

**The Act  
of 27 April 2001  
Environmental Protection Law**

**Title I  
General provisions**

**Part I  
The scope of application of the Act**

**Article 1**

This Act shall lay down the principles of environmental protection and the conditions for the use of its resources, taking into account the requirements of the principles of sustainable development, in particular:

- 1) the principles of the establishment of:
  - a) the conditions for the protection of environmental resources,
  - b) the conditions for the release of substances or energies into the environment,
  - c) the costs of the use of the environment,
- 2) the provision of information on the environment and its protection,
- 3) public participation in procedures relating to environmental protection,
- 4) the duties of administration authorities,
- 5) liability and sanctions.

**Article 2**

1. With the exception of Title I, Part IV, Chapters 1 and 2, the provisions of this Act shall not apply to the matters regulated by the provisions of nuclear legislation.
2. The provisions of this Act shall not apply, either, to:
  - 1) the obligation to have a permit,
  - 2) the payment of charges,where emergency operations are carried out
3. The provisions of this Act shall apply without prejudice to the provisions of the Act on the Protection of Confidential Information of 22 January 1999 (Official Journal No. 11, Item 95; 2000, No. 12, Item 136, No. 39, Item 462).

4. The principles of the protection of the sea against pollution by ships and the administration authorities competent in the matters of such protection shall be laid down by separate regulations.

## **Part II**

### **Definitions and general principles**

#### **Article 3**

For the purposes of this Act:

- 1) “agglomeration” shall mean a city or several towns/cities which have common administrative boundaries,
- 2) “motorway” shall also mean an expressway provided that the regulations on toll motorways apply to such an expressway,
- 3) “operation of installation or equipment” shall mean the use of installation or equipment and the maintenance of their operability,
- 4) "emissions" shall mean the direct or indirect introduction as a result of human activity of the following factors into the air, water, soil or land:
  - a) substances,
  - b) energies, such as heat, noise, vibration or electromagnetic fields,
- 5) “noise” shall mean sound at frequencies between 16 Hz and 16,000 Hz,
- 6) “installation” shall mean:
  - a) a stationary technical unit,
  - b) a set of stationary technical units connected technologically to which the same entity has a legal title and which are located on the site of the same establishment,
  - c) building structures which are not technical units or sets of technical units the operation whereof may cause emission,
- 7) “substantial change in installation” shall mean such a change in the operation of the installation or its extension which may increase its negative effects on the environment,
- 8) “measures to offset adverse effects in terms of nature conservation” shall mean a set of measures, including in particular construction work, earth works, soil reclamation, afforestation/reforestation, the planting of trees or vegetation clusters, aimed at restoring a natural equilibrium in a given area, compensating for damage done to the environment by the implementation of a project and preserving landscape values,
- 9) “reference method” shall mean a method laid down by law for measurement or examination, which can consist in particular of the manner of sampling and interpreting

data thus obtained as well as methods for modelling the propagation of substances and energies in the environment,

- 10) “best available technique” shall mean the most effective and advanced stage in the development of technologies and methods for conducting a given activity, which is used as the basis for setting out emission limit values designed to prevent, and, where that is not practicable, to reduce the emissions and their effects on the environment as a whole, where:
  - a) “technique” shall mean both the technology used and the way in which the installation is designed, built, operated and decommissioned,
  - b) “available techniques” shall mean techniques developed on a scale allowing their practical implementation in a given industrial sector, taking into account the economic and technical conditions as well as the investment costs and environmental benefits, which techniques are available to the operator,
  - c) “best technique” shall mean the technique which is the most effective in achieving a high general level of protection of the environment as a whole,
- 11) "effects/impacts on the environment" shall also mean the effects on human health;
- 12) “waste” shall mean waste within the meaning of the Waste Act of 27 April 2001 (Official Journal No 62, Item 628),
- 13) “environmental protection” shall also mean the taking of action or the abandoning of activities to allow the preservation or restoration of a natural equilibrium; in particular, such protection shall consist of:
  - a) rational development of the environment and management of natural resources in accordance with the principle of sustainable development,
  - b) prevention of pollution,
  - c) restoration of natural elements to their proper status,
- 14) “administration authority” shall mean:
  - a) ministers, central authorities of government administration, Voivodes, other territorial authorities of government administration acting on their behalf or on their own behalf, authorities of regional or local governments,
  - b) other entities where they are responsible by law or pursuant to agreements for carrying out public duties relating to the environment or its protection,
- 15) “environmental authority” shall mean administration authorities responsible for carrying out public duties in the scope of environmental protection, in accordance with their competence as laid down in Title VII, Part I,

- 16) “environmental organisation” shall mean non-governmental organisations the statutory purpose whereof is to protect the environment,
- 17) “PCBs” shall mean polychlorinated biphenyls, polychlorinated terphenyls, monomethyltetrachlorodiphenyl methane, monomethyldichlorodiphenyl methane, monomethyldibromodiphenyl methane and mixtures containing any of the above mentioned substances in a total quantity of more than 0.005% by weight,
- 18) “electromagnetic fields” shall mean electrical, magnetic and electromagnetic fields at frequencies between 0 Hz and 300 Hz,
- 19) “notification of the public” shall mean the provision of information in a customary manner at the seat of the authority which is competent in the matter and bill-posting in the vicinity of the proposed project; and where the seat of the competent authority is located in a community other than the community which is relevant in terms of location given the subject of the notification, also by a publication in the local press or in a manner commonly used in the locality or localities which are relevant given the subject of the notification,
- 20) “user of the environment” shall mean:
- a) an economic operator within the meaning of the Economic Activity Act of 19 November 1999 (Official Journal No. 101, Item 1178; 2000, No. 86, Item 958, and No. 114, Item 1193), and agricultural producers in the scope of crops, livestock breeding, horticulture, vegetable growing, forestry and inland fisheries and persons who provide private or private specialised medical services,
  - b) an organisational unit which is not an economic operator within the meaning of the Economic Activity Act,
  - c) a physical person who is not the entity referred to in letter a) who uses the environment in the scope where its use requires a permit,
- 21) “measurement” shall also mean observations and analyses,
- 22) “day-time” and “night-time” shall mean the time intervals, respectively, from 6 a.m. to 10 p.m. (day-time) and from 10 p.m. to 6 a.m. (night-time),
- 23) “major accident” shall mean an occurrence such as an emission, fire, or explosion emerging in the course of an industrial process, storage and transport involving one or more dangerous substances, leading to serious, immediate or delayed danger to human health or life, or the environment,
- 24) “major industrial accident” shall mean a major accident at an establishment,

