kernmateriaal;
 - (ii) oor die prosedures vir die hantering van verskeper-ontvanger-verskille ten opsigte van kernmateriaal;
 - (iii) wat die uitvoer van periodieke fisiese voorraadopname van kernmateriaal vereis of andersins raak;
 - 10 (iv) oor die bedryf van rekenkundige stelsels rakende enige materiale;
 - (v) betreffende die hou van rekords en verslagdoening oor kernmateriaal;
 - (vi) betreffende die beskikbaarstelling van inligting rakende die ontwerp en veranderings aan die ontwerpe van kerninstallasies en -terreine;
 - (vii) oor die beskikbaarstelling van inligting oor die invoer na en uitvoer uit die Republiek van kernmateriaal en kernverwante toerusting en materiaal;
 - 15 (viii) ten opsigte van aansoeke om die vrystelling van of beëindiging van voorwaardes of waarborge betreffende kernmateriaal;
 - (ix) ten opsigte van die fisiese beskerming van kernmateriaal;
 - 20 (c) kan die Minister—
 - (i) die reëling en kontrolering van die fisiese voorraadopname van enige kernmateriaal in die Republiek onderneem;
 - (ii) inspeksies en ondersoeke ooreenkomstig en onderhewig aan artikels 37, 38 en 39 laat uitvoer;
 - 25 (iii) die meetmetodes en stelsels deur enige persoon of liggaam ten opsigte van kernmateriaal toegepas, laat kontroleer;
 - (iv) behoudens artikel 38 monsters laat neem van en ontleiding van enige produk, artikel, voorwerp of saak laat doen;
 - (v) onafhanklike metings van kernmateriaal laat neem;
 - 30 (d) kan die Minister enige maatreëls wat hy of sy nodig ag vir die inperking en bewaking van kernmateriaal toepas;
 - (e) die Minister moet met die Suid-Afrikaanse Raad vir die Nie-Proliferasie van Wapens van Grootsekaalse Vernietiging, ingestel ingevolge artikel 4 van die Wet op die Nie-Proliferasie van Wapens van Grootsekaalse Vernietiging, 1993 (Wet No. 87 van 1993) oorleg pleeg, rakende enige aangeleentheid wat die proliferasie van wapens van grootsekaalse vernietiging raak.
 - 35 (3) Enige persoon wat kernmateriaal besit, gebruik, hanteer of verwerk, moet—
 - (a) die voorgeskrewe rekords hou;
 - (b) die voorgeskrewe verslae aan die Minister op die tye of met tussenposes of by die plaasvind van enige voorgeskrewe gebeurtenis voorlê;
 - (c) die voorgeskrewe metings op kernmateriaal uitvoer en die voorgeskrewe meetbeheerprogramme in stand hou;
 - (d) op die voorgeskrewe wyse inligting betreffende die ontwerp van enige betrokke kerninstallasie en -terrein en al die veranderinge aan die ontwerp daarvan aanbring aan die Minister verskaf;
 - 45 (e) periodiek fisiese voorraadopname van kernmateriaal op die voorgeskrewe wyse en tye uitvoer;
 - (f) op die voorgeskrewe wyse vooraf kennis gee van die invoer of uitvoer van kernmateriaal en kernverwante toerusting en materiaal;
 - 50 (g) die voorgeskrewe fisiese beskermingsmaatreëls ten opsigte van kernmateriaal implementeer en in stand hou;
 - (h) sonder versuim enige verlies van kernmateriaal bo die voorgeskrewe vlakke aan die Minister rapporteer;
 - (i) op die voorgeskrewe tye en wyse periodiek programme van beplande bedrywighede aan die Minister verskaf;
 - 55 (j) die gemagtigde beamptes van die Internasionale Atoomenergie-agentskap en enige inspekteur kragtens artikel 53 aangestel, toelaat om onbelemmerd inspeksies by enige kerninstallasie of -terrein uit te voer ten einde nakoming van die bepalings van hierdie Hoofstuk te monitor.
 - 60 (4) (a) Alle inligting wat ter nakoming of veronderstelde nakoming van hierdie artikel deur enige persoon voorsien of bekend gemaak word, asook alle bygaande inligting vervat in die mededeling of verskaffing van eersgenoemde inligting, is hoogs

contained in the communication or presentation of the first-mentioned information, is highly confidential and may not be published or otherwise made known or disclosed by the Minister or any official of the State while serving as such except—

- (i) in so far as may be necessary for or in connection with the exercise of any power or performance of any function or duty of the Minister, in terms of this Act, or for the performance of any work in connection therewith; or 5
- (ii) on the order of a competent court of law.

(b) "Accompanying information", for the purposes of paragraph (a), means any information whatsoever which does not have to be furnished or disclosed to the Minister in terms of this section, whether derived directly from any express statement made in the communication or presentation or indirectly, by implication or inference, having regard to the context of the communication or presentation and, amongst others, to— 10

- (i) surrounding facts or circumstances;
- (ii) particular personal knowledge;
- (iii) the manner or medium of communication or presentation. 15

(5) All fees that from time to time, are due to the International Atomic Energy Agency by the Republic, must be paid by the Minister on behalf of the Republic.

Authorisations required for acquisition or possession of, and certain activities relating to, nuclear material, restricted material and nuclear-related equipment and material 20

34. (1) Except with the written authorisation of the Minister, no person, institution, organisation or body may—

- (a) be in possession of any source material, except where—
 - (i) the possession has resulted from prospecting, reclamation or mining operations lawfully undertaken by the person, institution, organisation or body; or 25
 - (ii) the possession is on behalf of anyone who had acquired possession of the source material in the manner mentioned in subparagraph (i); or
 - (iii) the person, institution, organisation or body has lawfully acquired the source material in any other manner; 30
- (b) be in possession of the following, namely—
 - (i) special nuclear material;
 - (ii) restricted material;
 - (iii) uranium hexafluoride (UF₆);
 - (iv) nuclear fuel; 35
 - (v) nuclear-related equipment and material;
- (c) acquire, use or dispose of any source material;
- (d) import any source material into the Republic;
- (e) process, enrich or reprocess any source material;
- (f) acquire any special nuclear material; 40
- (g) import any special nuclear material into the Republic;
- (h) use or dispose of any special nuclear material;
- (i) process, enrich or reprocess any special nuclear material;
- (j) acquire any restricted material;
- (k) import any restricted material into the Republic; 45
- (l) use or dispose of any restricted material;
- (m) produce nuclear energy;
- (n) manufacture or otherwise produce or acquire, or dispose of, uranium hexafluoride (UF₆);
- (o) import uranium hexafluoride (UF₆) into the Republic; 50
- (p) manufacture, or acquire, or dispose of, nuclear fuel;
- (q) import nuclear fuel into the Republic;
- (r) manufacture or otherwise produce, import, acquire use or dispose of nuclear-related equipment and material;
- (s) dispose of, store or reprocess any radioactive waste or irradiated fuel (when the latter is external to the spent fuel pool); 55
- (t) transport any of the abovementioned materials;
- (u) dispose of any technology related to any of the abovementioned materials or equipment.

vertroulik en mag nie gepubliseer of andersins bekendgemaak of geopenbaar word nie deur die Minister of enige staatsampenaar wat as sodanige diens doen, behalwe—

- (i) vir sover dit nodig mag wees vir of ten opsigte van die uitoefening van enige bevoegdheid of verrigting van enige werksaamheid of plig van die Minister ingevolge hierdie Wet of vir die verrigting van enige werk in verband daarmee; of

(ii) in opdrag van 'n bevoegde geregshof.

- (b) Vir die doeleindes van paragraaf (a) beteken “bygaande inligting” inligting van watter aard ook al wat nie ingevolge hierdie artikel aan die Minister verskaf of geopenbaar moet word nie, hetsy regstreeks afkomstig uit enige uitdruklike verklaring wat in die mededeling of aanbieding gedoen is of onregstreeks, by implikasie of afleiding, betrekking het op die konteks van die mededeling of aanbieding en, onder andere—

- (i) omringende feite of omstandighede;
- (ii) besondere persoonlike kennis;
- (iii) die wyse of medium van mededeling of aanbieding.

(5) Alle gelde wat van tyd tot tyd deur die Republiek verskuldig is aan die Internasionale Atoomenergie-agentskap word deur die Minister namens die Republiek betaal.

20 Magtigings vereis vir verkryging of besit van, en sekere aktiwiteite ten opsigte van, kernmateriaal, beperkte materiaal en kernverwante toerusting en materiaal

34. (1) Geen persoon, instelling, organisasie of liggaam mag behalwe met die skriftelike magtiging van die Minister—

- (a) in besit wees nie van enige bronmateriaal behalwe waar—
- (i) die besit voortspruit uit prospektering, herwinning of mynbedrywighede wat regmatig deur die persoon, instelling, organisasie of liggaam onderneem is; of
- (ii) die besit namens enigiemand is wat op die wyse in subparagraaf (i) genoem, besit van die bronmateriaal verkry het; of
- (iii) die persoon, instelling, organisasie of liggaam die bronmateriaal regmatig op 'n ander wyse bekom het;
- (b) in besit wees nie van die volgende, naamlik—
- (i) spesiale kernmateriaal;
- (ii) beperkte materiaal;
- (iii) uraanheksafluoried (UF_6);
- (iv) kernbrandstof;
- (v) kernverwante toerusting en materiaal;
- (c) enige bronmateriaal verkry, gebruik of daarvoor beskik nie;
- (d) enige bronmateriaal in die Republiek invoer nie;
- (e) enige bronmateriaal verwerk, verryk of herverwerk nie;
- (f) enige spesiale kernmateriaal verkry nie;
- (g) enige spesiale kernmateriaal na die Republiek invoer nie;
- (h) enige spesiale kernmateriaal gebruik of daarvoor beskik nie;
- (i) enige spesiale kernmateriaal verwerk, verryk of herverwerk nie;
- (j) enige beperkte materiaal verkry nie;
- (k) enige beperkte materiaal in die Republiek invoer nie;
- (l) enige beperkte materiaal gebruik of daarvoor beskik nie;
- (m) kernenergie voortbring nie;
- (n) uraanheksafluoried (UF_6) vervaardig of andersins voortbring of verkry of daarvoor beskik nie;
- (o) uraanheksafluoried (UF_6) na die Republiek invoer nie;
- (p) kernbrandstof vervaardig, verkry of daarvoor beskik nie;
- (q) kernbrandstof in die Republiek invoer nie;
- (r) kernverwante toerusting en materiaal vervaardig of andersins voortbring, invoer, verkry, gebruik of daarvoor beskik nie;
- (s) oor enige radioaktiewe afval of bestraalde brandstof (wanneer laasgenoemde ekstern tot die gebruikte brandstofpoel is) beskik of dit berg of herverwerk nie;
- (t) enige van bogenoemde materiaal vervoer nie;
- (u) oor enige tegnologie met betrekking tot enige van bogenoemde materiaal of toerusting beskik nie.

(2) (a) The Minister may after consultation with the South African Council for the Non-Proliferation of Weapons of Mass Destruction on any matter affecting the proliferation of weapons of mass destruction grant any authorisation required by subsection (1), after application made to the Minister in the prescribed manner for that purpose.

(b) The authorisation may be granted subject to any conditions (if any) that the Minister may determine.

(3) Where an application for such an authorisation has been refused the Minister, in writing, must inform the applicant accordingly, stating the reasons for the refusal.

Exportation of source, special nuclear or restricted material or nuclear-related equipment and material

35. (1) No person may export any source material, special nuclear material or restricted material or any nuclear-related equipment and material from the Republic except with the written authorisation of the Minister.

(2) The Minister, having consulted with the South African Council for the Non-Proliferation of Weapons of Mass Destruction on any matter affecting the proliferation of weapons of mass destruction and duly taken into account the provisions of the Nuclear Non-proliferation Treaty, the Safeguards Agreement and the Republic's obligations under any other treaty or international agreement with another state, may grant any authorisation required by subsection (1) after application made to the Minister in the manner as prescribed for that purpose.

(3) The authorisation may be granted subject to any conditions (if any) that the Minister may impose. However, where the source material, special nuclear material, restricted material or nuclear-related equipment and material is to be exported—

(a) to a nuclear weapons state, the authorisation at all times must be made subject to the condition that the material and equipment concerned may be used for peaceful purposes only;

(b) to a non-nuclear weapons state, the authorisation at all times must be made subject to the condition that the material and equipment concerned will be subject to comprehensive international safeguards at all times.

(4) Where an application for such an authorisation has been refused, the Minister must in writing inform the applicant accordingly, stating the reason for the refusal.

Furnishing of information and reports

36. (1) The Minister, in writing, may direct any person to whom authorisation was granted under section 34 or 35, to furnish to the Minister a return concerning—

(a) any source material, restricted material or special nuclear material acquired by, in the possession of, or under the control of that person;

(b) any nuclear-related equipment or material acquired by, in the possession of, or under the control of that person;

(c) any other information in that person's possession relating to any work carried out by, on behalf of or under the direction of that person in connection with the production, use, processing, enrichment or reprocessing of source material, restricted material, special nuclear material or nuclear energy, or in connection with research with regard to matters connected therewith.

(2) The return to be so furnished, must contain the particulars and be accompanied by the plans, drawings and other documents specified in the direction.

