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New Nuclear Liability Regime Passed

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On February 26, 2015, the federal *Nuclear Liability and Compensation Act* under Bill C-22 received royal assent. Once in force, it will replace Canada's outdated liability regime for damage from nuclear incidents.

The substance of the new legislation generally mirrors four previous bills that the government has introduced since 2007 to replace the 1976 *Nuclear Liability Act*. However, each of those bills died on the order paper.

The *Nuclear Liability and Compensation Act* will update Canada's liability regime in several respects:

- Increase the maximum compensation payable by the operator of a nuclear facility to third parties on an absolute liability basis (i.e., payable regardless of negligence or fault) to \$650 million, from \$75 million, as soon as the new legislation comes into force. This principle of absolute liability applies even if a nuclear incident is caused by a "terrorist activity," as defined in the *Criminal Code*.
- This absolute liability limit will progressively increase to \$750 million one year after the new legislation comes into force, to \$850 million after two years and finally to \$1 billion after three years. The government will then review these limits at least every five years.
- Operators will be required to maintain insurance (or alternative financial security) for this full liability limit.

The new legislation will harmonize Canada's nuclear liability regime with the global liability regime contemplated in the International Atomic Energy Agency's *Convention on Supplementary Compensation for Nuclear Damage*, which is to come into force in April 2015. Canada signed that treaty in 2013, and enacting the new legislation will permit Canada to ratify the treaty, under which a country must ensure that minimum compensation is available for damage that a domestic nuclear incident causes outside that country. Once ratified, Canada can establish a relationship for civil nuclear liability with the United States (which is already a party to the treaty) to limit responsibility for damages in the other country. The *Nuclear Liability and Compensation Act* will come into force by order of the Governor in Council.

Part 1 of Bill C-22 amends the liability regime for offshore oil and gas. Although liability for damage resulting from fault or negligence is unlimited, offshore oil and gas operators currently have absolute liability for \$30 million in the Atlantic offshore areas and \$40 million in the Arctic. Once Part 1 is in force (for the majority of this part, on or before February 26, 2016), the absolute liability for both areas will increase to \$1 billion.

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