- 25) “land surface” shall mean the natural formation of the terrain, the soil and the earth underneath the soil, extending down to the depth affected by man’s activity, with the term “soil” meaning the upper layer of the lithosphere, consisting of mineral parts, organic matter, water, air and organisms, and including the topsoil and subsoil,
- 26) “air” shall mean the air in the troposphere excluding the interiors of buildings and work places,
- 27) “noise level” shall mean the equivalent sound level (A) expressed in decibels (dB),
- 28) “level of a substance in the air” shall mean the concentration of a substance in the air over a fixed period or the deposition of such a substance over a fixed time and surface area,
- 29) “permit” where its type is not specified, shall mean the authorisations for the releases into the air of substances or energies referred to in Article 181 paragraph 1,
- 30) “product” shall mean the substance, energy, installation, equipment and any other object or its part when placed on the market,
- 31) “operator of an installation or establishment” shall mean the owner of the installation or establishment or an entity who holds the installation or establishment by virtue of another legal title,
- 32) “natural equilibrium” shall mean the status where in a specific area an equilibrium occurs between the interactions of man, the elements of living nature and the system of habitat conditions created by the elements of inanimate nature,
- 33) “emission standards” shall mean emission limit values,
- 34) “environmental quality standards” shall mean the requirements to be satisfied over a specific period of time by the environment as a whole or its individual natural elements,
- 35) “Starost” shall also mean the mayor of a city which has Powiat rights,
- 36) “substances” shall mean chemical elements and their compounds, mixtures or solutions present in the environment or arising as a result of man’s activity,
- 37) “dangerous substances” shall mean one or more substances, or their mixtures, which, given their chemical, biological or radioactive properties, may, when improperly handled, pose danger to human health or life, or to the environment; dangerous substances may include a raw material, product, intermediate, waste and a substance generated in the event of an accident,
- 38) “wastewater” shall mean the following when discharged into waters or to land:
- a) water used for economic or domestic purposes,

- b) liquid animal waste, excluding livestock manure and urine designed for agricultural use in the manner, and on the principles, laid down in the legislation on fertilisers and fertilisation,
  - c) rainwater or melt-water when captured by collecting systems, running off from polluted areas, including town/city centres, industrial and storage sites, transport terminals as well as roads and carparks with a fixed surface,
  - d) leachates from waste landfills, used brines, curative and thermal waters,
  - e) waters from drainage of mining plants, excluding waters injected into the ground where the types and amounts of substances contained in the water injected into the orogen are the same as those contained in the water abstracted,
  - f) used waters discharged from fish culture sites where they contain new substances or larger amounts of substances than those contained in the water abstracted,
- 39) “environment” shall mean the totality of natural elements, including those transformed as a result of man’s activity, in particular the land surface, minerals, waters, air, animals, plants and climate,
- 40) “closed site” shall mean a site, and, in specific cases a construction site or its part, which is accessible only to authorised persons and delineated in the manner set out in the Surveying and Cartographic Act of 17 May 1989 (Official Journal of 2000, No. 100, Item 1086, No. 120, Item 1268), which is indispensable for the purposes of national defence or security and at the disposal of organisational units subordinated to the Minister of National Defence, the minister responsible for internal affairs, the minister responsible for foreign affairs or the Chief of the State Security Office,
- 41) “legal title” shall mean the right of ownership, usufruct, permanent management,, restricted right of use or the civil law relationship,
- 42) “equipment” shall mean non-stationary technical equipment, including means of transport,
- 43) “emission levels” shall mean the types and amounts of substances or energies released at a given time as well as the concentrations of substances or energies, in particular in exhaust gases, wastewater discharged and waste generated,
- 44) “holder of the land surface” shall mean the owner of a property, and, where the register of land and buildings managed pursuant to the Surveying and Cartographic Act reveals another holder of the land, the entity revealed as the holder
- 45) “competent authority of the State Fire Service” shall mean:
- a) the Powiat Commandant – in matters relating to increased-hazard establishments,

- b) the Voivodship Commandant – in matters relating to high-hazard establishments,
- 46) “wastewater discharges to land” shall also mean waste water discharges into soil,
- 47) “use of substances” shall also mean their storage,
- 48) “establishment” shall mean one or more installations, including the site to which the installation operator has a legal title and the equipment present on this site,
- 49) “pollution” shall mean emissions which have harmful effects on human health or the quality of the environment, result in damage to material property, impair the aesthetic values of the environment or interfere with other legitimate uses of the environment,
- 50) “sustainable development” shall mean such socio-economic development which integrates political, economic and social actions, while preserving the natural equilibrium and the sustainability of basic natural processes, with the aim of guaranteeing the ability of individual communities or citizens, of both the present and future generations, to satisfy their basic needs.

#### **Article 4**

1. By law, every person shall have the right of general use of the environment, including the use of the environment, without availing of an installation, for the purpose of satisfying their personal and household needs, including rest and sports, in the scope of:
  - 1) releases of substances or energies into the environment,
  - 2) general uses of the environment other than those referred to in subparagraph 1, in the meaning of the Water Law Act of 24 October 1974 (Official Journal No. 38, Item 230; 1980, No. 3, Item 6; 1983, No. 44, Item 201; 1989, No. 26, Item 139, No. 35, Item 192; 1990, No. 34, Item 198, No. 39, Item 222; 1991, No. 32, Item 131, No. 77, Item 335; 1993, No. 40, Item 183; 1994, No. 27, Item 96; 1995, No. 47, Item 243; 1996, No. 106, Item 496; 1997, No. 47, Item 299, No. 88, Item 554, No. 133, Item 885; 1998, No. 106, Item 668; 2000, No. 12, Item 136, No. 89, Item 991, No. 109, Item 1157, No. 120, Item 1268; 2001, No. 5, Item 43).
2. By law, the use of the environment exceeding the extent of its general use may be made conditional on the obligation to obtain a permit, setting out in particular the scope of, and the conditions for, such use, to be granted by the competent environmental authority.
3. The common use of the environment shall be such use which exceeds the scope of its general use in respect whereof the Act does not provide for the obligation to obtain a permit as well as the common use of waters in the meaning of the provisions of the Water Law Act.

