

## **POLAND**

11 September 1991

### Law on Inspection for Environmental Protection

#### Chapter 1. General Provisions

Article 1.1. The State Inspectorate for Environmental Protection is an agency supervising adherence to regulations governing environmental protection and monitoring the condition of the environment.

1.2. The State Inspectorate for Environmental Protection is under the jurisdiction of the Ministry of Environmental Protection, Natural Resources, and Forestry.

Article 2. The purposes of the State Inspectorate for Environmental Protection include, in particular:

- 1) Supervision of adherence to regulations governing environmental protection and rational utilization of natural resources.
- 2) Supervision of adherence to rulings on the requirements for utilizing the environment.
- 3) Participation in proceedings concerning the siting of investment projects.
- 4) Participation in releasing for use both facilities that may adversely affect the condition of the environment and facilities serving to protect the environment against pollution.
- 5) Supervision of the operation of facilities serving to protect the environment against pollution.
- 6) Adoption of decisions to halt activities entailing violation of the requirements of environmental protection or of the conditions for utilizing the environment.
- 7) Cooperation in environmental protection with other monitoring and law enforcement bodies as well as with the agencies of the administration of justice and offices of the state and government administration, local governments, and civil defense, and also with social organizations and mentors.
- 8) Organization and coordination of government monitoring of the environment, conduct of environmental quality studies and observations and assessments of the environment and of the changes occurring therein.
- 9) Development and introduction of analytic, research, and control and measurement techniques.
- 10) Initiation of measures to prevent extraordinary dangers to the environment and to eliminate their consequences and restore the environment to its normal state.

#### Chapter 2. Organs of the State Inspectorate for Environmental Protection

Article 3. The organs of the State Inspectorate for Environmental Protection are:

- 1) The chief inspector for Environmental Protection.
- 2) Voivodship inspectors for environmental protection.

Article 4.1. The chief inspector for Environmental Protection directs the activities of the State Inspectorate for Environmental Protection.

4.2. The chief inspector for Environmental Protection is the deputy minister of Environmental Protection, Natural Resources, and Forestry in Charge of Monitoring the Adherence to Environmental Protection Regulations and Investigating the Condition of the Natural Environment.

4.3. The chief inspector for Environmental Protection is appointed and recalled by the chairman of the Council of Ministers on the recommendation of the minister of Environmental Protection, Natural Resources, and Forestry.

4.4. Deputy main inspectors for environmental protection are appointed and recalled by the minister of Environmental Protection, Natural Resources, and Forestry on the recommendation of the chief inspector for Environmental Protection.

4.5. The chief inspector for Environmental Protection exercises his duties with the assistance of the Chief Inspectorate for Environmental Protection.

4.6. The organizational structure of the Chief Inspectorate for Environmental Protection may include teams, departments, field teams, autonomous positions, and laboratories.

Article 5.1. The voivodship inspector for environmental protection operates on the area of the voivodship.

5.2. The voivodship inspector for environmental protection is appointed and recalled by the minister of Environmental Protection, Natural Resources, and Forestry on the recommendation of the chief inspector for Environmental Protection and the concerned voivode.

5.3. The voivodship inspector for environmental protection exercises his duties with the assistance of voivodship inspectorates for environmental protection.

Article 6. The employees of the State Inspectorate for Environmental Protection are governed by the provisions of the Law of 16 September 1982 on Employees of State Offices (DZIENNIK USTAW [Dz.U.], No. 31, Item 241, 1981; No. 35, Item 187, 1984; No. 19, Item 132, 1988; No. 4, Item 24, and No. 34, Items 178 and 182, 1989; No. 20, Item 121, and No. 51, Item 300, 1990; and No. 55, Item 234, 1991).

Article 7. In administrative proceedings the agency of the first instance is the voivodship inspector for environmental protection and the agency of the higher instance is the chief inspector for Environmental Protection.

Article 8.1. The organizational structure of the State Inspectorate for Environmental Protection is defined by the statute conferred by the minister of Environmental Protection, Natural Resources, and Forestry.