Inspector may enter upon or enter premises to monitor compliance with Act with regard to restricted matter and restricted acts and activities

37. (1) An inspector appointed in terms of section 53 may at any reasonable time, without a warrant, enter upon or enter any land, premises, place or means of conveyance at, on or in which restricted matter is kept or to be found or at, on, in, from where or by means of which any restricted act or activity is performed or carried out, with a view to performing thereat, thereon or therein, any inspection or investigation necessary or expedient for monitoring compliance with—

(2) (a) Die Minister kan, na oorlegpleging met die Suid-Afrikaanse Raad vir die Nie-Proliferasie van Wapens van Grootsekaalse Vernietiging rakende enige aangeleentheid wat die proliferasie van wapens van grootsekaalse vernietiging raak, en nadat aansoek op die voorgeskrewe wyse vir daardie doel by die Minister gedoen is enige magtiging deur subartikel (1) vereis, verleen.

(b) Die magtiging kan onderworpe aan enige voorwaardes (indien enige) verleen word wat die Minister bepaal.

(3) Indien 'n aansoek om sodanige magtiging afgewys word, moet die Minister die aansoeker skriftelik aldus inlig met verstrekking van die redes vir die weiering.

10 Uitvoer van bron-, spesiale kern- of beperkte materiaal of kernverwante toerusting en materiaal

35. (1) Behalwe met die skriftelike magtiging van die Minister, mag geen persoon enige bronmateriaal, spesiale kernmateriaal of beperkte materiaal of enige kernverwante toerusting en materiaal uit die Republiek uitvoer nie.

15 (2) Die Minister kan, na oorlegpleging met die Suid-Afrikaanse Raad vir die Nie-Proliferasie van Wapens van Grootsekaalse Vernietiging rakende enige aangeleentheid wat die proliferasie van wapens van grootsekaalse vernietiging kan raak, en na behoorlike inagneming van die bepalings van die Kernsperverdrag, die Waarborg-ooreenkoms en die verpligtinge van die Republiek kragtens enige ander verdrag of 20 internasionale ooreenkoms met 'n ander staat 'n magtiging vereis deur subartikel (1) toestaan nadat op die wyse vir daardie doel voorgeskryf, by die Minister aansoek gedoen is.

(3) Die magtiging kan verleen word onderworpe aan die voorwaardes (indien enige) wat die Minister oplê. Waar die bronmateriaal, spesiale kernmateriaal, beperkte 25 materiaal of kernverwante toerusting en materiaal egter uitgevoer staan te word—

(a) na 'n kernwapenland, moet die magtiging te alle tye onderhewig gemaak word aan die voorwaarde dat die betrokke materiaal en toerusting slegs vir vreedsame doeleindes gebruik mag word;

30 (b) na 'n nie-kernwapenland, moet die magtiging te alle tye onderhewig gemaak word aan die voorwaarde dat die betrokke materiaal en toerusting te alle tye aan omvattende internasionale waarborge onderhewig is.

(4) Waar 'n aansoek om sodanige magtiging afgewys is, moet die Minister die aansoeker skriftelik dienooreenkomstig inlig met verstrekking van die rede vir die afwysing.

35 Verstrekking van inligting en verslae

36. (1) Die Minister kan skriftelik enige persoon aan wie 'n magtiging kragtens artikel 34 of 35 toegestaan is, gelas om aan die Minister 'n verslag te verskaf betreffende—

40 (a) enige bronmateriaal, beperkte materiaal of spesiale kernmateriaal deur daardie persoon verkry of in die besit van of onder die beheer van daardie persoon;

(b) enige kernverwante toerusting of materiaal deur daardie persoon verkry of in die besit van of onder die beheer van daardie persoon;

45 (c) enige ander inligting in die besit van daardie persoon met betrekking tot enige werk deur of ten behoewe van of kragtens lasgewing van daardie persoon uitgevoer in verband met die voortbrenging, gebruik, verwerking, verryking of herverwerking van bronmateriaal, beperkte materiaal, spesiale kernmateriaal of kernenergie, of in verband met navorsing ten opsigte van aangeleenthede in verband daarmee.

50 (2) Die verslag wat aldus verskaf moet word, moet die besonderhede bevat en vergesel gaan van die planne, tekeninge en ander stukke uiteengesit in die opdrag.

Inspekteur mag persele betree of binnegaan om nakoming van Wet in verband met beperkte materiaal en beperkte handelinge en bedrywighede te moniteer

37. (1) 'n Inspekteur ingevolge artikel 53 aangestel, kan te eniger redelike tyd sonder 55 'n lasbrief enige grond, perseel, plek of vervoermiddel waar, waarop of waarin beperkte goed gehou of aangetref kan word of waar, waarop of waarvandaan of by wyse waarvan enige beperkte handeling of bedrywigheid verrig of uitgevoer word, binnegaan ten einde daarop of daarin enige inspeksie of ondersoek uit te voer wat nodig of dienstig is om nakoming te moniteer van—

- (a) the terms of the Minister's authorisation for possessing the restricted matter or performing or carrying out the restricted acts or activity, and compliance with the provisions of this Act relating to restricted matter or restricted acts or activities;
 - (b) the conditions imposed by the Minister under section 34 or 35 (as the case may be) in respect of that authorisation; 5
 - (c) any other relevant requirement imposed by or in terms of this Act with regard to restricted matter or restricted acts or activities.
- (2) An inspector acting under subsection (1) may not search the land, premises, place or means of conveyance except on the authority of a warrant issued under section 40. 10

Inspectors, powers of search, seizure, etc

38. (1) An inspector acting on the authority of a warrant issued under section 40, may enter upon or enter any land, premises, place or means of conveyance—

- (a) at, on or in which there is to be found or on reasonable grounds is expected to be found, any restricted matter the possession of which is unlawful in terms of section 34, or anything reasonably suspected of being such restricted matter; 15
- (b) at, on, in, from or by means of which, any restricted act or activity on reasonable grounds is suspected to be or to have been performed or carried out without the necessary authorisation in terms of section 34 or 35 (as the case may be), 20

and inspect and search the land, premises, place or means of conveyance and any person thereat, thereon or therein, for restricted matter or evidence relating to possession of restricted matter or a restricted act or activity, and for any other evidence relating to the contravention of section 34 or 35 in relation to the restricted matter or restricted act or activity. For the purposes of entering and searching a means of conveyance, any inspector who is assisted by a police official may stop the means of conveyance, whether public or private, if necessary by force, wherever found. 25

(2) An inspector who has gained access to any land, premises, place or means of conveyance on the authority of a warrant, may—

- (a) take any steps that may be reasonably necessary to terminate the unlawful performance or carrying out of a restricted act or activity at, on, in, from or by means of the land, premises, place or means of conveyance and to prevent the recurrence of such an act or activity. Those steps may include any of the steps contemplated in paragraphs (b), (c) and (d) but do not include the destruction or alienation of restricted matter unless authorised thereto by a court of law; 30 35
- (b) seize and detain, and, where applicable, remove for detention, restricted matter found at, on or in the land, premises, place or means of conveyance;
- (c) bar or restrict access to the land or premises, place or any part thereof, or seal off or seal the premises, place or means of conveyance;
- (d) seize and detain, and, where applicable, remove for detention, any tools or equipment used or suspected on reasonable grounds to have been used to perform or carry out a restricted act or activity; 40
- (e) in any manner reasonably appropriate, take samples of any mineral, material or substance found on, under, or in the land, premises, place or means of conveyance for the purpose of analysis or conducting any test or investigation in respect thereof, and remove, and retain without compensation, any sample so taken; and 45
- (f) question any person at, on or in the land, premises, place or means of conveyance who may furnish any information about restricted matter or a restricted act or activity, and demand and procure from that person any book, document, plan, sketch or other record of whatever nature that may be relevant to the acquisition or possession of the restricted matter, or to the performance or carrying out of the restricted act or activity, and make copies or extracts from such a book, document, plan, sketch or other record. 50

- (a) die bedinge van die Minister se magtiging vir die besit van die beperkte materiaal of die verrigting of uitvoering van die beperkte handeling of bedrywighede, en nakoming van die bepalings hierdie Wet met betrekking tot beperkte materiaal of beperkte handeling of bedrywighede;
- 5 (b) die voorwaardes wat kragtens artikel 34 of 35 (na gelang van die geval) ten opsigte van daardie magtiging deur die Minister opgelê is;
- (c) enige ander relevante vereiste wat kragtens of ingevolge hierdie Wet met betrekking tot beperkte materiaal of beperkte handeling of bedrywighede opgelê is.
- 10 (2) 'n Inspekteur wat kragtens subartikel (1) optree, mag nie die grond, perseel, plek of vervoermiddel deursoek nie, behalwe op gesag van 'n lasbrief kragtens artikel 40 uitgereik.

Inspekteurs, deursoekingsbevoegdhede, beslaglegging, ens.

38. (1) 'n Inspekteur wat optree op gesag van 'n lasbrief kragtens artikel 40 uitgereik, kan enige grond, perseel, plek of vervoermiddel betree of binnegaan—
- (a) waar, op of waarin daar enige beperkte goed waarvan die besit ingevolge artikel 34 onwettig is of enigiets wat redelikerwys vermoed word sodanige beperkte goed te wees, aangetref word of op redelike gronde verwag word om aangetref te kan word;
 - 20 (b) waar, op, in, uit of by wyse waarvan enige beperkte handeling of bedrywigheid op redelike gronde vermoed word verrig of uitgevoer te gewees het sonder die nodige magtiging ingevolge artikel 34 of 35 (na gelang van die geval),
- en die grond, perseel, plek of vervoermiddel en enige persoon daarby, daarop of daarin inspekteer en deursoek vir enige beperkte goed of getuienis betreffende die besit van beperkte goed of 'n beperkte handeling of bedrywigheid en vir enige ander getuienis betreffende die oortreding van artikel 34 of 35 in verband met die beperkte goed of beperkte handeling of bedrywigheid. Vir doeleindes van die betreding en deursoeking van 'n vervoermiddel kan enige inspekteur wat deur 'n polisiebeampte bygestaan word
- 30 daardie vervoermiddel, hetsy dit privaat of openbaar is, indien nodig met geweld, stop waar dit ook al gevind word.
- (2) 'n Inspekteur wat op gesag van 'n lasbrief toegang tot enige grond, perseel, plek of vervoermiddel verkry het, kan—
- 35 (a) die stappe doen wat redelikerwys nodig is om die onwettige uitvoering of verrigting van 'n beperkte handeling of bedrywigheid op, in, van of by wyse van die grond, perseel, plek of vervoermiddel te beëindig en om die herhaling van so 'n handeling of bedrywigheid te voorkom. Daardie stappe kan enige van die stappe beoog in paragrawe (b), (c) en (d) insluit maar sluit nie die vernietiging of vervreemding van beperkte goed in nie tensy daartoe deur 'n geregshof gemagtig;
 - 40 (b) op beperkte goed wat op of in die grond, perseel, plek of vervoermiddel gevind word, beslag lê en dit hou en, waar van toepassing, dit vir aanhouding verwyder;
 - (c) toegang tot die grond of perseel, plek of enige deel daarvan, verbied of beperk of die perseel, plek of vervoermiddel afsluit of sluit;
 - 45 (d) op enige gereedskap of toerusting wat gebruik is of op redelike gronde vermoed word gebruik te gewees het om 'n beperkte handeling of bedrywigheid uit te voer of te verrig, beslag lê en dit hou en, waar van toepassing, dit vir aanhouding verwyder;
 - 50 (e) op enige redelike toepaslike wyse monsters van enige mineraal, materiaal of stof wat op, onder, of in die grond, perseel, plek of vervoermiddel gevind is, neem met die doel om dit te ontleed of enige toets of inspeksie ten opsigte daarvan te doen, en sonder vergoeding enige monster aldus geneem, verwyder en hou; en
 - 55 (f) enige persoon op of in die grond, perseel, plek of vervoermiddel wat enige inligting aangaande beperkte goed of 'n beperkte handeling of bedrywigheid kan verskaf, ondervra en van daardie persoon enige boek, stuk, plan, tekening of ander rekord van welke aard ook al vereis en verkry wat relevant is tot die verkryging of besit van die beperkte goed of tot die uitoefening of verrigting van die beperkte handeling of bedrywigheid, en afskrifte of uittreksels uit
 - 60 sodanige boek, dokument, plan, tekening of ander rekord maak.

(3) An inspector who, without a warrant, has entered upon or entered any land, premises, place or means of conveyance in terms of section 37 and who, in the course of carrying out or conducting any inspection or investigation thereat, thereon or therein in terms of that section—

(a) is satisfied on reasonable grounds that an offence in terms of section 56, based on the unlawful possession of restricted matter or the performance or carrying out of any restricted act or activity without the Minister's authorisation in terms of section 34 or 35 or on the breach of any term of, or condition imposed in respect of, such an authorisation, has been committed at, on, in, from or by means of the land, premises, place or means of conveyance, may, in so far as may be appropriate and reasonably necessary in the circumstances, exercise any of the powers contemplated in paragraphs (a) to (f) of subsection (2) in accordance with the provisions of those paragraphs, but excluding the power in terms of paragraph (e) of that subsection to take a sample of any mineral, material or substance from below the surface of land. However, such a sample may be taken from below the surface of land—

(i) with the consent of the owner or person in control of the land, premises or place concerned; or

(ii) on the authority of a warrant issued under section 40;

(b) suspects, on reasonable grounds, that such an offence has been committed at, on, in, from or by means of the land, premises, place or means of conveyance, may bar or restrict access to the land, premises or place or any part thereof, or seal off or seal the premises, place or means of conveyance pending the issuing of a warrant in terms of section 40 that authorises the inspector to search the land, premises, place or means of conveyance or any person thereat, thereon or therein. Upon the issue of the warrant, the inspector also may, in so far as may be appropriate and reasonably necessary in the circumstances, exercise any of the powers contemplated in paragraphs (a) to (f) of subsection (2), in accordance with the provisions of those paragraphs.