### **Article 5**

In protecting one or more natural elements, the protection of the other elements shall be taken into account.

### **Article 6**

1. He who undertakes an activity which may have a negative effect on the environment shall be obliged to prevent such an effect.
2. He who undertakes an activity, the negative effect whereof on the environment has not been fully identified yet, shall be obliged, following the precautionary principle, to take all possible preventive measures.

### **Article 7**

1. He who causes pollution of the environment shall bear the costs of elimination of such pollution.
2. He who may cause pollution of the environment shall bear the costs of prevention of such pollution.

### **Article 8**

Policies, strategies, plans or programmes relating in particular to industry, energy, transport, telecommunications, water management, waste management, land-use planning, forestry, agriculture, fisheries, tourism and land use shall take into account the principles of environmental protection and sustainable development.

### **Article 9**

Every person shall have the right to obtain information on the environment and its protection on the conditions laid down in this Act.

### **Article 10**

In the cases provided for by this Act, everyone shall have the right to participate in proceedings relating to the granting of decisions in the scope of environmental protection or to the adoption of draft policies, strategies, plans or programmes for development or restructuring as well as draft land use studies and plans.

### **Article 11**

Decisions granted in violation of the laws regarding environmental protection shall be invalid.

### **Article 12**

1. Subject to paragraph 2, users of the environment and environmental authorities shall be obliged to apply reference methods provided that such methods have been laid down by law.
2. Where the obligation to apply a reference method has been introduced pursuant to laws, it shall be permitted to apply another method on the condition that the results obtained thereby have been demonstrated to be fully equivalent.

## **Part III**

### **Environmental policy and environmental protection programmes**

### **Article 13**

The aim of the national environmental policy shall be to create the conditions indispensable for implementing environmental protection.

### **Article 14**

1. On the basis of the current state of the environment, the national environmental policy shall lay down in particular:
  - 1) the environmental objectives,
  - 2) the environmental priorities,
  - 3) the types and timetable of actions for environmental protection,
  - 4) the measures indispensable for the achievement of the goals, including legal and economic mechanisms and financial resources.
2. The national environmental policy shall be adopted for four years, with the qualification that the prospective actions envisaged therein shall cover another successive 4 years.

### **Article 15**

1. The national environmental policy shall be adopted by Parliament on request from the Council of Ministers.

2. Having obtained the opinion of the Voivodship Marshalls, the minister responsible for the environment shall draw up the draft national environmental policy.

#### **Article 16**

Every four years the Council of Ministers shall submit to Parliament a report on the implementation of the national environmental policy.

#### **Article 17**

1. In order to implement the national environmental policy, the Voivodship, Powiat and Gmina Boards shall draw up, respectively, the Voivodship, Powiat and Gmina environmental protection programmes, meeting the requirements laid down in Article 14.
2. An opinion on the draft environmental protection programmes shall be provided, respectively, by the board of a higher-level unit or the minister responsible for the environment.
3. In the towns/cities where the Gmina authorities exercise the functions of the Powiat authorities, the environmental protection programme shall cover the actions of the Powiat and the Gmina.

#### **Article 18**

1. The programmes referred to in Article 17, paragraph 1, shall be adopted, respectively, by the Voivodship Assembly, the Powiat Council or the Gmina Council.
2. Every 2 years the Voivodship, Powiat and Gmina Boards shall draw up reports to be submitted, respectively, to the Voivodship Assembly, the Powiat Council or the Gmina Council.

### **Part IV**

#### **Information on the environment**

## **Chapter 1**

### **Access to information**

#### **Article 19**

1. Administration authorities shall be obliged to make available to all persons information which they hold on the environment and its protection.
2. Under paragraph 1, the following information shall be made available:
  - 1) the draft policies, strategies, plans or programmes referred to in Article 40, paragraph 1, before they are subjected to the public participation procedure and before an opinion is obtained from the authority referred to in Articles 45 and 381,
  - 2) the policies, strategies, plans and programmes referred to in Article 40, paragraph 1,
  - 3) environmental impact prognoses,
  - 4) applications for the granting of the decisions and the decisions referred to in Article 46, paragraph 4,
  - 5) the interim decisions referred to in Article 51, paragraph 2,
  - 6) the applications for the indications of locations and the indications of locations referred to in Article 46, paragraph 5,
  - 7) the reports of the environmental impact of projects,
  - 8) follow-up analyses,
  - 9) the documents referred to in Article 66, paragraph 1,
  - 10) ecophysiological studies,
  - 11) applications for the granting of the decisions and the decisions referred to in Article 106 as well as the decisions referred to in Article 108, paragraph 1,
  - 12) the notifications referred to in Article 152, paragraph 1,
  - 13) applications for the granting of the permits and the permits referred to in Article 181, paragraph 1,
  - 14) environmental audits,
  - 15) the registers of dangerous substances referred to in Article 267, paragraph 1,
  - 16) the safety reports and the decisions referred to in Article 259, paragraph 1,
  - 17) draft external emergency plans before they are subjected to the public participation procedure and external emergency plans following their adoption,

- 18) the records referred to in Article 286, paragraph 1,
- 19) decisions which set out the amounts, postpone the due payment date, reduce or write off payments for the use of the environment or administrative fines,
- 20) decisions which set out the amount of a current fine,
- 21) applications for the adoption of the compliance programme referred to in Article 426, paragraph 1,
- 22) geological survey documentation for the closing down of mining plants,
- 23) the results of environmental research and studies,
- 24) within the scope of the Nature Conservation Act of 16 October 1991 (Official Journal, No. 114, Item 492; 1992, No. 54, Item 254; 1994, No. 89, Item 415; 1995, No. 147, Item 713; 1996, No. 91, Item 409; 1997, No. 14, Item 72, No. 43, Item 272, No. 54, Item 349, No. 133, Item 885; 1998, No. 106, Item 668; 2001, No. 3, Item 21):
  - a) applications for permits to remove trees or shrubs,
  - b) applications for permits for deliberate releases of genetically modified organisms into the environment for experimental purposes or the placing on the market of products which contain genetically modified organisms or which consist of such organisms or their parts,
  - c) decisions which set out the amounts of administrative fines for:
    - the destruction of areas of greenery or trees and shrubs caused by incorrect execution of earthworks or the use of mechanical or technical equipment, and the application of chemical agents in a manner which is harmful to the vegetation,
    - the removal of trees or shrubs without the required permit,
    - the damage caused by the incorrect care of areas of greenery, forest plantations, trees or shrubs.
- 25) within the scope of the Waste Act:
  - a) applications for the granting of decisions to approve hazardous waste management programmes and the decisions approving such programmes as well as information regarding the waste generated and on the ways of managing the waste generated,
  - b) applications for the granting of permits and permits to collect, transport, recover or dispose of waste,
  - c) documentation prepared for waste inventory purposes,