8.2. The internal organizational structure and detailed scope of activities of the Main Inspectorate

for Environmental Protection are defined in the organizational rules issued by the chief inspector for Environmental Protection.

### Chapter 3. Performance of Inspection Duties by the State Inspectorate for Environmental Protection

Article 9.1. Inspection is performed by the chief inspector for Environmental Protection, voivodship inspectors for environmental protection, and authorized employees of the State Inspectorate for Environmental Protection, hereinafter referred to as "the inspectors."

9.2. In inspecting adherence to environmental protection requirements, the inspector is authorized to:

1) Enter, on a round-the-clock basis, together with assistants, experts, and the needed equipment, the territory of the real estate, facility, or parts thereof operated for business purposes, and enter between 0600 and 2200 hours all other territory.

2) Collect samples and perform needed studies or other inspection activities with the object of determining the condition of the environment on the territory of the real estate, facility, or part thereof, and evaluate that condition in accordance with the regulations governing environmental protection, as well as evaluate the environmental effects of specific activities mentioned in administrative decisions.

3) Evaluate the modes of the operation of machinery and equipment, including means of transportation and communication.

4) Evaluate the effectiveness of environmental protection facilities and the technologies and technical solutions employed.

5) Demand written or oral information and summon and question persons to the extent needed to determine the actual condition of the environment.

6) Demand to see records, and demand access to any data relating to inspection problems.

Article 10. The director of the inspected organizational unit and other concerned individuals are obligated to enable the inspector to carry out inspection activities, and in particular the activities referred to in Article 9, Paragraph 2, provided that the regulations governing the preservation of state secrets and the billeting of armed forces are adhered to.

Article 11.1. The inspector prepares a written record of the inspection and provides the director of the inspected organizational unit or the inspected individual with a copy thereof.

11.2. The record is signed by the inspector and the director of the inspected organizational unit or the inspected individual, who may add to the record their substantiated reservations and comments.

11.3. In the event of refusal of the director of the inspected organizational unit or the inspected individual to sign the record, the inspector enters a corresponding notation in the record, and the person(s) refusing to sign may, within seven days, present their position in writing to the appropriate body of the State Inspectorate for Environmental Protection.

Article 12.1. On the basis of the findings of the inspectorate the voivodship inspector for environmental protection may:

- 1) Issue a postinspection order to the director of the inspected organizational unit or to the inspected individual.
- 2) Issue, on the basis of separate regulations, an administrative ruling.
- 3) Initiate execution proceedings, if the obligation ensues by virtue of law or administrative rulings.

12.2. The voivodship inspector for environmental protection may demand the initiation of official proceedings, or of other proceedings envisaged by law, against persons guilty of violations and notify them, within a specified time limit, of the results of these proceedings and the steps taken.

Article 13.1. In the ruling referred to in Article 12, Paragraph 1, Point 2, the voivodship inspector for environmental protection may, in particular:

- 1) Impose the obligation of taking steps to eliminate, within a specified time limit, the causes of the environmental pollution.
- 2) Impose a monetary fine.
- 3) Order cessation of the activity causing violation of environmental protection requirements.

13.2. The activity causing the violation may be resumed only with the approval of the agency of the State Inspectorate for Environmental Protection which had issued the ruling in the first instance, upon finding that the reasons prompting that ruling no longer exist.

13.3. The voivodship inspector for environmental protection may authorize the inspector to issue, during an inspection, the ruling referred to in Article 13, Paragraph 1, Point 3, if immediate danger to human life or health or, on a large scale, to the environment is involved. Such a ruling is immediately executable.

13.4. The rulings referred to in Paragraph 1, Points 1 and 3, are, insofar as they concern operations at mining establishments, issued by the voivodship inspector for environmental protection upon consulting the director of the appropriate district mining office.

Article 14. In matters concerning petty offenses against the environment the agencies of the State Inspectorate for Environmental Protection have the right to act as public prosecutors even when the motion to impose a penalty for the offense has already been made by another legally entitled accuser.

