

A summarized review on the Atomic Energy Act

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1. Introduction

The Atomic Energy Act has been amended 22 times since its enactment on March 11, 1958. It was only once wholly amended by 1982.4.1 and the other amendments were partly done. So, there are many problems with its systematic structure, contents, expressing way, etc.

2. The Need for a whole amendment

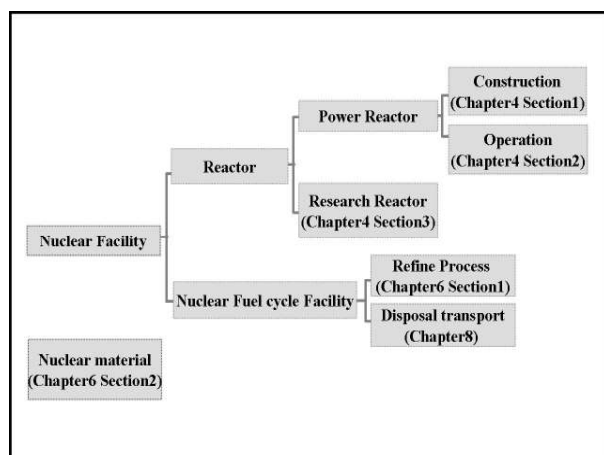
When you read the Atomic Energy Act, you can see that some articles are expressed only in Hangeul, whereas others in Chinese. The cause is that by 'the work to express a statutory instrument in Hangeul', articles which have been amended since 2001 are expressed in Hangeul but the others still use a term in Chinese.

Through several amendments by inserting new article between old articles, there are article 9-6, 10-5. Even article 8(Operation of Commission and Safety Commission) and article 8-2(Establishment of Comprehensive Nuclear Energy Promotion Plan) belong respectively to different chapter. Article 10-2(Investigation of Actual Situations) and article 10-3(Establishment of Nuclear Energy Research and Development Fund), too.

These are things which lower the level of the act, regardless of its legitimacy

3. Issue with the structure of the Atomic Energy Act

The structure of Atomic Energy Act Chapters with respect to safety and safeguards is listed below



* Regulations with respect to a nuclear facility include the control of Nuclear material at that facility and Nuclear material(Chapter6 Section2) means other material.

Every chapter or section has almost the same contents.

1. Preventive prohibition and permit as a mean to disembargo

2. Impose obligations

- make measurement control regulations of the specific nuclear materials and obtain the approval of that
- inspect with respect to the measurement control of the specific nuclear materials
- observe standards
- take safety measures.

3. Revocation and Surcharge

4. Indirect sanction

Not for each facility but supplementary provisions and penal provisions

- Report, Inspection
- Imprisonment, Fine, Fine for Negligence

Now that the Atomic Energy Act has selected the way to classify business and regulate through the permit/approval of that, legislative technical problem that almost same contents are repeated in each chapter/section has arisen. Especially, it is difficult to avoid a plethora of provisions to be applied Mutatis Mutandis. For example, 2.a measurement control regulations is first set forth at article 15-2(Construction of Nuclear Power Reactors and Related Facilities) and repeatedly applied at article 32(Operation of Nuclear Power Reactor and Related Facilities), article 36(Construction and Operation of Nuclear Research Reactor), article 56(Nuclear Fuel Cycle Business), article 63(Use of Nuclear Materials), and article 83(Disposal and Transport).

And because of the unification of business regulations and safety/safeguards, we have problems with corresponding flexibly to new business. Moreover, in the case of business at which risk lasts for a long time, such as disposal of nuclear waste, the facility may or must continue the business for safety/safeguards.

Therefore it is worth to consider for adding a nuclear material regulating way to a present facility regulating way, referring to American Atomic Energy Act with that system.

4. Specific Issue

4.1 Inserting Safeguards into article 2(Definitions)

In article 9-5, 9-6 with respect to KINAC, the term “safeguards” appears, in article 23-3(Periodic Safety Review) and article 89(Measures for Accidents), the term “safety measures” also appears. Both are analogous but obviously different. The main aim of “Safety” is to protect people and the environment from harmful radiation exposure. The objective of “Safeguards” is to verify that all source or special fissionable material in all peaceful nuclear activities is not diverted to nuclear weapons or other nuclear explosive devices (INFCIRC Article 1).

The terms in the text of the law must be very strictly used. The same terms cannot be used in a different way. But these are expressed in the same way as Korean. So it is necessary to insert “Safeguards” into article 2(definition) and show the difference between them clearly.

In article 2.17, the term “security measure” appears with respect to “internationally controlled materials”. In that article, this means Safeguards. So this is not the right term either.

4.2 Atomic Energy Commission and Nuclear Safety Commission

The Atomic Energy Commission shall be established under the jurisdiction of the Prime Minister and the chairman shall be the Prime Minister(article3, 4-2). The Nuclear Safety Commission shall be established under the jurisdiction of the Minister of Education, Science and Technology and the chairman shall be the Minister of Education, Science and Technology.

Let me compare this with foreign acts. The NRC of the USA is an independent commission, unlike here. Japan, like us, establishes the Atomic Energy Commission and the Nuclear Safety Commission under the jurisdiction of the Prime Minister. But the Prime Minister shall not be the chairman of the Atomic Energy Commission. He shall appoint the chairman with consent of the both houses of Congress. The chairman of the Nuclear Safety Commission shall be elected by mutual vote.

Our commission is not an independent commission and the Prime Minister or the Minister shall be the chairman. So its independence and presence is relatively weak.

3.3 Penal Provisions

Imprisonment and fines are defined as a regulatory means in the act. But these provisions have been only applied one time (1996.1.26). Usually, surcharges and fines for negligence have been applied. Rather than judicial procedures administrative procedures have been preferred. So, we can say that penal provisions with respect to imprisonment or fines have turned into dead

letter. It is considerable to omit that provisions and raise the limit of the surcharges and fines for negligence.

4. Conclusions

To prescribe nuclear energy utilization and the safety control thereof and promote the advancement of science and development of industry, the Atomic Energy Act must be, previously in proper order. Then, it is possible to improve citizens’ living standards and promote social welfare.