- 26) within the scope of the Act on Maintaining of Order and Sanitation in Communities of 13 September 2000 (Official Journal, No. 132, Item 622; 1997, No. 60, Item 369, No. 121, Item 770; 2000, No. 22, Item 272) – applications for permits and permits for activities consisting of the collection, transport, recovery and disposal of municipal waste,
  - 27) within the scope of the Water Law Act – applications for the granting of permits and permits for water abstraction,
  - 28) within the scope of the Act on the Inspectorate for Environmental Protection of 20 July 1991 (Official Journal, No. 77, Item 335; 1996, No.106, Item 496; 1997, No. 121, Item 770, No. 133, Item 885, No. 141, Item 943; 1998, No. 106, Item 668; 2000, No. 12, Item 136, No. 109, Item 1157) – registers of major accidents.
3. Information made available under paragraph 1 shall also include any other information in the form of documents, data held in particular in written, visual and aural form, or databases stored on other carriers, regarding:
  - 1) the state of the natural elements and their interactions,
  - 2) emissions as well as activities and measures which are likely to have or have adverse effects on the environment,
  - 3) the effect of the state of the environment on human health, the quality of human life and cultural heritage,
  - 4) activities and measures, in particular administrative and economic ones, designed to protect the environment,
  - 5) plans, programmes and financial analyses relevant to the decisions significant for the protection of the environment.
4. The information referred to in paragraphs 2 and 3 shall be made available upon written request, subject to paragraph 5.
5. Information which does not need to be retrieved and can be provided in verbal form shall be made available without a written request.
6. The administration authorities competent in the matters referred to in paragraph 2 shall be obliged to keep publicly accessible records of data concerning these documents and may include in these records data on the documents referred to in paragraph 3.
7. Publicly accessible records of the documents referred to in paragraph 2, subparagraphs 7 and 8, shall also be kept by the administration authorities which are competent for

carrying out procedures within the framework whereof or as a result whereof such documents are prepared.

8. The minister who is responsible for the environment shall define, by way of regulation, the format of the publicly accessible records referred to in paragraph 6, with a view to ensuring the clarity of the records and facilitating the retrieval of information contained therein.
9. The regulation referred to in paragraph 8 shall lay down:
  - 1) the content of the record, specifying, in particular, the titles of documents held therein, the places and dates of their issue, the places where they are kept and the reservations concerning access to information,
  - 2) the format and layout of the record.

## **Article 20**

- 1. The administration authority shall not make available the information referred to in Article 19 where making it available could violate the laws on the protection of personal data in the meaning of the Act on Public Statistics of 29 June 1995 (Official Journal No. 88, Item 439; 1996, No. 156, Item 775; 1997, No. 88, Item 554, No. 121, Item 769; 1998, No. 99, Item 632, No. 106, Item 668), or where such information affects:**
  - 1) matters which are sub judice, or subject to criminal or disciplinary enquiry, where the disclosure of such information could disturb the course of the proceedings;
  - 2) matters which are covered by copyrights and patent rights where making the files available may violate these rights;
  - 3) documents or data supplied by a third party where the party has been under no legal obligation to do so and has made the reservation that they shall not be made available;
  - 4) documents or data the disclosure of which would make it more likely that the environment to which they relate would be damaged.
- 2. The administration authority may:**
  - 1) refuse to disclose information where:**
    - a) it would require the provision of documents or data in the course of completion or intended for internal communications,**
    - b) the request for the disclosure of information is manifestly impossible to meet or formulated in too general a manner,**
  - 2) upon a justified request from the provider of the information referred to in Article 19, paragraphs 2 and 3, exempt from the disclosure of data of commercial value, especially technological data, where making it available could worsen the provider's competitive position.**

- 3. The provisions of paragraph 2, subparagraph 2, shall not apply where the information concerns:**
  - 1) the amounts and types of dust or gases emitted into the air and the place where they are emitted,**
  - 2) the quality, composition and amounts of wastewater discharged to water or land and the place where it is discharged,**
  - 3) the types and amounts of waste generated and the place where it is generated,**
  - 4) the levels of noise emitted,**
  - 5) the levels of electromagnetic fields emitted.**
- 4. The refusal to disclose information shall be made in the form of a decision.**

#### **Article 21**

1. The administration authority shall be obliged to make information available without undue delay, and at the latest within one month after the request has been submitted, subject to paragraph 2.
2. The period referred to in paragraph 1 may be extended up to two months where justified by the complexity of the matter; in such case the provisions of Article 36 of the Administrative Procedure Code shall apply, respectively.
3. The documents, data on which are held in publicly accessible records, shall be made available on the day when a request for their disclosure has been made.
4. Where a request for information has been refused paragraphs 1 and 2 shall apply, respectively.

#### **Article 22**

Where it is possible to separate out a piece of information exempted from disclosure for the reasons referred to in Articles 20 and 21, the administration authority shall make available the remainder of the information.

#### **Article 23**

**In making available information provided by a third party, the administration authority shall identify its origin.**

#### **Article 24**

- 1. No charge shall be made for the retrieving and examining, on the premises of the administration authority, of the documents enumerated in publicly accessible records.**
- 2. The administration authority shall make a charge, in the amount corresponding to the related justified costs, for retrieving information, making copies of documents or data and their forwarding.**
3. The minister who is responsible for the environment, by way of a Regulation issued in agreement with the minister who is responsible for public finance, shall define: the rates of the charges for the disclosure of information on the environment and its protection and the

manner of paying such charges, taking into account the need to ensure that such charges shall not impede access to information.