Article 15. In the event it is found that the commission or omission of an activity by the director or employee of an organizational unit or by another individual bears the earmarks of an environmental crime, the agencies of the State Inspectorate for Environmental Protection transmit to a law enforcement agency a notice on the perpetration of the crime upon appending evidence documenting the suspicion.

Article 16.1. Agencies of the State Inspectorate for Environmental Protection may request any

office of state or government administration, and any office of a local government, for information or access to documents and data relating to environmental protection.

16.2. In the event irregularities are found in the performance of environmental protection duties by the offices referred to in Paragraph 1, the agencies of the State Inspectorate for Environmental Protection file a motion whose substance may be, in particular, a recommendation for:

- 1) Initiating administrative proceedings.
- 2) Being allowed to participate in the proceedings already under way.

16.3. In the event the motion referred to in Paragraph 2 is filed, the agencies of the State Inspectorate for Environmental Protection have the rights of a party to administrative proceedings and to proceedings held before the Superior Administrative Court.

Article 17.1. The State Inspectorate for Environmental Protection cooperates in the performance of inspection activities with other inspection bodies, including the State Sanitary Inspectorate, offices of state and government administration, offices of local governments, agencies of the civil defense, and social organizations.

17.2. This cooperation includes in particular:

- 1) Coordinating the inspection plans of the State Inspectorate for Environmental Protection with the proper local offices of the government administration.
- 2) Providing the proper offices of the state and government administration, as well as the offices of local governments, with information on the findings of the inspections conducted by the State Inspectorate for Environmental Protection.
- 3) Exchanging information on inspection findings.
- 4) Exchanging, with the customs agencies and the Frontier Guards, information relating to contraband whose importation is prohibited or restricted owing to considerations of environmental protection.
- 5) Cooperating with the Frontier Guards in performing customs clearance in the border zone.

17.3. In justified cases the voivode may demand of the voivodship inspector for environmental protection the conduct of inspections other than those agreed upon in the inspection plan of the State Inspectorate for Environmental Protection.

17.4. The State Inspectorate for Environmental Protection provides agencies of local governments with assistance in accomplishing their environmental protection objectives.

Article 18.1. The expenses of collecting samples and performing measurements and analyses serving to establish a violation of environmental protection requirements are defrayed by the organizational units or individuals whose activities are responsible for that violation.

18.2. The amount of the expenses referred to in Paragraph 1 is specified in the ruling of the agency of the State Inspectorate for Environmental Protection which finds a violation of environmental protection requirements.

18.3. The terms and procedure for determining the cost of inspecting adherence to environmental protection requirements are defined in an executive order of the minister of Environmental Protection, Natural Resources, and Forestry in consultation with the minister of Finance.

Article 19. In proceedings concerning the siting of investment projects that may affect the environment adversely the voivodship inspector for environmental protection has the rights of a party to administrative proceedings and to proceedings before the Superior Administrative Court, if he applies to participate in the proceedings.

Article 20.1. Directors of organizational units and individuals starting to operate new or modernized facilities or equipment that may adversely affect the environment are obligated to notify the voivodship inspector for environmental protection about the schedule for putting said facilities or equipment into operation.

20.2. The voivodship inspector for environmental protection or an authorized inspector may participate in the activation of the facilities or equipment referred to in Paragraph 1.

20.3. If the facility or equipment referred to in Paragraph 1 does not meet the environmental protection requirements, the voivodship inspector for environmental protection or an authorized inspector orders that the activation of the facility or equipment be suspended. The order has the rigor of immediate executability.

20.4. The activation of the facility or equipment referred to in Paragraph 3 may take place with the consent of the voivodship inspector for environmental protection upon finding that it now meets the environmental protection requirements.

Article 21. The voivodship inspector for environmental protection shall prohibit by means of an administrative ruling the importation or use of raw materials, fuels, machinery, and other equipment or products that do not meet established environmental protection requirements, upon notifying accordingly the chief inspector for Environmental Protection.