(4) (a) Despite the preceding provisions of this section, an inspector may, during the day and after having furnished proof of identity, without a warrant enter or enter upon any land, premises, place or means of conveyance in the circumstances mentioned in paragraph (a) or (b) of subsection (1) and exercise thereat, thereon or therein the power of search contemplated in that subsection and any of the powers contemplated in paragraphs (a) to (f) of subsection (2), in accordance with the provisions of subsection (1) or those paragraphs (as the case may be), if the person who is competent to consent to the entry and to the search gives that consent, subject to paragraph (b) of this subsection.

(b) The powers mentioned in paragraphs (a) to (f) of subsection (2) may be exercised only if the inspector, when requesting that person for consent, informs that person of the nature and extent of the powers contemplated in those paragraphs.

(5) An answer given or statement made by any person to an inspector exercising the power contemplated in subsection (2)(f) or given or made to any inspector exercising that power by virtue of subsection (3) or (4), if self-incriminating, will not be admissible as evidence against that person in criminal proceedings instituted in any court against that person, except in criminal proceedings where that person is tried for an offence contemplated in section 56(1)(c)(iv), and then only to the extent that such an answer or statement is relevant to those proceedings.

Inspectors acting under section 37 or 38 entitled to information concerning safety, and to be accompanied

39. (1) (a) Before carrying out or conducting any inspection or investigation under section 37 or conducting any search under section 38, the inspector concerned must consult with a knowledgeable person employed or performing duties at or in connection with the land, premises or place, or any part thereof, where the inspection is to be carried out or the investigation or search is to be conducted, with a view to determining whether the carrying out or conducting of the inspection, investigation or search at the relevant venue will or is likely to endanger or be harmful to the health of a person or will or is likely to result in the injury of any person or damage to any property.

(3) 'n Inspekteur wat sonder 'n lasbrief enige grond, perseel, plek of vervoermiddel ingevolge artikel 37 binnegegaan of betree het en wat, in die loop van die verrigting van of uitvoering van enige inspeksie of ondersoek daarby, daarop of daarin ingevolge daardie artikel—

- 5 (a) op redelike gronde oortuig is dat 'n misdryf ingevolge artikel 56, gegrond op die onwettige besit van beperkte goed of die verrigting of uitoefening van enige beperkte handeling of bedrywigheid sonder die Minister se magtiging ingevolge artikel 34 of 35 of by die verbreking van enige vereiste of
- 10 voorwaarde opgelê ten opsigte van sodanige magtiging, gepleeg is op, in, uit of by wyse van die grond, perseel, plek of vervoermiddel kan, vir sover dit behoorlik en redelikerwys nodig is in die omstandighede, enige van die bevoegdhede beoog in paragrafe (a) tot (f) van subartikel (2) uitoefen ooreenkomstig die bepalings van daardie paragrafe, maar uitgesonderd die bevoegdheid ingevolge paragraaf (e) van daardie subartikel om 'n monster
- 15 van enige mineraal, materiaal of stof van onder die oppervlak van die grond te neem. Sodanige monster mag egter van onder die oppervlak van die grond geneem word—
- (i) met die toestemming van die eienaar of persoon in beheer van die betrokke grond, perseel of plek; of
- 20 (ii) op gesag van 'n lasbrief kragtens artikel 40 uitgereik;
- (b) op redelike gronde vermoed dat sodanige misdryf gepleeg is op, in, uit of by wyse van die grond, perseel, plek of vervoermiddel, kan toegang tot die grond, perseel of plek of enige deel daarvan verbied of beperk of die perseel, plek of vervoermiddel sluit of afsluit hangende die uitreiking van 'n lasbrief
- 25 ingevolge artikel 40 wat die inspekteur magtig om die grond, perseel, plek of vervoermiddel of enige persoon daarby, daarop of daarin te deursoek. By die uitreiking van die lasbrief kan die inspekteur ook, vir sover as wat dit in die omstandighede behoorlik en redelikerwys nodig mag wees, enige van die bevoegdhede in paragrafe (a) tot (f) van subartikel (2) beoog, uitoefen ooreenkomstig die bepalings van daardie paragrafe.
- 30 (4) (a) Ondanks die voorafgaande bepalings van hierdie artikel kan 'n inspekteur gedurende die dag en nadat bewys van identiteit verskaf is, sonder 'n lasbrief enige grond, perseel, plek of vervoermiddel betree of binnegaan in die omstandighede vermeld in paragraaf (a) of (b) van subartikel (1) en daarby, daarop of daarin die
- 35 deursoekingsbevoegdheid bedoel in daardie subartikel en enige van die bevoegdhede bedoel in paragrafe (a) tot (f) van subartikel (2), ooreenkomstig die bepalings van subartikel (1) of daardie paragrafe (na gelang van die geval), uitoefen indien die persone wat bevoeg is om tot die toegang en deursoeking toe te stem daardie toestemming behoudens paragraaf (b) van hierdie subartikel verleen.
- 40 (b) Die bevoegdhede vermeld in paragrafe (a) tot (f) van subartikel (2) kan slegs uitgeoefen word indien die inspekteur, wanneer daardie persoon om toestemming gevra word, daardie persoon van die aard en omvang van die bevoegdhede beoog in daardie paragrafe inlig.
- (5) 'n Antwoord verskaf of 'n verklaring gedoen deur enige persoon aan 'n
- 45 inspekteur wat die bevoegdheid beoog in subartikel (2)(f) uitoefen of verskaf of gedoen aan 'n inspekteur wat daardie bevoegdheid by wyse van subartikel (3) of (4) uitoefen, is, indien selfinkriminerend, nie toelaatbaar as getuienis teen daardie persoon in strafregtelike verrigtinge in enige hof ingestel teen daardie persoon nie, behalwe in strafregtelike verrigtinge waar daardie persoon verhoor word weens 'n misdryf beoog
- 50 in artikel 56(1)(c)(iv), en dan slegs in die mate waarin sodanige antwoord of verklaring relevant is tot daardie verrigtinge.

Inspekteurs wat kragtens artikel 37 of 38 optree geregtig op inligting aangaande veiligheid en moet vergesel word

39. (1) (a) Alvorens enige inspeksie of ondersoek kragtens artikel 37 uitgevoer of
- 55 gedoen word of enige deursoeking kragtens artikel 38 gedoen word, moet die betrokke inspekteur 'n kundige persoon raadpleeg wat in diens is by of pligte verrig op of in verband met die grond, perseel of plek, of enige deel daarvan, waar die inspeksie uitgevoer moet word of die ondersoek of deursoeking gedoen moet word met die doel om te bepaal of die uitvoering of doen van die inspeksie, ondersoek of deursoeking by
- 60 die toepaslike plek die gesondheid van 'n persoon in gevaar sal stel of waarskynlik sal stel of nadelig vir die gesondheid van 'n persoon is of 'n besering van 'n persoon of skade aan enige eiendom sal veroorsaak of waarskynlik sal veroorsaak.

(b) Where the inspector and the person so consulted, hold different views on the matter, the inspector may refer the matter to the Minister for a decision.

(2) In undertaking any inspection or investigation under section 37 or any search under section 38(1), or exercising any power under section 38(2), (3) or (4), an inspector who considers it necessary, may—

- (a) be accompanied and assisted by any person that the inspector regards suitable for that purpose;
- (b) bring onto or into the land, premises, place or means of conveyance on or in which—
 - (i) the inspection or investigation is to be carried out or conducted, any apparatus, equipment, machinery and tools required for the purposes of the inspection or investigation; or
 - (ii) the search is to be conducted, any apparatus, equipment, machinery and tools required for the purpose or for performing any act mentioned in section 38(2).

(3) Where the inspection, investigation or search is to be carried out or conducted on or in any land, premises or place, the vehicles necessary for the conveyance of the apparatus, equipment, machinery or tools concerned must, if required and where possible, be allowed onto or into the land, premises or place concerned.

Provisions regarding issuing and execution of warrants

40. (1) Any warrant required in terms of section 38 may be issued in chambers by any judge of the High Court or by a magistrate who has jurisdiction in the area in which—

- (a) the land, premises or place where the search is to be undertaken, is situated;
- (b) the means of conveyance to be searched, is to be found; or
- (c) the land from under the surface of which a sample is to be taken, is situated.

(2) A warrant contemplated in section 38(1) or (3)(b) will be issued only if it appears to the judge or magistrate from information on oath or affirmation that there are reasonable grounds for believing that—

- (a) restricted matter, the possession of which is unlawful in terms of section 34, is to be found on or in the land, premises, place or means of conveyance for which the search warrant is required; or
- (b) a restricted act or activity is being, has been or is likely to be performed or carried out thereat, thereon, therein or therefrom; or
- (c) an offence in terms of section 56 based on the unlawful possession of restricted matter or the performance or carrying out of any restricted act or activity without the Minister's authorisation, in terms of section 34 or 35, is being or has been committed at, on, in, from or by means of the land, place, premises or means of conveyance concerned.

(3) The inspector applying for the warrant must indicate whether the search of any person will be or is likely to be necessary. No person may be searched unless it is expressly authorised in the warrant.

(4) The entry upon or entry onto or into the land, premises, place or means of conveyance specified in a warrant issued under subsection (2) and, where authorised by that warrant, the search of any person thereat, thereon or therein, must be conducted with strict regard to decency and order, including the individual's—

- (a) right to respect for and protection of personal dignity;
- (b) right to freedom and security of person; and
- (c) right to personal privacy.

(5) An inspector who, on the authority of a warrant issued under subsection (2), may enter upon or enter, and search, any land, premises, place or means of conveyance and, where applicable, search any person thereat, thereon or therein, may use the force that may be reasonably necessary to overcome any resistance to the entry and search.

(6) A warrant contemplated in section 38(3)(a) will be issued only if it appears to the judge or magistrate from information on oath or affirmation that there are reasonable grounds for believing that—

- (a) an offence contemplated in subsection (2)(c) has been committed; and

(b) Waar die inspekteur en die persoon aldus geraadpleeg verskillende menings oor die aangeleentheid huldig, kan die inspekteur die aangeleentheid vir beslissing na die Minister verwys.

(2) By die onderneming van enige inspeksie of ondersoek kragtens artikel 37 of enige deursoeking kragtens subartikel (1) van artikel 38(1), of die uitoefening van enige bevoegdheid kragtens artikel 38(2), (3) of (4), kan 'n inspekteur wat dit nodig ag—

- (a) vergesel en bygestaan word deur enige persoon wat die inspekteur geskik vir daardie doel ag;
- 10 (b) op of binne die grond, perseel, plek of vervoermiddel waarop of waarin—
 - (i) die inspeksie of ondersoek verrig of gedoen moet word enige apparaat, toerusting, masjinerie en gereedskap bring wat vir die doeleindes van die inspeksie of ondersoek benodig word; of
 - 15 (ii) die deursoeking gedoen moet word enige apparaat, toerusting, masjinerie en gereedskap bring wat benodig word vir die doel van of die verrigting van enige handeling in artikel 38(2) vermeld.
- (3) Waar die inspeksie, ondersoek of deursoeking op of in enige grond, perseel of plek verrig of gedoen moet word, moet die voertuie benodig vir die vervoer van die betrokke apparate, toerusting, masjinerie of gereedskap, indien benodig en waar 20 moontlik, op of in die betrokke grond, perseel of plek toegelaat word.

Bepalings rakende die uitreiking en uitvoering van lasbriewe

40. (1) Enige lasbrief wat ingevolge artikel 38 vereis word, kan in kamers deur enige regter van die Hoë Hof of deur 'n landdros uitgereik word wat jurisdiksie het in die gebied waar—

- 25 (i) die grond, perseel of plek waar die deursoeking uitgevoer staan te word, geleë is;
- (ii) die vervoermiddel wat deursoek staan te word, gevind kan word; of
- (iii) die grond waarvan 'n monster van onder die oppervlak geneem staan te word, geleë is.
- 30 (2) 'n Lasbrief beoog in artikel 38(1) of (3)(b) word slegs uitgereik indien dit vir die regter of landdros uit inligting onder eed of bevestiging bekom, blyk dat daar redelike gronde is om te glo dat—
 - (a) beperkte goed waarvan die besit ingevolge artikel 34 onwettig is op die grond, perseel, plek of vervoermiddel waarvoor die lasbrief tot deursoeking 35 benodig word, aangetref kan word; of
 - (b) 'n beperkte handeling of bedrywigheid daarby, daarop, daarin of daarvan verrig word of waarskynlik verrig of uitgevoer sal word; of
 - (c) 'n misdryf ingevolge artikel 56 gegrond op die onwettige besit van beperkte goed of die verrigting of uitvoering van enige beperkte handeling of 40 bedrywigheid sonder die Minister se magtiging ingevolge artikel 34 of 35, gepleeg is of word op, in, uit of by wyse van die betrokke grond, plek, perseel of vervoermiddel.