4. The Regulation referred to in paragraph 3 shall lay down:
  - 1) the rates of the charges for retrieving information, making copies of documents or data and their forwarding,
  - 2) the coefficients to differentiate the rates of the charges,
  - 3) the dates and manner of paying such charges.

## **Chapter 2**

### **The state environmental monitoring system and the dissemination of information on the environment**

#### **Article 25**

1. Information on the environment shall be provided in particular by the state environmental monitoring system.
2. The state environmental monitoring system shall be a system of measurements, assessments and prognoses of the state of the environment as well as of the collection, processing and dissemination of information on the environment.
3. The state environmental monitoring system shall support actions for environmental protection by systematically providing administration authorities and the public with information regarding:
  - 1) the quality of the elements of the environment, compliance with the environmental quality standards as set out by legislation and the areas where these standards are exceeded,
  - 2) changes occurring in the elements of the environment and the reasons for such changes, including the causation between emissions and the state of natural elements.

#### **Article 26**

1. The state environmental monitoring system shall cover the following information obtained from monitoring:
  - 1) the quality of the air,
  - 2) the quality of inland surface waters and groundwater as well as internal sea waters and the territorial sea waters,
  - 3) the quality of soil and land,

- 4) noise,
  - 5) ionising radiation and electromagnetic fields,
  - 6) the state of environmental resources, including forests,
  - 7) the types and amounts of substances and energies released into the air, waters, soil and land,
  - 8) waste generation and management.
2. Monitoring shall be carried out in a cyclical manner, using uniform methods for data collection, storage and processing.

### **Article 27**

1. The state environmental monitoring system shall collect data based on:
  - 1) measurements taken by the administration authorities which are obliged by this Act to carry out monitoring,
  - 2) data collected in the framework of public statistics as set out every year by the programmes of statistical surveys for the purposes of public statistics,
  - 3) information made available by other administration authorities,
  - 4) measurements of the state of the environment, the levels and types of emissions as well as records which users of the environment are obliged to keep by law or decisions,
  - 5) information other than that listed in subparagraph 4 when obtained for payment or free of charge from entities which are not administration authorities.
2. The principles of operation of the state environmental monitoring system and the duties of the authorities of the Inspectorate for Environmental Protection in the scope of its co-ordination shall be laid down by the provisions of the Act on the Inspectorate for Environmental Protection.

### **Article 28**

Users of the environment which are obliged by law and by decisions to measure the levels of substances or energies in the environment and the emission levels shall collect and process data in compliance with the rules laid down in this Act and make information available free of charge for the purposes of the state environmental monitoring system.

## **Article 29**

1. The administration authorities which are obliged to conduct monitoring shall be obliged to provide information on the environment free of charge to one another.
2. Other administration authorities holding information which may be used for the purposes of the state environmental monitoring system shall be obliged to make it available free of charge to the authorities referred to in paragraph 1.

## **Article 30**

1. Information regarding:
  - 1) the classification of zones referred to in Article 88, paragraph 2, and Article 89, paragraph 1,
  - 2) the results of the measurements referred to in Article 90, paragraph 1,
  - 3) the areas under the restrictions imposed pursuant to the regulations adopted under Article 92, paragraph 1,
  - 4) the results of the measurements referred to in Article 109, paragraph 2,
  - 5) the areas referred to in Article 110,
  - 6) the results of measurements referred to in Article 118, paragraph 1,
  - 7) the areas referred to in Article 118, paragraph 6, and Article 119, paragraph 1,
  - 8) the results of the measurements referred to in Article 123, paragraph 2,
  - 9) the areas referred to in Article 124,
  - 10) the results of the measurements referred to in Article 62a of the Water Law Act, shall be placed in particular in electronic databases accessible via public telecommunication networks.
2. The accessible databases shall be kept by:
  - 1) the Voivode – in the scope of the information referred to in paragraph 1, subparagraphs 1-3 and 8-10, as well as, subject to subparagraph 2, in the scope of the information referred to in paragraph 1, subparagraphs 6 and 7,
  - 2) the Starost – in the scope of the information referred to in paragraph 1, subparagraphs 4 and 5, as well as, where it concerns the areas referred to in Article 117, paragraph 2, subparagraph 2 and paragraph 3, in the scope of the information referred to in paragraph 1, subparagraphs 6 and 7.
3. By way of a Regulation, the minister responsible for the environment shall lay down the manner of providing the information referred to in paragraph 1.
4. The Regulation referred to in paragraph 3 shall set out:

- 1) the minimum scope of information to be provided,
- 2) the form in which the information shall be provided.

## **Part V**

### **Public participation in procedures relating to environmental protection**

#### **Article 31**

**All persons shall have the right to submit comments and recommendations in the course of procedures which require public participation.**

#### **Article 32**

1. Before the administration authority competent for making decisions requiring public participation makes such a decision, as it commences the procedure the authority:
  - 1) shall notify the public that an application for the granting of the decision has been placed in a publicly accessible record and that comments and recommendations can be submitted within 21 days of the date of notifying the public, at the same time, indicating where such comments and recommendations can be submitted;
  - 2) may conduct an administrative trial open to the public,
  - 3) shall consider the comments and recommendations submitted.
2. The administration authority competent for making a decision shall notify the public that the decision has been placed in a publicly accessible record of data on decisions requiring public participation, following the procedure specified in this Part.
3. In the cases referred to in paragraph 1, subparagraphs 1 and 2, the public shall also be notified by the placing of the information on the www homepage of the authority competent for making the decision where the authority has such a homepage.

#### **Article 33**

1. The environmental organisations which, referring to the place of their activities, inform of their wish to take part in a specific procedure which requires public participation, shall take part therein with the rights of a party. The provision of Article 31 § 4 of the Administrative Procedure Code shall not apply.
2. An environmental organisation can file a complaint against a refusal to let it take part in the procedure.

#### **Article 34**

1. The administration authority competent for preparing the documents referred to in Articles 40 and 265 shall ensure the public participation before the documents are adopted; the provisions of Article 32, paragraph 1, subparagraphs 1 and 3, and paragraph 2 shall apply, respectively.
2. Information on comments and recommendations submitted and on the way in which they have been taken into account shall be enclosed with the documents referred to in paragraph 1.

