

Law of Ukraine

ON ARRANGEMENT OF ISSUES ON NUCLEAR SAFETY ASSURANCE

(Information Bulletin of the Supreme Council of Ukraine (BBP), 2004, N 46, page 511)
(Including amendments introduced according to Laws
N 2505-IV (2505-15) of 25.03.2005, BBP, 2005, N 17, N 18-19,
page 267;
N 3235-IV (3235-15) of 20.12.2005, BBP, 2006, N 9, N 10-11, page
96;
N 70-V (70-16) of 03.08.2006, BBP, 2006, N 40, page 347;
N 489-V (489-16) of 19.12.2006, BBP, 2007, N 7-8, page 66;
N 107-VI (107-17) of 28.12.2007).

This Law defines legal and organizational status of financial guarantee of termination of operation and decommissioning of nuclear facilities.

Section I **GENERAL PROVISIONS**

Article 1. Basic Definitions

Definitions in this Law are used in the meaning as follows:

Financial reserve means funds for purposeful financing and purposeful incoming, which are accumulated by the operating organization (the operator) during a nuclear facility operation on the account having the special mode of use, and which is appropriated for financing of development of decommissioning project of corresponding nuclear facility and measures stipulated for this project;

Special **account** means an account having special mode of use and which is opened by an authorized representative Bank of the operating organization (the operator) for accumulation of financial funds and implementation of accounting-cash payment operations intended for financing of measures stipulated by the Law.

Terms "operation organization (operator)" and "nuclear facility» used in this Law are interpreted in the meaning prescribed by the Law of Ukraine "On Nuclear Energy Use and Radiation Safety" (39/95-BP).

Terms "radioactive waste" and "specialized enterprise on radioactive waste management" used in this Law are interpreted in the meaning prescribed by the Law of Ukraine "On radioactive waste management" (255/95-BP).

Article 2. Purpose of the Law

The main purpose of this Law is:

Legal regulation of financial and economical matters caused by termination of operation and decommissioning of nuclear facilities;

Definition of legal-organizational form of accumulating of financial reserves for termination of operation and decommissioning of nuclear facilities;

Ensuring purposeful and effective use of financial reserves for termination of operation and decommissioning of nuclear facilities.

Article 3. Scope of the Law

This Law covers the matters caused by accumulation of funds and financing of measures on termination of operation and decommissioning of nuclear facilities, and finishing measures on liberalization of radiological restrictions on further use of the site and nuclear facility buildings.

This Law does not cover the matters caused by:

- termination of operation and decommissioning of research nuclear facilities;

(Paragraph 3 of Part 2 of Article 2 is out of force since 2006 according to Law No.3235-IV (3235-15) of (20.12.2005))

- liquidation of consequences of beyond-design basis accidents of nuclear facilities;

- transfer by the operating organization (the operator) of radioactive waste generated during decommissioning of nuclear facility to a specialized enterprise on radioactive waste management;

(Paragraph 5 of Part 2 of Article 3 is out of force since 2006 according to Law No.3235-IV (3235-15) of (20.12.2005))

- decommissioning of a nuclear facility according to the decision about its decommissioning which was taken by the authorized authority before the end of its operation term prescribed in the established order.

Matters which are not regulated by force of this Law are regulated by the Law of Ukraine "On Nuclear Energy Use and Radiation Safety" (39/95-BP), the Law of Ukraine "About permit-based activity on the use of nuclear energy" (1370-14) and other regulatory and legislative documents of Ukraine.

Section II

LEGAL BASIS AND ORDER OF IMPLEMENTATION OF ACTIVITY ON TERMINATION OF OPERATION AND DECOMMISSIONING OF NUCLEAR FACILITIES

Article 4.

Order of development and requirements to the project of decommissioning of a nuclear facility

Termination of operation and decommissioning of a nuclear facility is implemented according to the decommissioning project of a nuclear facility.

The decommissioning project of a nuclear facility is developed by the operating organization (the operator) according to the concept of decommissioning of a nuclear facility; it should comply with norms, rules, and standards on nuclear and radiation safety in force.

Decommissioning project of a nuclear facility shall include technical and economical substantiation of the project, order of termination of operation and decommissioning of a nuclear facility, which defines sequence, duration, basic content of stages of termination of operation and decommissioning of a facility, as well the condition of the nuclear facility after finishing each stage.

Financial securing of development of the project of a nuclear facility decommissioning is implemented by costs of the financial reserve.

Financial securing of work on a nuclear facility decommissioning is implemented by costs of the financial reserve in the scope determined by the project of a nuclear facility decommissioning.

Article 5. Order of approval of the project of a nuclear facility decommissioning

Order of consideration and approval of the project of a nuclear facility decommissioning (594-2006-п) is established by the Cabinet of Ministers of Ukraine.