(3) Die inspekteur wat aansoek doen om die lasbrief moet aandui of die deursoeking van enige persoon nodig is of waarskynlik nodig sal wees. Geen persoon mag deursoek 45 word tensy dit uitdruklik in die lasbrief gemagtig word nie.

(4) Die betreding op of in die grond, perseel, plek of vervoermiddel vermeld in 'n lasbrief uitgereik kragtens subartikel (2) en, waar gemagtig deur daardie lasbrief, die deursoeking van enige persoon daarby, daarop of daarin, moet uitgevoer word met streng inagneming van betaamlikheid en orde, insluitende die individu se—

- 50 (a) reg op respek vir en beskerming van persoonlike waardigheid;
- (b) reg op vryheid en sekerheid van die persoon; en
- (c) reg op persoonlike privaatheid.

(5) 'n Inspekteur wat op gesag van 'n lasbrief kragtens subartikel (2) uitgereik enige grond, perseel, plek of vervoermiddel mag betree en deursoek en, waar van toepassing, 55 enige persoon daarby, daarop of daarin mag deursoek, kan die geweld gebruik wat redelikerwys nodig is om enige weerstand teen die betreding en deursoeking te oorkom.

(6) 'n Lasbrief beoog in artikel 38(3)(a) word slegs uitgereik indien dit vir die regter of landdros uit inligting onder eed of bevestiging blyk dat daar redelike gronde is om 60 te glo dat—

- (a) 'n misdryf beoog in subartikel (2)(c) gepleeg is; en

- (b) the sample to be taken from under the surface of the land concerned is likely to afford or corroborate evidence relating to that offence.
- (7) A warrant in terms of this section may be issued on any day and remains in force until the occurrence of any of the following events (whichever occurs first):
 - (a) The warrant has been executed; or 5
 - (b) it is cancelled by the judge or magistrate who issued it, or, if not available, by any other judge, or by any other magistrate with like authority (as the case may be); or
 - (c) the expiry of three months from the day of its issue; or
 - (d) the purpose for which the warrant was issued, no longer exists. 10
- (8) A warrant issued in terms of this section may be executed by day only, unless the person who has issued the warrant has authorised the execution thereof by night.
- (9) An inspector executing a warrant in terms of this section, must immediately before commencing with the execution thereof—
 - (a) furnish proof of identity to the person in control of the land, premises, place or means of conveyance to be entered upon or entered, if that person is present, and hand to that person a copy of the warrant, or, if that person is not present, affix a copy of the warrant to a prominent spot at, on or to the land, premises, place or means of conveyance; and 15
 - (b) at the request of that person, furnish to that person particulars regarding the inspector's authority to execute the warrant. For that purpose, production of the inspector's certificate of appointment issued under subsection 53(2), may be demanded. 20

Disposal of patents for inventions with regard to nuclear energy, nuclear material and restricted matter 25

41. (1) Despite anything to the contrary in the Patents Act, 1978, or any other law, any person who, in terms of section 25 of that Act, lodges with the registrar of patents an application for a patent in respect of an invention with regard to the production or use of nuclear energy, or the production, processing or use of nuclear material or restricted matter, must— 30
- (a) immediately notify the Minister in writing of that application; and
 - (b) furnish the Minister with a copy of the specification relating to the invention; and
 - (c) provide the Minister with any other information regarding the invention that the Minister may require. 35
- (2) The Minister must treat all information furnished or provided in terms of subsection (1) as highly confidential, and it may not be disclosed or used except as provided in this section.
- (3) The registrar of patents must—
- (a) allow any person authorised thereto in writing by the Minister, to inspect any application for a patent mentioned in subsection (1) and any specification or other document accompanying or relevant to the application; 40
 - (b) postpone acceptance of the application for a period of three months as from the date on which it was submitted to the patents office, which period may be extended for a further three months at the written request of the Minister; 45
 - (c) at the written request of, and until otherwise directed by, the Minister, withhold acceptance or sealing of the application, keep its specification secret and notify the applicant to that effect.
- (4) The communication of an invention to the Minister in terms of subsection (1) or to such an authorised person, or anything done by that person in connection with the invention for the purposes of an inspection contemplated in subsection (3)(a), will not be regarded as publication or use of the invention that may prejudice the granting or validity of any patent for the invention. 50
- (5) If satisfied on reasonable grounds, from all the available information relevant to the invention, that the granting of a patent for the invention— 55
- (a) will be against the interests of the security of the Republic, the Minister, who

- (b) die monster wat onder die oppervlak van die betrokke grond geneem moet word waarskynlik getuienis met betrekking tot daardie misdryf sal verskaf of staaf.
- (7) 'n Lasbrief ingevolge hierdie artikel kan op enige dag uitgereik word en bly van krag tot die plaasvind van enige van die volgende gebeurtenisse (welke ook al eerste plaasvind):
- (a) Die lasbrief is uitgevoer; of
 - (b) dit is gekanselleer deur die regter of landdros wat dit uitgereik het, of, indien hy of sy nie beskikbaar is nie, deur enige ander regter of deur 'n ander landdros wat oor daardie bevoegdheid beskik (na gelang van die geval); of
 - (c) die verloop van drie maande van die dag van uitreiking; of
 - (d) die doel waarvoor die lasbrief uitgereik is, bestaan nie meer nie.
- (8) 'n Lasbrief ingevolge hierdie artikel uitgereik kan slegs in die dag uitgevoer word behalwe indien die persoon wat die lasbrief uitgereik het die nagtelike uitvoering daarvan gemagtig het.
- (9) 'n Inspekteur wat 'n lasbrief ingevolge hierdie artikel uitvoer, moet onmiddellik voordat, met die uitvoering daarvan begin word—
- (a) bewys van identiteit verskaf aan die persoon in beheer van die grond, perseel, plek of vervoermiddel wat betree word of betree staan te word indien daardie persoon teenwoordig is en 'n afskrif van die lasbrief aan daardie persoon oorhandig of, indien daardie persoon nie teenwoordig is nie, 'n afskrif van die lasbrief op 'n prominente plek aanbring by of aan die grond, perseel, plek of vervoermiddel; en
 - (b) besonderhede aangaande die inspekteur se magtiging om die lasbrief uit te voer op die versoek van daardie persoon aan daardie persoon verskaf. Die voorlegging van die inspekteur se aanstellingsertifikaat uitgereik kragtens artikel 53(2) kan vir daardie doel geëis word.

Beskikking oor patente vir uitvindings met betrekking tot kernenergie, kernmateriaal en beperkte goed

41. (1) Ondanks andersluidende bepalings in die Wet op Patente, 1978, of enige ander wet, moet enige persoon wat ingevolge artikel 25 van daardie Wet by die registrateur van patente aansoek doen om 'n patent ten opsigte van 'n uitvinding met betrekking tot die vervaardiging of gebruik van kernenergie, of die vervaardiging, verwerking of gebruik van kernmateriaal of beperkte goed—
- (a) die Minister onmiddellik skriftelik in kennis stel van daardie aansoek; en
 - (b) 'n afskrif van die spesifikasie van die uitvinding aan die Minister verskaf; en
 - (c) enige ander inligting wat die Minister ten opsigte van die uitvinding verlang aan die Minister verskaf.
- (2) Die Minister moet alle inligting wat ingevolge subartikel (1) verskaf is as hoogs vertroulik behandel en dit mag nie geopenbaar of gebruik word anders as in hierdie artikel bepaal nie.
- (3) Die registrateur van patente moet—
- (a) enige persoon skriftelik daartoe gemagtig deur die Minister, toelaat om enige aansoek om 'n patent vermeld in subartikel (1) en enige spesifikasie of ander stuk wat die aansoek vergesel of daarop betrekking het, te inspekteer;
 - (b) aanvaarding van die aansoek vir 'n tydperk van drie maande uitstel vanaf die datum waarop dit aan die patentekantoer voorgelê is, welke tydperk op skriftelike versoek van die Minister vir 'n verdere drie maande verleng kan word;
 - (c) op die skriftelike versoek van die Minister, en totdat andersins gelas deur die Minister, aanvaarding of verseëling van die aansoek weerhou, die spesifikasie daarvan geheim hou en die aansoeker daarvan in kennis stel.
- (4) Die mededeling van 'n uitvinding aan die Minister ingevolge subartikel (1) of aan sodanige gemagtigde persoon, of enigiets deur daardie persoon gedoen in verband met die uitvinding vir doeleindes van 'n inspeksie beoog in subartikel (3)(a), word nie beskou as bekendmaking of gebruik van die uitvinding wat die toestaan of geldigheid van enige patent vir die uitvinding nadelig raak nie.
- (5) Indien die Minister op redelike gronde uit al die beskikbare inligting van toepassing op die uitvinding oortuig is dat die toestaan van 'n patent vir die uitvinding—
- (a) in stryd met die belange van die veiligheid van die Republiek sal wees, moet

must act in consultation with the Minister of Defence, must give the registrar of patents written notice thereof and in the notice direct that registrar to refuse the granting of the patent, and thereupon that registrar will—

- (i) refuse to grant the patent;
- (ii) in writing notify the applicant for the patent of the refusal; and
- (iii) keep secret the specification and any other documents relating to the invention, as well as the manner in which it is to be performed or applied;

or

- (b) will be contrary to the Republic's obligations in terms of the Nuclear Non-Proliferation Treaty or the Safeguards Agreement, or in terms of any other agreement of that kind between the Republic (including its national agency) and any other state or any international or multi-national nuclear agency or institution, the Minister must give the registrar of patents written notice thereof, and in the notice—

- (i) direct that registrar to refuse the granting of the patent, whereupon that registrar must act in accordance with subparagraphs (i), (ii) and (iii) of paragraph (a); or
- (ii) direct that the patent may only be granted on the condition that the claims in the specification of the invention must, with regard to the invention, contain the disclaimer mentioned in the direction; or

- (c) will not have any of the consequences mentioned in paragraphs (a) and (b), the Minister (who must act in consultation with the Minister of Defence with regard to the consequence contemplated in paragraph (a)), must in writing inform the registrar of patents to that effect and withdraw any direction issued under subsection (3)(b) or (c).

- (6) The Minister may not take any action in terms of subsection (5)(a) or (b) unless—

- (a) the Minister, by written notice, has informed the applicant for a patent with regard to the invention concerned, of the proposed action and given the applicant sufficient opportunity to show cause why the proposed action should not be taken, and to make written or oral representations in that regard; and
- (b) the Minister has duly considered the applicant's response and representations (if any).

- (7) Upon the withdrawal of a direction issued under subsection (3)(b) or (c) (in this subsection called a suspending direction), or when a direction is issued under subsection (5)(b)(ii)—

- (a) any steps in connection with the application for a patent taken in terms of the Patents Act, 1978, before the date on which a suspending direction was issued, may be continued as if they had not been interrupted by the suspending direction;
- (b) any period that has lapsed after that date but before the date of withdrawal of the suspending direction or the date on which the direction mentioned in subsection (5)(b)(ii) was issued, as the case may be, will not be taken into account in calculating any period prescribed by or in terms of the Patents Act, 1978.

- (8) A patent granted, contrary to the provisions of this section, with regard to an invention mentioned in subsection (1), will have no legal force or effect whatsoever.

Application, in appropriate circumstances, of section 36, 79 or 80 of Patents Act, 1978, to invention contemplated in section 41 of this Act

42. (1) The provisions of section 41 of this Act do not prevent sections 36(2) or (3), 79 and 80 of the Patents Act, 1978, from being applied in appropriate circumstances with regard to any invention, relating to the production or use of nuclear energy or the production, processing or use of nuclear material or restricted matter, in respect of which application for a patent has been made in terms of section 25 of the Patents Act, 1978, nor, where applicable, with regard to any patent granted in respect of such an invention.