Article 22. The chief inspector for Environmental Protection may exercise any of the powers belonging to a voivodship inspector for environmental protection that he deems fit in view of the importance or complexity of a case.

#### Chapter 4. The State Environmental Monitoring System

Article 23.1. The state environmental monitoring system is hereby established.

23.2. The state environmental monitoring system is a system for measurements, assessments, and forecasts of the condition of the environment, employed by organizational units of offices of state and government administration, gmina [township] bodies, higher schools, and economic entities.

23.3. The purpose of the state environmental monitoring system is to enhance the effectiveness of measures to promote environmental protection by means of the collection, analysis, and provision of data concerning the condition of the environment and the changes occurring therein.

Article 24. The activities of the state environmental monitoring system are coordinated by the chief inspector for Environmental Protection.

Article 25.1. Agencies of state and government administration and gmina bodies, as well as their subordinate organizational units, which perform measurements and analyses of the condition of the environment are obligated to cooperate with the State Inspectorate for Environmental Protection within the framework of the state environmental monitoring system, and in particular to provide it with information on the condition of the environment and to perform measurements and analyses as recommended by the State Inspectorate for Environmental Protection.

25.2. Laboratories and other units handling measurements of the condition of the environment and operating within the state environmental monitoring system should meet the uniform requirements defined by the minister of Environmental Protection, Natural Resources, and Forestry and obtain corresponding accreditation from the State Inspectorate for Environmental Protection.

Article 26. The minister of Environmental Protection, Natural Resources, and Forestry may issue an executive order defining the:

- 1) Detailed organizational structure and standard operating procedures of the state environmental monitoring system.
- 2) Detailed guidelines for implementing the obligation referred to in Article 25, Paragraph 1.
- 3) Manner of accomplishing the objectives of the state environmental monitoring system as recommended by the State Inspectorate for Environmental Protection.
- 4) Qualifying requirements for the laboratories participating in the state environmental monitoring system and the procedure for accrediting these laboratories by the State Inspectorate for Environmental Protection.

Article 27. In the event of the absence of a Polish norm, the chief inspector for Environmental Protection may define for a transition period the mandatory requirements and methods for conducting measurements of and identifying the environmental pollutants.

Article 28.1. The State Inspectorate for Environmental Protection takes steps to keep the public informed about the condition of the environment.

28.2. The proper office of the State Inspectorate for Environmental Protection makes available to offices of state and government administration and gmina bodies the findings of studies and observations and the assessments referred to in Article 23, Paragraph 2, as well as the developed methods referred to in Article 27.

## Chapter 5. Implementation of Objectives Relating to Extraordinary Environmental Dangers

Article 29. As regards counteracting extraordinary environmental dangers, the State Inspectorate for Environmental Protection is empowered to handle:

- 1) Inspections of economic entities whose operations may result in the rise of extraordinary dangers to the environment.
- 2) Training and briefing of the personnel of offices of state and government administration and local governments, as well as of the economic entities referred to in Point 1.

3) Investigation of the causative factors of extraordinary environmental dangers and of the ways of eliminating their consequences.

Article 30.1. In the event of an extraordinary environmental danger, the State Inspectorate for Environmental Protection may:

- 1) Order the conduct of appropriate studies.
- 2) Prohibit or curtail the exploitation of the concerned environment.

30.2. The State Inspectorate for Environmental Protection cooperates with the proper agencies in combatting extraordinary environmental dangers and oversees the elimination of their consequences.

Article 31. The State Inspectorate for Environmental Protection keeps a registry of extraordinary environmental dangers and performs comprehensive assessment studies of the attendant damage.

#### Chapter 6. Amendments to Mandatory Provisions, Interim and Final Provisions

Article 32. In the Water Law of 24 October 1973 (Dz. U., No. 30, Item 230, 1974; No. 2, Item 6, 1980; No. 44, Item 201, 1983; No. 26, Item 139, and No. 35, Item 192, 1989; No. 34, Item 198, and No. 39, Item 222, 1990; and No. 32, Item 131, 1991), the following amendments are incorporated:

1) In Article 28:

a) In Paragraph 1 "The local office of state administration proper for issuing water-law permits" is deleted and "The voivodship inspector for environmental protection" is inserted in lieu thereof.

b) In Paragraph 2 "voivode" is deleted and "the voivodship inspector for environmental protection" is inserted in lieu thereof.