The project of a nuclear facility decommissioning must be developed and approved not later than the datum of termination of operation of a nuclear facility defined in the established order.

In a case of absence of the approved project of a nuclear facility decommissioning, activity concerning decommissioning of a nuclear facility is financed at the expense of economical activity of operation organization.

Section III

FINANCIAL SECURING OF WORK ON TERMINATION OF OPERATION AND DECOMMISSIONING OF A NUCLEAR FACILITY

{Article 6 is out of force since 2008 year according to Law No. 107-VI (107-17) of 28.12.2007}

{Article 6 is out of force since 2007 year according to the Law N 489-V (489-16) of 19.12.2006}

{Article 6 is out of force since 2006 year according to the Law N 3235-IV (3235-15) of 20.12.2005}

{Article 6 is out of force since 2005 according to the Law N 2505-IV (2505-15) of 25.03.2005}

Article 6. Opening the special account

The special account is opened by Bank authorized by the Cabinet of Ministers of Ukraine for the operating organization (the operator) since commissioning of the first nuclear facility.

Provision concerning the special account of the operating organization (the operator) (594-2006-n) for accumulation of financial reserves is approved by the Cabinet of Ministers of Ukraine. {Part 2 of Article 6 in the edition of Law No.70-V (70-16) of 03.08.2006}

Each operating organization (the operator) opens one special account irrespective of how many nuclear facilities it operates.

(Article 7 is out of force since the year 2005 according to Law No. 2505-IV (2505-15) of 25.03.2005)

Article 7. Sources of receipts on the special account

An Operation organization (the operator) implements assignments to the special account; value of assignments is determined in percents of net profit obtained by the operating organization (the operator) during realization of its production (goods, work, and service).

{Part 2 of Article 7 is out of force since 2008 year according to Law No. 107-VI (107-17) of 28.12.2007}

{Part 2 of Article 7 is out of force since 2007 year according to Law No.489-V (489-16) of 19.12.2006}

{Part 2 of Article 7 is out of force since 2006 year according to Law No.3235-IV (3235-15) of 20.12.2005}

The following costs shall be transferred to the special account:

costs obtained as profit of investment activity fulfilled in the order prescribed by the Law;

purpose payments of voluntary nature, put by natural persons and legal entities;

Other costs which are not prohibited by the Law.

{Article 8 is out of force for the year 2008 according to Law No. 107-VI (107-17) of 28.12.2007} {Article 8 is out of force for the year 2007 according to Law No.489-V (489-16) of 19.12.2006}

{Article 8 is out of force for the year 2006 according to Law No.3235-IV (3235-15) of 20.12.2005} {Article 8 is out of force since 2005 year in a Part of operation of the special account according to Law No.2505-IV (2505-15) of 25.03.2005}

Article 8 Order of determination of the value of assignments of the operating organization (the operator) on the special account

Value of assignments of operating organization (the operator) on special account is established and approved by a body authorized by the Cabinet of Ministers of Ukraine since commissioning of a nuclear facility. The value of assignments of operating organization (the operator) on special account is taken into account at definition of the tax rate.

Before approval of the project of a nuclear facility decommissioning, the value of assignments of the operating organization (the operator) on the special account is established by the expert way in the order prescribed by the Cabinet of Ministers of Ukraine (594-2006-п), based on a concept of a nuclear facility decommissioning, which is valid at the moment of determination of the value of the assignments of the operating organization (the operator) on the special account, and of the datum of termination of operation of a nuclear facility defined in the established order.

After approval of the project of a nuclear facility decommissioning, the value of assignments is reviewed with taking into account the need to provide necessary value of expenses stipulated by this project. In case of necessity the amount of assignments of the operating organization (the operator) on the special account can be revised but not often than once a year by the body authorized by the Cabinet of Ministers of Ukraine, on the operating organization's ((operator's) initiative.

(Article 9 is out of force for the year 2005 according to Law No. 2505-IV (2505-15) of 25.03.2005)

Article 9 Order of investment of financial reserve funds, put on the special account

With the aim to protect financial reserve funds against inflation and obtain additional sources of the reserve

formation, the operating organization (the operator) has the right to perform operations as follows:

To place funds into stock market values emitted by the state;

{Action of paragraph three of part one of Article 9 is terminated for the year 2008 according to Law No.107-VI (107-17) of 28.12.2007} to place funds on deposit accounts of banks-residents of Ukraine *{Paragraph 3 of part one of Article 9 in the edition of Law No.70-V (70-16) of 03.08.2006}*

{Paragraph 4 of Part 1 of Article 9 is terminated for the year 2008 according to Law No.107-VI (107-17) of 28.12.2007} to invest into profitable projects in the priority areas of economy by purchasing corporate bonds, emitted by enterprises, which implement these projects, in the condition of purchasing them at primary distribution, with their retire term up to three years, their profitability, guarantee of the funds return, and insurance of financial risks related to the bonds purchasing.