- (2) For that purpose, section 36 of the Patents Act, 1978, is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection:

- die Minister, wat moet optree in oorleg met die Minister van Verdediging, die registrateur van patente skriftelik kennis daarvan gee en in die kennisgewing daardie registrateur opdrag gee om die toestaan van die patent te weier, en daarop moet daardie registrateur—
- 5 (i) weier om die patent toe te staan;
 - (ii) die aansoeker om die patent skriftelik van die weiering in kennis stel; en
 - (iii) die spesifikasie en enige ander dokumente rakende die uitvinding, sowel as die wyse waarop dit verrig of toegepas gaan word, geheim hou; of
 - 10 (b) in stryd met die verpligtinge van die Republiek ingevolge die Kernspervdrag of die Waarborgooreenkoms, of ingevolge enige ander ooreenkoms van daardie aard tussen die Republiek (insluitende sy nasionale agentskap) en enige ander staat of enige internasionale of multinasionale kernagentskap of -instelling, moet die Minister die registrateur van patente skriftelik daarvan in kennis stel en in die kennisgewing—
 - 15 (i) daardie registrateur opdrag gee om die toestaan van die patent te weier, waarop daardie registrateur ooreenkomstig subparagrafe (i), (ii) en (iii) van paragraaf (a) moet handel; of
 - (ii) opdrag gee dat die patent slegs toegestaan mag word op die voorwaarde dat die aansprake in die spesifikasie van die uitvinding, met betrekking tot die uitvinding, die ontkenning in die opdrag vermeld, moet bevat; of
 - 20 (c) geen van die gevolge vermeld in paragrafe (a) en (b) sal hê nie, moet die Minister, wat in oorleg met die Minister van Verdediging ten opsigte van die gevolg beoog in paragraaf (a) moet optree, die registrateur van patente skriftelik in kennis stel daarvan en enige opdrag kragtens subartikel (3)(b) of
 - 25 (c) uitgereik, terugtrek.
 - (6) Die Minister kan nie ingevolge subartikel (5)(a) of (b) optree nie tensy—
 - (a) die Minister by skriftelike kennisgewing die aansoeker om 'n patent ten opsigte van die betrokke uitvinding in kennis gestel het van die voorgestelde optrede en die aansoeker voldoende geleentheid gegee het om aan te toon
 - 30 waarom die voorgestelde optrede nie uitgevoer moet word nie, en om skriftelike en mondelinge verhoë in daardie verband te rig; en
 - (b) die Minister die aansoeker se reaksie en verhoë (indien enige) behoorlik oorweeg het.
 - (7) By die terugtrekking van 'n opdrag kragtens subartikel (3)(b) of (c) uitgereik (in
 - 35 hierdie subartikel 'n opskortende opdrag genoem), of wanneer 'n opdrag kragtens subartikel (5)(b)(ii) uitgereik is—
 - (a) kan enige stappe wat ten opsigte van die aansoek om 'n patent ingevolge die Wet op Patente, 1978, gedoen is voor die datum waarop 'n opskortende opdrag uitgereik is, voortgesit word asof dit nie deur die opskortende opdrag onderbreek is nie;
 - 40 (b) word geen tydperk wat na daardie datum maar voor die datum van terugtrekking van die opskortende opdrag of die datum waarop die opdrag vermeld in subartikel (5)(b)(ii) gegee is, na gelang van die geval, verstryk het, in aanmerking geneem nie by berekening van enige tydperk voorgeskryf deur of ingevolge die Wet op Patente, 1978.
 - 45 (8) 'n Patent wat in stryd met die bepalings van hierdie artikel toegestaan is ten opsigte van 'n uitvinding vermeld in subartikel (1) het geen regsrag hoegenaamd nie.

Toepassing, in gepaste omstandighede, van artikels 36, 79 of 80 van die Wet op Patente, 1978, op uitvinding beoog in artikel 41 van hierdie Wet

- 50 **42.** (1) Die bepalings van artikel 41 van hierdie Wet verhinder nie dat artikels 36(2) of (3), 79 en 80 van die Wet op Patente, 1978, in gepaste omstandighede toegepas word in verband met enige uitvinding rakende die vervaardiging of gebruik van kernenergie of die vervaardiging, verwerking of gebruik van kernmateriaal of beperkte goed ten opsigte waarvan aansoek gedoen is om 'n patent ingevolge artikel 25 van die Wet op
- 55 Patente, 1978, of, waar van toepassing, met betrekking tot enige patent ten opsigte van sodanige uitvinding toegestaan.
- (2) Vir daardie doel word artikel 36 van die Wet op Patente, 1978, hierby gewysig—
- (a) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) If, where an application for a patent is made, it appears to the registrar that the invention in respect of which the application is made—

- (a) might be used in any manner contrary to law; or
 - (b) where it relates to the production or use of nuclear energy or to the production, processing or use of nuclear material or restricted matter as defined in section 1 of the Nuclear Energy Act, 1999, might be used for a purpose or in a manner—
 - (i) that will be harmful to or endanger the security of the Republic; or
 - (ii) that is not permissible in terms of the Nuclear Non-Proliferation Treaty or the Safeguards Agreement or in terms of any other agreement of that kind between the Republic (including its national agency with regard to nuclear matters) and any other state or any international or multinational nuclear agency or institution.
- the registrar may refuse the application unless the specification is amended by the addition of such disclaimer in respect of that invention, or such other reference to the illegality, harmfulness, endangerment or unlawfulness thereof, as the registrar may determine: Provided that, in the case of an invention mentioned in paragraph (b)(ii), the disclaimer shall be determined in consultation with the Minister of Minerals and Energy.”; and

- (b) by the addition of the following subsection:

“(3) The registrar shall not dispose of any application for a patent in respect of an invention mentioned in subsection (2)(b), unless he or she has informed the Minister of Minerals and Energy thereof in writing with a view to enabling that Minister, if considered necessary, to take action in terms of section 41 of the Nuclear Energy Act, 1999, or make representations or take appropriate steps for the purposes of subsection (2) of this section or section 79 of this Act, and has given that Minister sufficient opportunity to do so.”.

- (3) For the purpose of applying section 79 of the Patents Act, 1978, to such an invention, that section is hereby amended—

- (a) in subsection (1), by the addition of the following paragraph after the existing provisions (which become paragraph (a)):

“(b) The proprietor of an invention relating to the production or use of nuclear energy or the production, processing or use of nuclear material or restricted matter as defined in section 1 of the Nuclear Energy Act, 1999, shall, if called upon to do so by the Minister of Minerals and Energy, assign the invention or the patent obtained or to be obtained for the invention, to the Minister of Minerals and Energy on behalf of the State—

- (i) if the interests of the security of the Republic so require. However, such an assignment may be made only at the request of the Minister of Defence;
- (ii) if the commercial exploitation of the invention is not permissible in terms of the Nuclear Non-Proliferation Treaty or the Safeguards Agreement as defined in section 1 of the Nuclear Energy Act, 1999, or in terms of any other agreement of that kind between the Republic (including its national agency with regard to nuclear matters) and any other state or any international or multi-national nuclear agency or institution.”;

- (b) in subsection (2), by the addition after the words “Minister of Defence” of the words “or the Minister of Minerals and Energy (as the case may be)”;

- (c) by the substitution for subsection (3) of the following subsection:

“(3) Where an invention has been so assigned—

- (a) the Minister of Defence may, in respect of an invention contemplated in subsection (1)(a), by notice in writing to the registrar direct that the invention and the manner in which it is to be performed, shall be kept secret;
- (b) the Minister of Minerals and Energy shall, in respect of an invention contemplated in paragraph (b)(i) or (ii) of subsection (1), by notice in

“(2) Indien, waar ’n aansoek om ’n patent gedoen word, dit vir die registrateur blyk dat die uitvinding ten opsigte waarvan die aansoek gedoen word—

(a) op enige wyse strydig met die reg gebruik kan word; of
(b) waar dit verband hou met die vervaardiging of gebruik van kernenergie of met die vervaardiging, verwerking of gebruik van kernmateriaal of beperkte goed soos omskryf in artikel 1 van die Wet op Kernenergie, 1999, wat gebruik kan word vir ’n doel of op ’n wyse—

(i) wat skadelik vir die veiligheid van die Republiek sal wees of dit in gevaar sal stel; of

(ii) wat nie ingevolge die Kernsperverdrag of die Waarborgooreenkoms of ingevolge enige ander ooreenkoms van daardie aard tussen die Republiek (insluitende sy nasionale agentskap betreffende kernaanleenthede) en enige ander staat of enige internasionale of multinasionale kernagentskap of -instelling,

kan die registrateur die aansoek van die hand wys tensy die spesifikasie gewysig is deur die byvoeging van sodanige ontkenning ten opsigte van daardie uitvinding, of sodanige ander verwysing na die onwettigheid, skadelikheid, gevaarhouding of onregmatigheid daarvan, soos die registrateur mag bepaal: Met dien verstande dat, in die geval van ’n uitvinding vermeld in paragraaf (b)(ii), die ontkenning in oorleg met die Minister van Minerale en Energie bepaal moet word.”; en

(b) deur die byvoeging van die volgende subartikel:

“(3) Die registrateur sal nie oor enige aansoek om ’n patent ten opsigte van ’n uitvinding vermeld in subartikel (2)(b) beskik nie tensy hy of sy die Minister van Minerale en Energie skriftelik daarvan in kennis gestel het met die oog daarop om daardie Minister, indien dit nodig geag word, in staat te stel om ingevolge artikel 41 van die Wet op Kernenergie, 1999, op te tree of om voorleggings te doen, of toepaslike stappe te doen vir doeleindes van subartikel (2) van hierdie artikel of artikel 79 van hierdie Wet, en die Minister voldoende geleentheid gegee het om dit te doen.”.

(3) Ten einde artikel 79 van die Wet op Patente, 1978, op sodanige uitvinding toe te pas, word daardie artikel hierby gewysig—

(a) in subartikel (1), deur die byvoeging van die volgende paragraaf na die bestaande bepalings (wat paragraaf (a) word):

“(b) Die eienaar van ’n uitvinding betreffende die vervaardiging of gebruik van kernenergie of die vervaardiging, verwerking of gebruik van kernmateriaal of beperkte goed soos omskryf in artikel 1 van die Wet op Kernenergie, 1999, moet, indien deur die Minister van Minerale en Energie versoek om dit te doen, die uitvinding of die patent verkry of verkry staan te word vir die uitvinding oordra aan die Minister van Minerale en Energie namens die Staat—

(i) indien die veiligheidsbelange van die Republiek dit vereis. Sodanige oordrag mag egter slegs op versoek van die Minister van Verdediging gedoen word;

(ii) indien die kommersiële benutting van die uitvinding nie toelaatbaar is nie ingevolge die Kernsperverdrag of die Waarborgooreenkoms soos omskryf in artikel 1 van die Wet op Kernenergie, 1999, of ingevolge enige ooreenkoms van daardie aard tussen die Republiek (insluitende sy nasionale agentskap rakende kernaanleenthede) en enige ander staat of enige internasionale of multinasionale kernagentskap of -instelling.”.

(b) in subartikel (2), deur die byvoeging van die woorde “of die Minister van Minerale en Energie, na gelang van die geval,” na die woorde “Minister van Verdediging”;

(c) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Waar ’n uitbreiding aldus oorgedra is—

(a) kan die Minister van Verdediging ten opsigte van ’n uitvinding beoog in subartikel (1)(a), by skriftelike kennisgewing aan die registrateur opdrag gee dat die uitvinding en die wyse waarop dit in werking gestel moet word, geheim gehou word;

(b) die Minister van Minerale en Energie moet ten opsigte van ’n uitvinding beoog in paragraaf (b)(i) of (ii) van subartikel (1) by skriftelike

writing to the registrar direct that the invention and the manner in which it is to be performed, shall be kept secret.”;

- (d) by the addition after the words “Minister of Defence”, wherever they occur in subsections (4), (5) and (6), of the words “or Minister of Minerals and Energy (as the case may be)”; and

- (e) by the substitution for subsection (7) of the following subsection:

“(7) (a) The Minister of Defence may by notice in writing to the registrar direct that any invention of the nature mentioned in subsection (1)(a) and in respect of which a direction of secrecy had been issued in terms of subsection (3), need no longer be kept secret.

(b) When the circumstances mentioned in subsection (1)(b) no longer exist in relation to an invention of the nature mentioned in that subsection, the Minister of Minerals and Energy may by notice in writing to the registrar direct that the invention concerned need no longer be kept secret.

(c) Where a direction of secrecy no longer applies, the specifications, drawings and other documents relating to the invention concerned will be open to inspection by the public, and may be published, in all respects as if such a direction had not been issued.”

- (4) For the purpose of applying section 80 of the Patents Act, 1978, to an invention relating to the production or use of nuclear energy or the production, processing or use of nuclear material or restricted matter, that section is hereby amended by the insertion of the following subsection after subsection (1):

“(1A) The Minister shall, in the case of an invention relating to the production or use of nuclear energy, or the production, processing or use of nuclear material or restricted matter as defined in section 1 of the Nuclear Energy Act, 1999, make such an order if requested thereto in writing by the Minister of Minerals and Energy on the grounds that disclosure or publication of such an application, specification, drawing or other document—

- (a) will or is likely to be harmful to or endanger the security of the Republic. However, the Minister of Minerals and Energy may make such a request only at the instance of the Minister of Defence;

- (b) is not permissible, or will constitute a breach of the Republic’s obligations, in terms of the Nuclear Non-Proliferation Treaty or the Safeguards Agreement as defined in section 1 of the Nuclear Energy Act, 1999, or any other agreement of that kind between the Republic (including its national agency with regard to nuclear matters) and any other state or any international or multinational nuclear agency or institution.”

Prohibition of applications by South African subjects for certain patents in other countries

43. (1) Except with the written consent of the Minister, a person who is a South African citizen or is resident in the Republic, and a juristic person that is registered in the Republic, may not apply in any other country for a patent for an invention with regard to the production or use of nuclear energy or the production, processing or use of nuclear material or restricted matter.

(2) The Minister’s consent under subsection (1), may be given on any conditions considered fit. However, consent may not be given in any case where the granting of a patent for the invention concerned, would have been refused, or made subject to a disclaimer, in terms of section 41 of this Act or section 36(2) of the Patents Act, 1978, had the application for the patent concerned been made in the Republic in terms of section 25(1) of the Patents Act, 1978.