#### **Article 35**

The provisions of Article 20 shall apply, respectively, to the conduct of the procedures which require public participation.

#### **Article 36**

The provisions of the Administrative Procedure Code concerning complaints and requests shall not apply to comments and recommendations submitted in the course of procedures requiring public participation.

#### **Article 37**

The provisions of Articles 31-36 shall not apply to projects implemented on closed sites.

#### **Article 38**

1. Environmental organisations, the subsidiary units of communities, worker councils, volunteer fire service units and trade unions may co-operate with administration authorities in the field of environmental protection.
2. Trade unions and worker councils may establish internal environmental commissions and non-governmental inspectors for environmental protection in order to organise and conduct non-governmental environmental inspections at their workplaces.
3. Administration authorities may assist environmental organisations in their activities in the field of environmental protection.

## **Article 39**

**Environmental organisations may request that the competent authorities should use measures to stop advertising or other manners of promoting goods or services where such advertisements or other manners of promotion are in contradiction with Article 80.**

## **Part VI**

### **The environmental impact assessment procedure**

## **Chapter 1**

### **The environmental impact assessment procedure relating to the implementation effects of plans and programmes**

## **Article 40**

1. It shall be mandatory to carry out the environmental impact assessment procedure pursuant to the provisions of this Chapter, subject to paragraph 3, for:
  - 1) the draft concept of the national land-use policy, draft land-use plans and draft regional development strategies,
  - 2) draft policies, strategies, plans or programmes in the fields of industry, energy, transport, telecommunications, water management, waste management, forestry, agriculture, fisheries, tourism and land use, where their preparation by the national or Voivodship administration authorities is provided for by law.
2. It shall also be mandatory to carry out the environmental impact assessment procedure pursuant to the provisions of this Chapter, subject to paragraph 3, where the documents referred to in paragraph 1 are modified after their adoption.
3. The administration authority which prepares the draft documents referred to in paragraph 1, subparagraph 2, or revises these documents may decide, in agreement with the relevant environmental authority and the authority referred to in Article 45, not to carry out the environmental impact assessment procedure as defined in this Chapter where it determines – taking into account in particular the characteristics of the activities envisaged in these documents and the nature and magnitude of the effect on the environment, as well as the characteristics of the area likely to be affected - that the implementation of the provisions of these documents would not have a significant effect on the environment.

## **Article 41**

1. The administration authority which prepares the draft document referred to in Article 40, paragraph 1, or modifies it after its adoption shall make an environmental impact prognosis.
2. The environmental impact prognosis referred to in paragraph 1 shall:
  - 1) contain information on the content, the main objectives of the document drafted and its linkages with other documents,
  - 2) identify, analyse and assess the current state of the environment and the likely evolution of this state should the provisions of the document drafted not be implemented,
  - 3) identify, analyse and assess the state of the environment in areas likely to be significantly affected,
  - 4) identify, analyse and assess the existing environmental problems which are relevant to the document drafted, in particular those relating to protected areas,
  - 5) identify, analyse and assess the environmental protection objectives established at international or national levels which are relevant to the document drafted and the ways in which these objectives and other environmental considerations have been taken into account during the preparation of the document,
  - 6) identify, analyse and assess the expected significant effects on the environment,
  - 7) present measures to prevent, reduce or offset in terms of nature conservation any adverse effects on the environment which may result from the implementation of the document drafted,
  - 8) present options alternative to those contained in the document drafted, along with a justification for their choice and a description of the methods applied for the assessment resulting in this choice, including an indication of difficulties encountered as a result of inadequate techniques or gaps in current knowledge,
  - 9) contain information on the methods applied while making the environmental impact prognosis,
  - 10) contain information on the methods envisaged for monitoring the implementation of the document drafted,
  - 11) contain information on the possible transboundary impact on the environment,
  - 12) contain a summary in a non-technical language.
3. The minister who is responsible for the environment, in agreement with the minister responsible for health and the minister responsible for land-use and housing, following the requirements referred to in paragraph 2, shall define by way of a Regulation the

detailed conditions which shall be met by the environmental impact prognosis related to draft local land-use plans.

4. The Regulation referred to in paragraph 3 shall lay down:
  - 1) the form wherein the prognosis shall be made,
  - 2) the scope of issues which shall be identified and assessed in the prognosis,
  - 3) the territorial range of the prognosis,
  - 4) the types of documents containing information which shall be taken into account in the prognosis.

#### **Article 42**

1. The administration authority which prepares the draft document, or modifies the already adopted document, referred to in Article 40, paragraph 1, shall obtain the approval of the environmental authority and the authority referred to in Article 45 as to the scope and level of detail of information which must be included in the environmental impact prognosis.
2. The requirement referred to in paragraph 1 shall not apply to the preparation of the environmental impact prognosis related to draft local land-use plans.

#### **Article 43**

1. The administration authority which prepares the draft document or modifies the already adopted document, referred to in Article 40, paragraph 1, shall make it, along with the environmental impact prognosis, subject to an opinion of the environmental authority and the authority referred to in Article 45.
2. Subject to paragraph 3, the administration authority shall ensure the possibility of public participation in the environmental impact assessment procedure relating to the projects referred to in Article 40, paragraph 1.
3. The rules of submitting comments and recommendations concerning draft local land-use plans shall be defined by the provisions of the Land-Use Act of 7 July 1994 (Official Journal, 1999, No. 15, Item 139, No. 41, Item 412, No. 111, Item 1279; 2000, No. 12, Item 136, No. 109, Item 1157, No. 120, Item 1268; 2001, No. 5, Item 42, No. 14, Item 124).

#### **Article 44**

**The administration authority which prepares the draft document or modifies the already adopted document, referred to in Article 40, paragraph 1, shall take into**

**account the findings of the environmental impact prognosis, the opinion of the environmental authority and the authority referred to in Article 45 as well as the comments and recommendations submitted as a result of public participation.**

#### **Article 45**

Where the environmental impact assessment procedure is carried out by a national government administration authority, the Chief Sanitary Inspector shall be the administration authority competent for approving the scope and level of detail of information required for the environmental impact prognosis and for expressing an opinion on the projects referred to in Article 40.