{Part 2 of Article 9 is terminated for the year 2008 according to Law No. 107-VI (107-17) of 28.12.2007}

Remaining part of funds at the special account shall not be less than the sum necessary to pay for goods and services related to implementation of measures on termination of operation and decommissioning of a nuclear installation in corresponding period of time.

{Part three of Article 9 is out of force for the year 2008 according to Law No.107-VI (107-17) of 28.12.2007}

Value of cost placement of the financial reserve should not exceed a difference of total sum of costs accumulated on the special account and the sum of costs necessary for payment of goods, work (service) necessary for implementation of measures on decommissioning of a nuclear facility during appropriate period.

{Part fourth of Article 9 is out of force for the year 2008 according to Law No.107-VI (107-17) of 28.12.2007}

During implementation of cost placement of the financial reserve it is prohibited:

1) To hold in cash money on the current bank account, on the bank deposit balances and in savings bonds more than 50 percents of the financial reserve costs, and not more than 10 percents of costs in commitments of one bank;

2) to acquire or additionally invest in securities, repayment and benefit according to which is provided by the

Cabinet of Ministers of Ukraine, Council of Ministers of Autonomous Republic of Crimea more than 50 percents of costs of financial reserve;

3) To acquire or additionally invest in securities of local money loan more than 10 percents of costs of financial reserve;

4) To expropriate free of charge the financial reserve costs;

5) To use the financial reserve costs for non-purpose payments;

{Part 5 of Article 9 is out of force for the year 2008 according to Law No.107-VI (107-17) of 28.12.2007}

Decision about investment of the financial reserve costs is taken on the basis of financial and economic substantiation of profitability of the investment project if this project is approved by the Cabinet of Ministers of Ukraine.

(Article 10 is out of force for the year 2005 according to Law No. 2505-IV (2505-15) of 25.03.2005)

Article 10. Conditions of use of the financial reserve costs

The funds of financial reserve are used exclusively for financing of the development of the decommissioning project of a nuclear facility, and measures related to termination of operation and decommissioning of a nuclear facility, which are stipulated by this project and implementation of investment activity in the order prescribed by this Law.

Non-objective use of costs from the special account is prohibited.

Any sanctions on the costs of the special reserve account are prohibited.

Operation on the special account cannot be stopped.

Decision about financing of appropriate measures is taken by the operating organization (the operator) on the basis of the decommissioning project of a nuclear facility.

(Article 11 is terminated for the year 2005 according to Law No. 2505-IV (2505-15) of 25.03.2005)

Article 11. Report about the use of the financial reserve costs

Report about incoming and spending the financial reserve costs is composed by operating organization (the operator) once

a year and this report is submitted to Central body of executive authority on the issues of implementation of the State policy in a field of electrical power branch according to the form prescribed by it.

Central body of executive authority on the matters of ensuring the implementation of the State policy in a field of electrical energy submits the report of operating organization for consideration and approval by the Cabinet of Ministers of Ukraine up to April 1 of the next year.

Order and scope of report concerning spending of the financial reserve costs is defined by an authorized representative of the Cabinet of Ministers of Ukraine.

(Article 12 is terminated for the year 2005 according to Law No. 2505-IV (2505-15) of 25.03.2005)

Article 12. Manifestation of the information

The Operating organization (the operator) manifests an annual report and the quarterly information concerning the special account operation in mass media or issues it as a separate edition in the order prescribed by the Law.

The restricted-assess information about incoming and spending the financial reserve costs is manifested by a central body of executive authority on the issues of ensuring of implementation of state policy in the electro energy branch in the order prescribed by the Law.

(Article 13 is terminated for the year 2005 according to Law No.2505-IV (2505-15) of 25.03.2005)

Article 13. Responsibility in a case of non-objective use of the financial reserve funds

In a case of non-objective use of the financial reserve funds, the sum of such costs is included to the gross profit of the Operating organization (the operator). In this case the Operating organization (the operator) has to compensate the sum of the costs, which were used for non-objective purpose.

Responsible for non-objective use of the financial reserve costs rests with the Head of the Operating organization according to the Law.

{Article 14 is terminated for the year 2008 according to Law No. 107-VI (107-17) of 28.12.2007} {Article 14 is terminated for the year 2007 according to Law No.489-V (489-16) of 19.12.2006}{Article 14 is terminated for the year 2006 according to Law No.3235-IV (3235-15) of 20.12.2005} {Article 14 is terminated for the year 2005 according to Law No.2505-IV (2505-15) of 25.03.2005}

Article 14. Control of the use of the financial reserve costs

Spending and investment of the financial reserve costs is controlled by the Supervision Council, which is created and carries out its activity in the order prescribed by the Cabinet of Ministers of Ukraine. Personal list of the Supervision Council is approved by the Cabinet of Ministers of Ukraine. (594-2006-п).