(3) The consent must be given or refused within three months from the date on which the application therefor was lodged with the Minister.

kennisgewing aan die registrateur opdrag gee dat die uitvinding en die wyse waarop dit in werking gestel moet word, geheim gehou word.”;

(d) deur die byvoeging van die woorde “of Minister van Minerale en Energie, na gelang van die geval,” na die woorde “Minister van Verdediging”, waar dit ook al voorkom in subartikels (4), (5) en (6); en

(e) deur subartikel (7) deur die volgende subartikel te vervang:

“(7)(a) Die Minister van Verdediging kan by skriftelike kennisgewing aan die registrateur opdrag gee dat enige uitvinding van die aard vermeld in subartikel (1)(a) en ten opsigte waarvan ’n lasgewing van geheimhouding ingevolge subartikel (3) uitgereik was, nie meer geheim gehou hoef te word nie.

(b) Wanneer die omstandighede vermeld in subartikel (1)(b) nie meer bestaan nie met betrekking tot ’n uitvinding van die aard in daardie subartikel vermeld, kan die Minister van Minerale en Energie by skriftelike kennisgewing aan die registrateur gelas dat die betrokke uitvinding nie meer geheim gehou hoef te word nie.

(c) Waar ’n lasgewing van geheimhouding nie meer geld nie, is die spesifikasies, tekeninge en ander stukke rakende die betrokke uitvinding oop vir inspeksie deur die publiek, en kan dit in alle opsigte gepubliseer word asof sodanige lasgewing nie gegee was nie.”.

(4) Ten einde artikel 80 van die Wet op Patente, 1978, op ’n uitvinding betreffende die vervaardiging of gebruik van kernenergie of die vervaardiging, verwerking of gebruik van kernmateriaal of beperkte goed toe te pas, word daardie artikel hierby gewysig deur die invoeging van die volgende subartikel na subartikel (1):

“(1A) Die Minister moet in die geval van ’n uitvinding betreffende die vervaardiging of gebruik van kernenergie, of die vervaardiging, verwerking of gebruik van kernmateriaal of beperkte materiaal soos omskryf in artikel 1 van die Wet op Kernenergie, 1999, sodanige bevel gee indien daartoe skriftelik versoek deur die Minister van Minerale en Energie op grond daarvan dat openbaarmaking of publikasie van sodanige aansoek, spesifikasie, tekening of ander stuk—

(a) skadelik is of waarskynlik skadelik kan wees vir die Republiek of die veiligheid van die Republiek in gevaar kan stel. Die Minister van Minerale en Energie kan egter so ’n versoek slegs op aandrang van die Minister van Verdediging rig;

(b) nie toelaatbaar is nie, of ’n verbreking uitmaak van die Republiek se verpligtinge ingevolge die Kernspervdrag of die Waarborgooreenkoms soos omskryf in artikel 1 van die Wet op Kernenergie, 1999, of enige ander soortgelyke ooreenkoms tussen die Republiek (insluitende sy nasionale agentskap met betrekking tot kernaangeleenthede) en enige ander staat of internasionale of multinasionale kernagentskap of -instelling.”

Verbod op aansoeke deur Suid-Afrikaanse onderdane vir sekere patente in ander lande

43. (1) Behalwe met die skriftelike toestemming van die Minister mag ’n persoon wat ’n Suid-Afrikaanse burger is of in die Republiek woonagtig is, en ’n regspersoon wat in die Republiek geregistreer is, nie in ’n ander land aansoek doen om ’n patent vir ’n uitvinding betreffende die vervaardiging of gebruik van kernenergie of die vervaardiging, verwerking of gebruik van kernmateriaal of beperkte materiaal nie.

(2) Die Minister se toestemming kragtens subartikel (1) kan verleen word op enige voorwaardes wat geskik geag word. Toestemming mag egter nie verleen word in die geval waar die toestaan van ’n patent vir die betrokke uitvinding geweier sou gewees het of onderworpe gestel sou gewees het aan ’n afwysing ingevolge artikel 41 van hierdie Wet of artikel 36(2) van die Wet op Patente, 1978, sou die aansoek om die betrokke patent in die Republiek ingevolge artikel 25(1) van die Wet op Patente, 1978, gedoen gewees het.

(3) Die toestemming moet verleen of geweier word binne drie maande vanaf die datum waarop die aansoek daarom by die Minister gedoen is.

CHAPTER IV

**MINISTER'S RESPONSIBILITIES REGARDING SOURCE MATERIAL,
SPECIAL NUCLEAR MATERIAL, RESTRICTED MATERIAL,
RADIOACTIVE WASTE AND IRRADIATED FUEL**

Acquisition by State of source material and special nuclear material

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44. (1) The Minister, with due regard to the requirements and provisions of the Safeguards Agreement, may acquire or cause to be acquired by purchase, lease or expropriation any source material (whether mined only or processed) and any special nuclear material whenever, in the Minister's opinion, the national interest so requires.

(2) The overall control of all source material and special nuclear material acquired by the State under subsection (1), vests in the Minister. 10

(3) As consideration for any source material or special nuclear material expropriated under subsection (1), the Minister must pay to the person from whom it was expropriated, the compensation that may be agreed upon by that person and the Minister acting with the concurrence of the Minister of Finance, or, failing such an agreement, that may be determined by arbitration. 15

(4) Sections 7, 8 and 9 of the Expropriation Act, 1975 (Act No. 63 of 1975), will apply, with the necessary changes, in respect of any expropriation under subsection (1).

Authority over management of radioactive waste, and storage of irradiated nuclear fuel

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45. (1) The authority over the management and discarding of radioactive waste and the storage of irradiated nuclear fuel vests in the Minister.

(2) The Minister, in consultation with the Minister of Environmental Affairs and Tourism and the Minister of Water Affairs and Forestry, may make regulations prescribing the manner of management, storage and discarding of radioactive waste and irradiated nuclear fuel. 25

(3) The Minister must perform that function with due regard to the provisions of the National Nuclear Regulator Act, 1999.

Discarding of radioactive waste and storage of irradiated nuclear fuel

46. (1) Except where authorised by a ministerial authority issued under the Hazardous Substances Act, 1973 (Act No. 15 of 1973), no person may, without the written permission of the Minister, discard radioactive waste in any manner or cause it to be so discarded. 30

(2) Except with the written permission of the Minister, no person may store any irradiated nuclear fuel or cause it to be stored. 35

(3) A permission in terms of subsection (1) or (2) may be granted subject to any conditions that the Minister, in concurrence with the Minister of Environmental Affairs and Tourism and the Minister of Water Affairs and Forestry, deem fit to impose. The conditions so imposed will be additional to any conditions contained in a nuclear authorisation as defined in section 1 of the National Nuclear Regulator Act, 1999. 40

Reporting of information on occurrence of source material

47. (1) Any person who, by virtue of information obtained in the course of any prospecting or mining operations or carrying out any scientific investigation or chemical or metallurgical process, or otherwise, has reason to believe that any source material is present at any place, must, within 30 days after having developed the belief, submit to the Minister or any person designated by the Minister for that purpose, a written report on the matter, containing full particulars of the grounds on which the belief is based and of the place where the material may be present. 45

(2) Despite anything to the contrary contained in any other law, the Minister will have access to and be entitled to the use of all information with regard to mineral values that is in the possession of any person, and such a person must make that information available to the Minister if requested by the Minister to do so. However— 50

HOOFSTUK IV**MINISTER SE VERANTWOORDELIKHEDE BETREFFENDE BRONMATERIAAL, SPESIALE KERNMATERIAAL, BEPERKTE MATERIAAL, RADIO-AKTIEWE AFVAL EN BESTRAALDE BRANDSTOF****5 Verkryging deur Staat van bronmateriaal en spesiale kernmateriaal**

44. (1) Die Minister kan met behoorlike inagneming van die vereistes en bepalings van die Waarborgooreenkoms enige bronmateriaal (hetsy slegs gemyn of verwerk) en enige spesiale kernmateriaal verkry of laat verkry deur koop, huur of onteiening wanneer ook al dit na die Minister se mening in die nasionale belang is.

10 (2) Die oorhoofse beheer van alle bronmateriaal en spesiale kernmateriaal deur die Staat verkry kragtens subartikel (1) berus by die Minister.

(3) Die Minister moet as vergoeding vir bronmateriaal of spesiale kernmateriaal wat kragtens subartikel (1) onteien is aan die persoon van wie dit onteien is die vergoeding betaal waarop deur daardie persoon en die Minister handelende met die instemming
15 van die Minister van Finansies ooreengekom word of, by gebrek aan so 'n ooreenkoms, die vergoeding wat deur arbitrasie bepaal mag word.

(4) Artikels 7, 8 en 9 van die Onteieningswet, 1975 (Wet No. 63 van 1975), is met die nodige veranderinge ten opsigte van enige onteiening ingevolge subartikel (1) van toepassing.

20 Bevoegdheid oor bestuur van radioaktiewe afval; en berging van bestraalde kernbrandstof

45. (1) Die gesag oor die bestuur en wegdoening van radioaktiewe afval en die berging van bestraalde kernbrandstof berus by die Minister.

(2) Die Minister kan, in oorleg met die Minister van Omgewingsake en Toerisme en
25 die Minister van Waterwese en Bosbou, regulasies uitvaardig wat die wyse van bestuur, berging en wegdoening van radioaktiewe afval en bestraalde kernbrandstof voorskryf.

(3) Die Minister moet daardie werksaamheid met behoorlike inagneming van die bepalings van die Wet op die Nasionale Kernreguleerder, 1999, verrig.

Wegdoening van radioaktiewe afval en berging van bestraalde kernbrandstof

30 46. (1) Behalwe waar daartoe gemagtig deur 'n ministeriële magtiging kragtens die Wet op Gevaarhoudende Stowwe, 1973 (Wet No. 15 van 1973), mag geen persoon sonder die skriftelike toestemming van die Minister radioaktiewe afval op enige wyse wegdoen of aldus laat wegdoen nie.

(2) Niemand mag sonder die skriftelike toestemming van die Minister enige
35 bestraalde kernbrandstof berg of laat berg nie.

(3) 'n Toestemming ingevolge subartikel (1) of (2) kan verleen word onderhewig aan enige voorwaardes wat die Minister, met die instemming van die Minister van Omgewingsake en Toerisme en die Minister van Waterwese en Bosbou, goedvind om op te lê. Die voorwaardes aldus opgelê is bykomstig tot enige voorwaardes vervat in
40 'n kernmagtiging soos omskryf in artikel 1 van die Wet op die Nasionale Kernreguleerder, 1999.

Aanmelding van inligting oor voorkoms van bronmateriaal

47. (1) Iemand wat deur middel van inligting bekom in die loop van enige prospekterings- of mynbedrywigheid of die uitvoering van enige wetenskaplike
45 ondersoek of chemiese of metallurgiese proses of andersins rede het om te glo dat bronmateriaal op enige plek teenwoordig is moet binne 30 dae nadat daardie vermoede ontstaan het 'n skriftelike verslag oor die aangeleentheid aan die Minister of 'n persoon vir daardie doel deur die Minister aangewys, voorlê wat volle besonderhede bevat aangaande die gronde waarop die vermoede gegrond is en die plek waar die materiaal
50 teenwoordig kan wees.

(2) Ondanks andersluidende bepalings vervat in enige ander wet het die Minister toegang tot en die reg om alle inligting te gebruik betreffende mineraalwaardes wat in die besit van enigiemand is en sodanige persoon moet op versoek van die Minister daardie inligting aan die Minister bekend maak. Nogtans mag—

- (a) no information made available under this subsection may be disclosed to anyone except the Director-General, if necessary, for the performance of any function or work entrusted to the latter in terms of this Act, except with the written permission of the person who made the information available to the Minister under this subsection; and
- (b) the State may use the information only for feasibility and other studies with regard to source material reserves in the Republic, or matters incidental thereto.

Provision of certain restricted matter for research, development and training purposes

48. (1) The Minister, having regard to the national interest and public safety, may make available for nuclear research, the development of nuclear technology and the training of persons, any nuclear material, radioactive material and nuclear-related equipment and material of any kind or quantity that may be required.

(2) In making any nuclear material, radioactive material, or nuclear-related equipment and material so available, the Minister may impose any conditions considered fit.

This Chapter not applicable to certain substances and certain radioactive material

49. This Chapter does not apply with regard to—

- (a) Group IV hazardous substances as defined in section 1 of the Hazardous Substances Act, 1973, subject to section 46(1);
- (b) radioactive material with a specific activity and a total activity below the levels determined in terms of section 2(g);
- (c) radioactive material exempted in terms of section 2(e).

Responsibility for institutional obligations of Republic

50. The responsibility for the Republic's institutional nuclear obligations vests in the Minister.

CHAPTER V

GENERAL PROVISIONS

Non-disclosure of Minister's reasons for decisions adversely affecting persons, permissible where security of Republic is involved

51. (1) Whenever, in exercising any power or performing any function under this Act which affects or is likely to affect any person, or in proposing to do so, the Minister is satisfied on reasonable grounds that disclosure of the reasons for exercising or performing the power or function or proposing to do so will endanger or be harmful to the security of the Republic, the Minister need not disclose those reasons.