2) In Article 130:

a) In Paragraph 2 "the local voivodship-level office of state administration proper for water management matters" is deleted and "the voivodship inspector for environmental protection" is inserted in lieu thereof.

b) Paragraph 3 is deleted.

c) In Paragraph 4 "the local voivodship-level office of state administration proper for water management matters" is deleted and "the voivodship inspector for environmental protection" is inserted in lieu thereof.

3) In Article 130c, Paragraph 4, "the local office of state administration proper for imposing the penalty" is deleted and "the voivodship inspector for environmental protection" is inserted in lieu thereof.

Article 33. In the Law of 31 January 1980 on the Protection and Shaping of the Environment (Dz.U., No. 3, Item 6, 1980; No. 44, Item 201, 1983; No. 33, Item 180, 1987; No. 26, Item 139,

and No. 35, Item 192, 1989; and No. 234, Item 198, and No. 39, Item 222) the following amendments are incorporated:

- 1) In Article 20 "the State Inspectorate for Environmental Protection" is deleted and "the voivode" is inserted in lieu thereof.
- 2) In Article 31, Paragraph 1, in Article 51, Paragraph 3, and in Article 83, Paragraphs 1 and 3, "the voivodship-level local office of state administration" is deleted and "the voivodship inspector for environmental protection" is inserted in lieu thereof.
- 3) In Article 61 "State Inspectorate for Environmental Protection" is deleted and "the voivode" is inserted in lieu thereof.
- 4) Articles 94, 95, and 96 are deleted.
- 5) In Article 110:
  - a) In Paragraph 1 "the voivodship-level local office of state administration is deleted and "the voivodship inspector for environmental protection "is inserted in lieu thereof.
  - b) Paragraph 1a is deleted.
- 6) In Article 110c, Paragraph 4, "the local office of state administration proper for imposing the penalty" is deleted and "the voivodship inspector for environmental protection" is inserted in lieu thereof."

Article 34.1. Voivodship inspectors for environmental protection acquire, on the effective date of the present law, the legal status of the corresponding Environmental Research and Monitoring Centers (Autonomous Laboratories).

34.2. The material and financial assets of the Environmental Research and Monitoring Centers (Autonomous Laboratories) are transferred, on the effective date of the present law, to the voivodship inspectors for environmental protection.

34.3. The chief inspector for Environmental Protection may order a voivodship inspector for environmental protection to transfer specified components of the assets referred to in Paragraph 2 to another voivodship inspector for environmental protection.

34.4. The minister of Finance shall perform, with the object of implementing the present law, appropriate shifts of resources within the state budget, pursuant to the Budget Law of 5 January 1991 (Dz. U., No. 4, Item 18, and No. 34, Item 150).

Article 35.1. Employees of the existing Environmental Research and Monitoring Centers (Autonomous Laboratories) become employees of the State Inspectorate for Environmental Protection on the effective date of the present law.

35.2. The employees referred to in Paragraph 1 may, within one month from the effective date of the present law, submit to the chief inspector for Environmental Protection a letter of resignation or a request for dissolving the employment relationship which should be considered within a period of time not longer than the period mandatory for giving such notice. The dissolution of employment relationship under the guidelines specified in this paragraph entails the

consequences which the law links to the dissolution of an employment contract by the workplace owing to the closing of the workplace.

Article 36. The Main Inspectorate for Environmental Protection and the voivodship inspectorates for environmental protection are budget units.

Article 37. Proceedings in cases initiated but not yet conclusively ruled upon on the effective date of the present law are continued in accordance with previous regulations.

Article 38. The present law takes effect two months after the day of its publication.

**LANGUAGE:** ENGLISH

**COUNTRY:** Poland