{Text of Article 14 in the Edition of Law No. 70-V (70-16) of 03.08.2006}

Section IV FINAL PROVISIONS

1. This Law comes into force since the day of its publication excepting Article 6, which is in force since January 1, 2005.

2. Laws and other regulatory and legal acts of Ukraine before putting them into compliance with this Law are in force in their part which does not contradict this Law.

{Item 3 of Section IV is out of force for the year 2008 in a part of operation of the special account according to Law No.107-VI (107-17) of 28.12.2007} {Item 3 of Section IV is out of force for the year 2007 according to Law No.489-V (489-16) of 19.12.2006} {Item 3 of Section IV is out of force for the year 2006 according to Law No. 3235-IV (3235-15) of 20.12.2005} {Item 3 of Section IV is out of force for the year 2005 according to Law No. 2505-IV (2505-15) of 25.03.2005}

3. Sum of the costs transferred by an Operating organization operator) to the special account according to this Law is not taken into account at determination of the net profit of the Operating organization (the operator), part of which is subject for assignments to general fund of the State budget of Ukraine according to the decision of the Cabinet of Ministers of Ukraine.

The value of assignments to the special account of the operating organization (the operator), which nuclear installations are in operation by the date of coming this Law into force, is approved by a body, authorized by the Cabinet of Ministers of Ukraine according to Article 8 of this Law.

4. To put changes into the Laws of Ukraine as follows:

1) Para 9 of part 2 of Article 33 of the Law of Ukraine "On Nuclear Energy Use and Radiation Safety" (39/95-BP) (Information Bulletin of the Supreme Council of Ukraine, 1995, No. 12, page 81; 2000, No. 9, page 68; 2003, No. 29, page 236) - exclude;

{Action of sub-item 2 of item 4, Section IV is terminated for the year 2008 in the part of operation of the special account according to Law No. 107-VI (107-17) of 28.12.2007}
{Action of sub-item 2 of item 4, Section IV is terminated for the year 2007 according to Law No. 489-V (489-16) of 19.12.2006}
{Action of sub-item 2 of item 4, Section IV is terminated for the year 2006 in the part of operation of the special account according to Law No. No.3235-IV (3235-15) of 20.12.2005}

2) item 4.2 of Article 4 of the Law of Ukraine "On taxation of income of enterprises" (334/94-BP) (Information bulletin of the Supreme Council of Ukraine, 1997, No. 27, page 181; 1998, No. 10, page 35, No. 18, page 94; 2000, No. 43, page 363; 2002, No. 8, page 63, No. 17, page 122, No. 36, page 266; 2003, No. 10-11, page 86, No. 30, page 247; 2004, No. 17-18, page 250) shall be added by sub-item with the text as follows:

"4.2.20. Costs transferred by a tax payer to the special account according to the Law of Ukraine "On Putting in Order the issues related with Nuclear Safety Assurance" (1868-15);

(Action of sub-item 3, item 4, Section IV is terminated for the year 2005 according to Law No.2505-IV (2505-15) of 25.03.2005) 3) Article 63 of the Law of Ukraine "On administrative enforcement" (606-14) (Information Bulletin of the Supreme Council of Ukraine, 1999, No. 24, page 207; 2004, No. 6, page 37) after section 3 shall be added with new part of the text as follows:

"Collection of debts according to this Law shall not be applied for the costs put on the special account of the operating organization (the operator) according to the Law of Ukraine "On Putting in Order the issues related with Nuclear Safety Assurance" (1868-15).

In this regard part four shall be considered as part five;

(Action of sub-item 4, item 4, Section IV is terminated for the year 2005 according to Law No. 2505-IV (2505-15) of 25.03.2005)

4) Sub-item 7.3.1 of item 7.3, Article 7 of the Law of Ukraine "On the Order of discharge of debts of tax payers against budgets and the state special funds» (2181-14) (Information Bulletin of the Supreme Council of Ukraine, 2001, No. 10, page 44; 2003, No. 24, page 154) shall be added by sub-item "ж" with the text as follows:

"ж) costs which are on the special account of the operating organization (the operator) according to the law of Ukraine "On Putting in Order the issues related with Nuclear Safety Assurance" (1868-15)".

5. The Cabinet of Ministers of Ukraine within three-month term from the date of enactment of this Law shall:

According to its powers ensure pass of the appropriate legal acts, provided for by this Law;

Develop and submit for consideration by the Supreme Council of Ukraine of proposals about changes in the Laws of Ukraine, which are resulted by this Law;

Put their regulatory and legal acts into compliance with this Law;

Ensure reviewing and cancellation by ministries and other central bodies of executive power their regulatory and legal acts that are in contradiction with this Law.

President of Ukraine

Leonid Kuchma

City of Kiev,
June 24, 2004
No. 1868-IV