(2) (a) Subsection (1) does not preclude any High Court from enquiring into and deciding on the validity of any non-disclosure purporting to be justified in terms of subsection (1).

(b) The court conducting such an enquiry may at any time on application by the Minister or of its own accord, order that the proceedings before it be conducted *in camera* if the interests of the security of the State so require. For that purpose the court must assess the matters raised and the evidence, statements and addresses that have been or may be tendered, made or given, as well as other developments in the matter, on an ongoing basis for potential danger or harm to the security of the Republic.

Court proceedings and arbitration proceedings arising from this Act may be held *in camera*

52. (1) In the case of any civil or criminal proceedings before a court of law, or any proceedings before an arbitration tribunal, arising from the application or administration

- (a) geen inligting wat kragtens hierdie subartikel beskikbaar gestel is aan enigiemand behalwe die Direkteur-generaal, indien nodig vir die verrigting van enige werksaamheid of werk wat laasgenoemde ingevolge hierdie Wet opgelê is, geopenbaar word nie, behalwe met die skriftelike toestemming van die persoon wat die inligting kragtens hierdie subartikel aan die Minister beskikbaar gestel het; en
- (b) die Staat die inligting slegs vir uitvoerbaarheids- en ander studies in verband met die reserwes van bronmateriaal in die Republiek, of aangeleenthede wat daarmee in verband staan, gebruik.

10 **Verskaffing van sekere beperkte goed vir navorsings-, ontwikkelings- en opleidingsdoeleindes**

48. (1) Die Minister kan, met inagneming van die nasionale belang en openbare veiligheid, vir kernnavorsing, die ontwikkeling van kerntechnologie en die opleiding van persone, enige kernmateriaal, radioaktiewe materiaal en kernverwante toerusting en materiaal van enige aard of hoeveelheid wat nodig mag wees, beskikbaar stel.

(2) Wanneer die Minister kernmateriaal, radioaktiewe materiaal of kernverwante toerusting en materiaal aldus beskikbaar stel, kan die Minister enige voorwaardes wat geskik geag word, op lê.

20 **Hierdie Hoofstuk nie van toepassing nie op sekere stowwe en sekere radioaktiewe materiaal**

49. Hierdie Hoofstuk is nie van toepassing nie betreffende—

- (a) Groep IV gevaarhoudende stowwe soos omskryf in artikel 1 van die Wet op Gevaarhoudende Stowwe, 1973, behoudens artikel 46(1);
- (b) radioaktiewe materiaal met 'n bepaalde aktiwiteit en 'n totale aktiwiteit laer as die vlakke ingevolge artikel 2(g) bepaal;
- (c) radioaktiewe materiaal ingevolge artikel 2(e) vrygestel.

Verantwoordelikheid vir vasgestelde verpligtinge van Republiek

50. Die verantwoordelikheid vir die Republiek se vasgestelde kernverpligtinge berus by die Minister.

30 **HOOFSTUK V**

ALGEMENE BEPALINGS

Nie-bekendmaking van Minister se redes vir besluite wat persone nadelig raak toelaatbaar waar veiligheid van Republiek betrokke is

51. (1) Wanneer die Minister by die uitoefening van enige bevoegdheid of die verrigting van enige werksaamheid kragtens hierdie Wet wat enige persoon raak of waarskynlik sal raak op redelike gronde oortuig is dat die bekendmaking van die redes vir die uitoefening of verrigting van die bevoegdheid of werksaamheid of die voorneme om dit te doen die veiligheid van die Republiek in gevaar sal stel of skaad, hoef die Minister nie daardie redes bekend te maak nie.

(2) (a) Subartikel (1) verhoed nie enige Hoë Hof om ondersoek in te stel na en te beslis oor die geldigheid van enige nie-bekendmaking wat voorgee geregverdig te wees ingevolge subartikel (1).

(b) Die hof wat sodanige ondersoek hou kan te eniger tyd op aansoek deur die Minister of uit eie beweging gelas dat die verrigting *in camera* plaasvind indien die veiligheidsbelange van die Staat dit vereis. Vir daardie doel moet die hof die aangeleenthede geopper en die getuienis, verklarings en betoë wat aangebied is of mag word sowel as enige ander ontwikkelings in die saak op 'n deurlopende basis van moontlike gevaar of nadeel van die veiligheid van die Republiek oorweeg.

50 **Hofverrigtinge en arbitrasieverrigtinge voortspruitend uit hierdie Wet kan in camera gehou word**

52. (1) In enige siviele of strafregtelike verrigtinge voor 'n geregshof of enige verrigtinge voor 'n arbitrasietribunaal wat ontstaan uit die toepassing of administrasie

of this Act, the court or arbitral tribunal (as the case may be) may direct that the proceedings before it be held *in camera* if the interest of the security of the Republic so require.

(2) For that purpose, the court or tribunal (as the case may be) must assess the matters raised and the evidence, statements and addresses that have been or may be tendered, made or given in the proceedings concerned, as well as other developments in the proceedings, on an ongoing basis for potential danger or harm to the security of the Republic. 5

Appointment of inspectors

53. (1) The Minister must appoint suitably qualified persons who are fit and proper persons as inspectors for the purposes of this Act. 10

(2) The Minister must issue a certificate of appointment for every person appointed under subsection (1).

(3) The Minister must have inspections undertaken subject to sections 37, 38 and 39.

(4) The Minister must prescribe the qualifications of inspectors. 15

Regulations

54. (1) The Minister may make regulations not inconsistent with this Act, with regard to anything which in terms of this Act, may or must be prescribed or provided for or governed or otherwise dealt with by regulation.

(2) In any regulations made under subsection (1), provision may be made— 20

(a) that the contravention of or failure to comply with any particular provisions thereof, will be an offence; and

(b) that a person convicted of such an offence will be punishable with a term of imprisonment not longer than the period specified in the regulations or with a fine, but no term of imprisonment in excess of 12 months may be so specified. 25

(3) The regulations made under the provisions of section 77 of the previous Act and in force immediately before the specified date, in so far as they relate to matters which, in terms of this Act, may or must be prescribed, provided for, governed or otherwise dealt with by regulation, remain in force and continue to apply to those matters—

(a) despite the repeal of those provisions by this Act; 30

(b) in so far as they are not inconsistent with this Act; and

(c) until they are amended, substituted or repealed under this section.

(4) Before any regulations are made in terms of subsection (1), the Minister must—

(a) by notice in the *Gazette*, invite the public to comment on the proposed regulations; and 35

(b) consider that comment.

Delegations and assignments by Minister

55. (1) The Minister may delegate any power and assign any function conferred or imposed upon the Minister in terms of this Act, except the power to make regulations, to the Director-General of the Department of Minerals and Energy, who may subdelegate or reassign any delegated power or assigned function in the circumstances and manner as prescribed. 40

(2) The Minister may assign any institutional obligation to the Corporation or any statutory or other body, which has the capacity to fulfil the Republic's responsibilities with regard thereto. 45

(3) A delegation or assignment under subsection (1) or (2) must be in writing and may be subject to any conditions or limitations determined by the Minister.

(4) The Minister will not be divested of any power nor be relieved of any function or duty that the Minister may have delegated or assigned.

(5) The Minister may at any time— 50

(a) amend or revoke a delegation or assignment made under subsection (1) or (2);

(b) withdraw any decision made by the delegatee or assignee with regard to a delegated or assigned matter, and decide the matter himself or herself.

van hierdie Wet kan die hof of arbitrasietribunaal, na gelang van die geval, gelas dat die verrigtinge *in camera* gehou word indien die veiligheidsbelange van die Republiek dit vereis.

- (2) Vir daardie doel moet die hof of tribunaal, na gelang van die geval, die aangeleenthede geopper en die getuienis, verklarings en betoë wat gelewer is of kan word, gemaak of in die betrokke verrigtinge gegee is sowel as ander ontwikkelinge in die verrigtinge op 'n deurlopende basis van moontlike gevaar of nadeel van die veiligheid van die Staat oorweeg.

Aanstelling van inspekteurs

- 10 53. (1) Die Minister moet behoorlik gekwalifiseerde persone wat geskik en bekwaam is vir doeleindes van hierdie Wet as inspekteurs aanstel.
 (2) Die Minister moet 'n aanstellingsertifikaat uitreik aan elke persoon kragtens subartikel (1) aangestel.
 (3) Die Minister moet inspeksies behoudens artikels 37, 38 en 39 laat uitvoer.
 15 (4) Die Minister moet die kwalifikasies van die inspekteurs voorskryf.

Regulasies

54. (1) Die Minister kan regulasies wat nie in stryd is met hierdie Wet nie, uitvaardig met betrekking tot enigiets wat ingevolge hierdie Wet voorgeskryf of voorsien moet of kan word of deur regulasie beheer of andersins mee gehandel moet of kan word.
 20 (2) In enige regulasies kragtens subartikel (1) uitgevaardig kan voorsiening gemaak word—
 (a) dat die oortreding van of versuim om te voldoen aan enige bepaalde bepalinge daarvan 'n misdryf is; en
 (b) dat 'n persoon wat aan sodanige misdryf skuldig bevind word strafbaar is met
 25 'n termyn van gevangenisstraf van hoogstens die tydperk in die regulasies vermeld of met 'n boete, maar geen termyn van gevangenisstraf van langer as 12 maande mag egter aldus vermeld word nie.
 (3) Die regulasies wat kragtens die bepalinge van artikel 77 van die vorige Wet uitgevaardig is en in werking was onmiddellik voor die aangewese datum bly, vir sover dit betrekking het op aangeleenthede wat ingevolge hierdie Wet voorgeskryf moet of kan word, of voorsien, beheer of andersins mee by wyse van regulasie gehandel moet of kan word, van krag en gaan voort om ten opsigte van daardie aangeleenthede te geld—
 (a) ondanks die herroeping van daardie bepalinge deur hierdie Wet;
 35 (b) vir sover dit nie in stryd is met hierdie Wet nie; en
 (c) totdat dit gewysig, vervang of herroep word kragtens hierdie artikel.
 (4) Die Minister moet, alvorens enige regulasies ingevolge subartikel (1) uitgevaardig word—
 (a) die publiek by kennisgewing in die *Staatskoerant* uitnooi om kommentaar te
 40 lewer op die voorgestelde regulasies; en
 (b) daardie kommentaar oorweeg.

Delegerings en opdragings deur Minister

55. (1) Die Minister kan enige bevoegdheid delegeer en enige werksaamheid opdra wat die Minister ingevolge hierdie Wet verleen of opgedra is, behalwe die bevoegdheid
 45 om regulasies uit te vaardig, aan die Direkteur-generaal van die Departement van Minerale en Energie, wat enige gedelegeerde bevoegdheid of opgedraagde werksaamheid kan subdelegeer of heropdra in die omstandighede en op die wyse voorgeskryf.
 (2) Die Minister kan enige institusionele verpligting toewys aan die Korporasie of enige statutêre of ander liggaam wat die vermoë het om die Republiek se verantwoordelikhede ten opsigte daarvan te vervul.
 50 (3) 'n Delegering of opdragting kragtens subartikel (1) of (2) moet op skrif wees en kan onderworpe wees aan die voorwaardes of beperkings wat die Minister bepaal.
 (4) Die Minister word nie ontdoen van enige bevoegdheid of vryggestel van enige werksaamheid of plig wat die Minister gedelegeer of opgedra het nie.
 55 (5) Die Minister kan te eniger tyd—
 (a) 'n delegering of opdragting kragtens subartikel (1) of (2) wysig of ophef;
 (b) enige beslissing deur die gedelegeerde of gemagtigde geneem ten opsigte van 'n gedelegeerde of opgedraagde aangeleentheid terugtrek en hy of sy kan self

However, a decision made by a delegatee or assignee may not be withdrawn where it confers a right or entitlement on any third party.

Offences and penalties

56. (1) A person is guilty of an offence upon—
- (a) failing to discharge any duty or obligation imposed on the person by or in terms of section 33(3); 5
 - (b) publishing, making known or disclosing any information in contravention of section 33(4) or 31;
 - (c) (i) failing to furnish a return in compliance with a direction given under section 36(1); or 10
 - (ii) furnishing a false, incorrect or inaccurate return in response to a direction, knowing or believing the return not to be true, correct or accurate; or
 - (iii) negligently furnishing an incorrect or inaccurate return in response to such a direction; or 15
 - (iv) when questioned by an inspector in terms of subsection (2)(f) of section 38, knowingly furnishes an answer or makes a statement that is false or misleading or furnishes an answer or makes a statement not knowing or believing it to be true;
 - (d) performing or carrying out any restricted act or activity without an authorisation required in terms of section 34 or 35 (as the case may be), or in contravention of the relevant authorisation or any condition imposed in respect thereof under section 34 or 35 (as the case may be); 20
 - (e) being in possession of restricted matter in contravention of section 34(1)(a) or (b); 25
 - (f) failing to submit a report in compliance with section 47;
 - (g) obstructing or hindering any inspector in performing or carrying out any function or duty in terms of this Act or refusing or failing to comply with any question or comply with any demand or direction lawfully put, made or given by an inspector in terms of this Act. 30
- (2) A person is liable, on conviction of an offence in terms of—
- (a) subsection (1)(a), (b) or (c)(i), (ii) or (iv), to a fine or a term of imprisonment not longer than five years;
 - (b) subsection (1)(c)(iii), (f) or (g) to a fine or a term of imprisonment not longer than three years; 35
 - (c) subsection (1)(d) or (e), to a fine or a term of imprisonment not longer than 10 years.