### **Chapter 2**

#### **The environmental impact assessment procedure for proposed projects**

#### **Article 46**

1. The granting of decisions whether to permit a proposed project which may have significant impact on the environment shall require, subject to paragraph 7, the environmental impact assessment procedure to be carried out.
2. For the purposes of the provisions in this Part, “project” shall mean the execution of construction works or other interventions in the environment, consisting in the transformation, or change in use, of land, including those involving mineral exploitation, which require the decision referred to in paragraph 4.
3. The environmental impact assessment procedure shall be part of the procedure leading to the granting of the decisions referred to in paragraph 4.
4. The decisions referred to in paragraph 1 shall include:
  - 1) a decision on the conditions for land development and use - granted pursuant to laws relating to land use;
  - 2) a decision on building consent for the construction or demolition of a built structure as well as a decision consenting to a change in the use of a built structure or a part of it - granted pursuant to the provisions of the Construction Act of 7 July 1994 (Official Journal of 2000, No. 106, Item 1126, No. 109, Item 1157, No. 120, Item 1268; 2001, No. 5, Item 42);
  - 3) a concession for prospecting for, or exploration of, mineral deposits, for exploitation of minerals from their deposits, for open storage of substances in the

ground mass and the landfill of waste in orogen, including underground mining excavations - granted pursuant to the provisions of the Act of 4 February 1994 - Geological and Mining Law (Official Journal, No. 27, Item 96; 1996, No. 106, Item 496; 1997, No. 88, Item 554, No. 111, Item 726, No. 133, Item 885; 1998, No. 106, Item 668; 2000, No. 109, Item 1157, No. 120, Item 1268);

- 4) a permit for :
  - a) the execution of water facilities,
  - b) the abstraction of groundwater,
  - c) the agricultural use of wastewater- granted pursuant to the provisions of the Water Law Act;
- 5) a decision which sets out the conditions for the execution of works consisting in water regulation and the construction of flood protection embankments as well as land amelioration works, construction site drainage and other earthworks which change the water regime - on sites with significant natural values, particularly on sites with concentrations of vegetation with significant natural values, sites with landscape and ecological values, the grounds of mass breeding of birds, those with concentrations of protected species and the fish spawning and wintering grounds as well as the sites of ladder-passage and mass migration of fish and other aquatic organisms - granted pursuant to the laws relating to nature conservation;
- 6) a decision granting authorisation for a project for the restructuring of rural land holdings - granted pursuant to the Act on the Restructuring of Rural Land Holdings of 26 March 1982 (Official Journal of 1989, No.58, Item 349; 1990, No. 34, Item 198; 1994, No. 127, Item 627; 1998, No. 106, Item 668; 2000, No.12, Item 136),
- 7) a decision consenting to the change of a forest into agricultural land - granted pursuant to the Forest Act of 28 September 1991 (Official Journal of 2000, No. 56, Item 679, No. 86, Item 958, No. 120, Item 1268);
- 8) a decision granting authorisation for the location of a motorway - granted pursuant to the Act on Toll Motorways of 27 October 1994 (Official Journal No. 127, Item 627; 1996, No. 106, Item 496, No. 156, Item 775; 1997, No. 133, Item 885; 1998, No. 106, Item 668; 2000, No. 48, Item 550, No. 86, Item 958, No. 109, Item 1157), when such a decision applies to sections which were defined in

the location indications as crucial in the light of the requirements of environmental protection or the possibility of public conflicts.

5. The environmental impact assessment procedure shall also be carried out prior to the granting of the location indications for a motorway.
6. The provisions concerning decisions referred to in paragraph 4 shall apply respectively to the location indications granted pursuant to the Act on Toll Motorways. The provisions concerning the authorities competent for granting such decisions shall apply to the authority competent for granting the location indications.
7. The environmental impact assessment procedure shall not be carried out where:
  - 1) the decision referred to in paragraph 4, subparagraph 4 or 5, was granted prior to the granting of the decision referred to in paragraph 4, subparagraph 2, concerning the same project,
  - 2) the decision referred to in paragraph 4, subparagraph 5, was granted prior to the granting of the decision referred to in paragraph 4, subparagraph 4;and the assessment procedure was carried out prior to the granting of the former decision.
8. In the case referred to in paragraph 7, subparagraph 1, the provisions of Article 51, paragraph 6, and Article 52, paragraphs 4 and 5, shall apply, respectively, to the environmental impact assessment procedure preceding the granting of the decision referred to in paragraph 4, subparagraphs 4 or 5.
9. Decisions referred to in paragraph 4 shall need a justification.
10. The justification for the decision, in addition to meeting the requirements pursuant to the provisions of the Administrative Procedure Code, shall include information on the way in which comments and recommendations submitted in the course of public participation were taken into account and information relating to the requirement for the follow-up analysis referred to in Article 56.

#### **Article 47**

In the environmental impact assessment procedure, the following shall be identified, analysed and assessed:

- 1) the direct and indirect effects of a given project on:
  - a) the environment, human health and the quality of human life,
  - b) material assets,
  - c) cultural heritage,
  - d) the interaction between the factors referred to in indents a) – c),

- e) access to mineral deposits;
- 2) the possibilities and ways of preventing and reducing adverse impact on the environment,
- 3) the required scope of monitoring.

#### **Article 48**

1. The environmental impact assessment procedure shall be carried out by the administration authority which is competent for the granting of the decisions referred to in Article 46, paragraph 4.
2. Subject to paragraph 4, the decisions referred to in Article 46, paragraph 4, shall be granted upon approval by:
  - 1) the environmental authority where it concerns the decisions referred to in Article 46, paragraph 4, subparagraphs 1, 2, 4-7,
  - 2) the authority referred to in Article 57 where it concerns the decisions referred to in Article 46, paragraph 4, subparagraphs 1 and 2.
3. The authority seeking the approval shall submit:
  - 1) the application for the granting of the decision, along with the documentation required by separate regulations,
  - 2) the environmental impact report or information containing the data set out in Article 49, paragraph 3, where the preparation of the environmental impact report is not required.
4. In the cases referred to in Article 46, paragraph 4, subparagraph 2, it is the applicant who shall be obliged to obtain approval by the environmental authority and the authority referred to in Article 57. The applicant shall submit:
  - 1) the construction design,
  - 2) the environmental impact report or information containing the data set out in Article 49, paragraph 3, where the preparation of the environmental impact report is not required.The approval shall be granted by way of decision.