Legal succession to Atomic Energy Corporation

57. (1) The Corporation will be substituted for the Atomic Energy Corporation in any contract or agreement entered into by the latter before the specified date, if the contract or agreement— 40
- (a) relates to any matter which, on the specified date, falls within the Corporation's competence in terms of this Act; and
 - (b) is still pending on the specified date, that is to say, where the term of the contract or agreement has not yet expired, or any obligation thereunder has not been fulfilled (whichever may be applicable). 45
- (2) As from the specified date, the Corporation—
- (a) will take over from the Atomic Energy Corporation the responsibility for all projects and work which had been commenced with before that date in terms of the previous Act— 50
 - (i) with regard to matters which, on the specified date, fall within the Corporation's competence in terms of this Act; and
 - (ii) which, on the specified date, have not been completed; and
 - (b) will be competent to continue with and to carry out those projects and that work or to have them carried out subject to the provisions of this Act and any agreements, contemplated in subsection (1), relating to the execution of the projects or the performance of the work by the other contracting party. 55
- (3) (a) The Corporation will be substituted for the Atomic Energy Corporation as party in any legal proceedings instituted by or against the Atomic Energy Corporation

oor die aangeleentheid besluit. 'n Besluit deur 'n gedelegeerde of gemagtigde geneem kan egter nie teruggetrek word waar dit 'n reg of 'n aanspraak aan 'n derde party verleen nie.

Misdrywe en strawwe

- 5 56. (1) 'n Persoon is skuldig aan 'n misdryf by—
- (a) versuim om enige plig of verpligting die persoon by of ingevolge artikel 33(3) opgelê na te kom;
 - (b) die publisering, bekendmaking of openbaarmaking van enige inligting in oortreding van artikel 33(4) of 31;
 - 10 (c) (i) versuim om 'n opgawe ter nakoming van 'n lasgewing kragtens artikel 36(1) uitgereik, te verskaf; of
 - (ii) die verskaffing van 'n vals, verkeerde of onakkurate opgawe in reaksie op 'n lasgewing wetende of menende dat daardie opgawe nie waar, korrek of akkuraat is nie; of
 - 15 (iii) die nalatige verskaffing van 'n verkeerde of onakkurate opgawe in antwoord op sodanige lasgewing; of
 - (iv) die verstrekking van 'n antwoord of die maak van 'n verklaring wat vals of misleidend is of die verstrekking van 'n antwoord of die maak van 'n verklaring nie wetende of menende dat dit waar is nie wanneer deur 'n
 - 20 inspekteur ondervra ingevolge subartikel (2)(f) van artikel 38;
 - (d) enige beperkte handeling of bedrywigheid verrig of uitvoer sonder 'n magtiging vereis ingevolge artikel 34 of 35 (na gelang die geval), of 'n oortreding van die betrokke magtiging of enige voorwaarde in verband daarmee opgelê kragtens artikel 34 of 35 (na gelang die geval);
 - 25 (e) die besit van beperkte goed in stryd met artikel 34(1)(a) of (b);
 - (f) versuim om 'n verslag ter nakoming van artikel 47 te verskaf;
 - (g) die hindering of belemmering van enige inspekteur by die verrigting of uitvoering van enige werksaamheid of plig ingevolge hierdie Wet of versuim of weier om te voldoen aan enige vraag of enige wettige eis of opdrag na te kom wat deur 'n inspekteur ingevolge hierdie Wet gemaak of gegee is.
 - 30 (2) Iemand wat skuldig bevind is aan 'n misdryf ingevolge—
 - (a) subartikel (1)(a), (b) of (c)(i),(ii) of (iv) is strafbaar met 'n boete of 'n termyn van gevangenisstraf van hoogstens vyf jaar;
 - (b) subartikel (1)(c)(iii), (f) of (g) is strafbaar met 'n boete of met 'n termyn van gevangenisstraf van hoogstens drie jaar, of 'n boete;
 - 35 (c) subartikel (1)(d) of (e) is strafbaar met 'n boete of met 'n termyn van gevangenisstraf van hoogstens 10 jaar.

Regsopvolging van Atoomenergiekorporasie

- 40 57. (1) Die Atoomenergiekorporasie word deur die Korporasie vervang in enige kontrak of ooreenkoms wat eersgenoemde aangegaan het voor die aangewese datum indien die kontrak of ooreenkoms—
- (a) betrekking het op enige aangeleentheid wat op die aangewese datum binne die bevoegdheid van die Korporasie ingevolge hierdie Wet ressorteer; en
 - 45 (b) op die aangewese datum steeds hangende is, dit wil sê, waar die termyn van die kontrak of ooreenkoms nog nie verstryk het nie, of enige verpligting daaronder nie vervul is nie (wat ook al van toepassing mag wees).
- (2) Vanaf die aangewese datum—
- (a) neem die Korporasie die verantwoordelikheid oor vir alle projekte en werk wat ingevolge die vorige Wet 'n aanvang geneem het voor daardie datum oor van die Atoomenergiekorporasie—
 - 50 (i) met betrekking tot aangeleenthede wat op die aangewese datum binne die bevoegdheid van die Korporasie ingevolge hierdie Wet val;
 - (ii) wat op die aangewese datum nog nie voltooi is nie; en
 - (b) is die Korporasie bevoeg om daardie projekte en werk voort te sit en uit te voer of te laat uitvoer behoudens die bepalings van hierdie Wet en enige ooreenkomste beoog in subartikel (1) betreffende die afhandeling van die projekte of die verrigting van die werk deur die ander kontrakterende party.
 - 55 (3) (a) Die Atoomenergiekorporasie word deur die Korporasie vervang as party in enige regsgeding wat deur of teen die Atoomenergiekorporasie ingestel is voor die

before the specified date and still pending on that date, where the legal proceedings are founded on a cause of action relating to or arising from the exercise or performance of any power, function or duty of the Atomic Energy Corporation in terms of, or purportedly in terms of, the previous Act or from its business or operations thereunder, if, on the specified date, the Corporation would have been competent in terms of this Act to exercise or perform such a power, function or duty or to carry on or conduct any business or operations of a nature substantially the same as those relevant in the proceedings. 5

(b) Any legal proceedings founded on a cause of action which arose before the specified date, relates to or arises from the exercise or performance of any power, function or duty of the Atomic Energy Corporation in terms of the previous Act or from its business and operations thereunder and which is brought after the specified date, must be instituted by or against the Corporation if, on the specified date, the Corporation would have been competent in terms of this Act to exercise or perform such a power, function or duty, or to carry on or conduct any business or operations of a nature substantially the same as those relevant to the proceedings. 10 15

(4) (a) The State, as represented by the Minister, will be substituted for the Atomic Energy Corporation in—

(i) any contract or agreement entered into by the Atomic Energy Corporation before the specified date and still pending on that date, in any case where subsection (1) does not apply; 20

(ii) any legal proceedings instituted by or against the Atomic Energy Corporation before the specified date and still pending on that date, where the legal proceedings are founded on a cause of action relating to or arising from the exercise or performance of any power, function or duty of the carrying on or conducting of any business or operations of the Atomic Energy Corporation, in any case where subsection (3)(a) does not apply. 25

(b) Any legal proceedings founded on such a cause of action that arose before the specified date and which are brought after the specified date, must be instituted by or against the State, as represented by the Minister, in any case where subsection (3)(b) does not apply. 30

(c) The Minister will—

(i) take over from the Atomic Energy Corporation, with effect from the specified date, the responsibility for all projects and work commenced before the specified date but not yet completed by that date, in any case where subsection (2)(a) does not apply. 35

(ii) be competent to continue with and carry out those projects and that work, subject to the provisions of this Act and any agreement referred to in subsection (2)(b).

Amendment of section 1 of Act 15 of 1973, as amended by section 1 of Act 16 of 1976, section 1 of Act 31 of 1981, section 1 of Act 53 of 1991, section 1 of Act 53 of 1992 and section 84 of Act 131 of 1993 40

58. Section 1 of the Hazardous Substances Act, 1973, is hereby amended by the substitution for the expression "Nuclear Energy Act, 1993", where it occurs in the definition of "Group IV hazardous substance", of the expression "Nuclear Energy Act, 1999". 45

Amendment of Act 87 of 1993

59. The Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993), is amended as set out in the Schedule.

Partial repeal of Act 131 of 1993, and savings 50

60. (1) The following provisions of the Nuclear Energy Act, 1993 (Act No. 131 of 1993), are hereby repealed:

(a) Sections 2 and 3, and Chapters II, III and IV; and

(b) section 1, in so far as it relates to anything in any of those sections or in any of those Chapters; and 55

aangewese datum en wat op daardie datum hangende is waar die regsgeding op 'n aksiegrond gegrond is wat betrekking het op of voortspruit uit die uitoefening of die verrigting van enige bevoegdheid, werksaamheid of plig van die Atoomenergiekorporasie ingevolge of na bewering ingevolge die vorige Wet of uit sy besigheid of

5 handeling daarkragtens indien, op die aangewese datum, die Korporasie ingevolge hierdie Wet bevoeg sou gewees het om sodanige bevoegdheid, werksaamheid of plig uit te oefen of te verrig of enige besigheid of bedryfswerksaamheid te verrig wat wesenlik dieselfde is as daardie wat in die geding ter sake is.

(b) Enige regsgeding wat gegrond is op 'n aksiegrond wat voor die aangewese datum ontstaan het en betrekking het op of ontstaan het uit die uitoefening of verrigting van enige bevoegdheid, werksaamheid of plig van die Atoomenergiekorporasie ingevolge die vorige Wet of van sy besigheid en bedryfswerksaamhede daarkragtens en wat na die aangewese datum ingestel word, moet ingestel word deur of teen die Korporasie, indien die Korporasie op die aangewese datum bevoeg sou wees om ingevolge hierdie Wet so

15 'n bevoegdheid, werksaamheid of plig uit te voer of te verrig of enige besigheid of bedryfswerksaamheid te verrig wat wesenlik dieselfde is as daardie wat in die geding ter sprake is.

(4) (a) Die Atoomenergiekorporasie word deur die Staat, soos verteenwoordig deur die Minister, vervang in—

20 (i) enige kontrak of ooreenkoms wat deur die Atoomenergiekorporasie voor die aangewese datum aangegaan is en wat op daardie datum hangende is in enige geval waar subartikel (1) nie van toepassing is nie;

(ii) enige regsgeding deur of teen die Atoomenergiekorporasie voor die aangewese datum ingestel en wat op daardie datum hangende is waar die regsgeding gegrond is op 'n aksiegrond wat betrekking het op of voortspruit uit die uitoefening of verrigting van enige bevoegdheid, werksaamheid of plig of die bedryf van enige besigheid of bedryfswerksaamheid van die Atoomenergiekorporasie in enige geval waar subartikel (3)(a) nie van toepassing is nie.

25

(b) Enige regsgeding wat op so 'n aksiegrond wat voor die aangewese datum ontstaan het, gegrond is en wat na die aangewese datum ingestel word, moet deur of teen die Staat, soos verteenwoordig deur die Minister, ingestel word in enige geval waar subartikel (3)(b) nie van toepassing is nie.

30

(c) Die Minister—

35 (i) neem met ingang van die aangewese datum die verantwoordelikheid vir alle projekte en werk waarmee voor die aangewese datum begin is maar wat nog nie teen daardie datum voltooi is nie oor van die Kernenergiekorporasie in enige geval waar subartikel (2)(a) nie van toepassing is nie;

(ii) is bevoeg om daardie projekte voort te sit en daardie projekte en werk te verrig behoudens die bepalings van hierdie Wet en enige ooreenkoms bedoel in subartikel (2)(b).

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Wysiging van artikel 1 van Wet 15 van 1973, soos gewysig deur artikel 1 van Wet 16 van 1976, artikel 1 van Wet 31 van 1981, artikel 1 van Wet 53 van 1991, artikel 1 van Wet 53 van 1992 en artikel 84 van Wet 131 van 1993

45 **58.** Artikel 1 van die Wet op Gevaarhoudende Stowwe, 1973, word hierby gewysig deur die vervanging van die uitdrukking “Wet op Kernenergie, 1993” waar dit in die omskrywing van “Groep IV-gevaarhoudende stof” voorkom met die uitdrukking “Wet op Kernenergie, 1999”.

Wysiging van Wet 87 van 1993

50 **59.** Die Wet op die Nie-Proliferasie van Wapens van Grootsekaalse Vernietiging, 1993 (Wet No. 87 van 1993), word gewysig soos uiteengesit in die Skedule.

Gedeeltelike herroeping van Wet 131 van 1993, en voorbehoude

60. (1) Die volgende bepalings van die Wet op Kernenergie, 1993 (Wet No. 131 van 1993), word hierby herroep:

55 (a) Artikels 2 en 3, en Hoofstukke II, III en IV; en

(b) artikel 1 vir sover dit betrekking het op enigiets in daardie artikels of in enige van daardie Hoofstukke; en