#### **Article 49**

1. Before submitting an application for the decisions referred to in Article 46, paragraph 4, and the location indications referred to in Article 46, paragraph 5, the applicant may request that the authority competent for the granting of the decisions should define the

scope of the environmental impact report – with regard to the projects referred to in Article 51, paragraph 1, subparagraph 1.

2. The provision of paragraph 1 shall not apply where the decision concerning the conditions for development and land use for the same project preceded the granting of the decision referred to in Article 46, paragraph 4, subparagraph 2.
3. With the request referred to in paragraph 1 there shall be enclosed the information on the proposed project, including, in particular, the following data specifying:
  - 1) the type, size and location of the project,
  - 2) the surface area of the land occupied and that of the built structure as well as their previous uses and vegetation cover,
  - 3) the type of technology,
  - 4) the possible alternative solutions of the project,
  - 5) the amounts of water and other raw and processed materials, fuels and energy expected to be used,
  - 6) the measures to protect the environment,
  - 7) types and amounts of substances or energies expected to be emitted into the environment when applying the measures to protect the environment.
4. In defining the scope of the report, the authority shall take into account the requirements laid down in Article 52, paragraphs 1, 2 and 6, to the extent warranted by the type and location of the project and the magnitude of its impact on the environment.
5. The interim decision defining the scope of the report shall be issued after the opinion of the Voivode has been obtained and in the cases referred to in Article 46, paragraph 5, after the opinions of the minister responsible for the environment and the Chief Sanitary Inspector have been obtained.

## **Article 50**

1. Where it is required for the environmental impact report to be prepared for a project, the applicant shall enclose the report, subject to paragraph 3, with the application for the granting of a decision referred to in Article 46, paragraph 4.
2. In the procedure relating to the projects referred to in Article 51, paragraph 1, subparagraph 2, the information comprising the data laid down in Article 49, paragraph 3, shall be enclosed with the application for the granting of the decisions referred to in Article 46, paragraph 4, subparagraphs 1-7.

3. In the procedure relating to a decision granting authorisation for a project for the restructuring of rural land holdings the environmental impact report shall be prepared by the authority which carries out the procedure.

### **Article 51**

1. It shall be mandatory to prepare the environmental impact report in relation to :
  - 1) proposed projects which may have significant impact on the environment,
  - 2) proposed projects which may have significant impact on the environment, where this requirement is imposed pursuant to paragraph 2.
2. The requirement to prepare the environmental impact report for a proposed project referred to in paragraph 1, subparagraph 2, shall be imposed, by way of an interim decision, by the authority competent for granting a decision referred to in Article 46, paragraph 4, subparagraph 1-7, defining therein the scope of the environmental impact report; the competent authority shall consider jointly the detailed criteria laid down in paragraph 8, subparagraph 2 and evaluate the need for the report to be prepared for the projects defined in paragraph 8, subparagraph 1, subject to paragraph 7.
3. The authority competent for the granting of the decision shall impose the requirement to prepare the report and define its scope after obtaining the opinion of:
  - 1) the environmental authority with regard to a decision referred to in Article 46, paragraph 4, subparagraphs 1, 2 and 4-7,
  - 2) the authority set out in Article 57 with regard to a decision referred to in Article 46, paragraph 4, subparagraphs 1 and 2.
4. The authority seeking the opinion shall submit the application for the granting of the decision, along with the documentation required pursuant to separate regulations, and information containing the data referred to in Article 49, paragraph 3.
5. A complaint may be filed against an interim decision concerning the requirement to prepare a report and its scope.
6. Where, in the procedure for granting a decision on the conditions for development and land use, the requirement to prepare the environmental impact report has been imposed, the report shall also be prepared in the procedure for granting a decision on building consent for the same project. The provisions of paragraph 2 and Article 50, paragraph 2, shall not apply where the decision on the conditions for development and land use was granted prior to the granting of the decision referred to in Article 46, paragraph 4, subparagraph 2.

7. It shall be mandatory to impose the requirement for the environmental impact report to be prepared for the projects referred to in paragraph 1, subparagraph 2, where the project may be implemented provided that a restricted use area is established.
8. Considering the likely environmental effects of the projects referred to in paragraph 1, the Council of Ministers shall, by way of a Regulation, lay down:
  - 1) the types of projects which may have significant impact on the environment for which the environmental impact report shall be required and the types of projects for which the report may be required, taking into account the type of activity, the production size and other technical parameters;
  - 2) detailed criteria for project screening, taking into account the characteristics of the project, emission levels and location as well as the type and scale of its environmental impact.

## **Article 52**

1. The environmental impact report of a project shall contain:
  - 1) a description of the proposed project, in particular:
    - a) the characteristics of the whole project and the conditions for site use at the stages of construction and operation;
    - b) the main characteristic features of production processes;
    - c) the envisaged levels of emissions caused by the operation of the proposed project;
  - 2) a description of the natural elements of the environment exposed to the likely environmental impact of the proposed project;
  - 3) a description of the alternatives analysed, including the alternative:
    - a) which consists in resignation from undertaking the project,
    - b) which is most favourable for the environment, along with reasons for their choice;
  - 4) an assessment of the expected environmental impact for the alternatives analysed, including the impact in the event of a major accident as well as the possible transboundary impact on the environment,
  - 5) the reasons for the alternative chosen by the applicant, indicating its impact on the environment, in particular on human beings, animals, plants, land surface, water, air, climate, material assets, cultural heritage and landscape as well as interactions between these factors;

- 6) a description of the expected significant environmental effects of the proposed project, including direct, indirect, secondary, cumulative, short-term, medium-term and long-term, permanent and temporary environmental effects caused by:
    - a) the existence of the project,
    - b) the use of environmental resources,
    - c) emissions
 and a description of the assessment methods applied by the applicant;
  - 7) a description of the measures envisaged to prevent, reduce or offset in terms of nature conservation the adverse effects on the environment;
  - 8) where the proposed project involves the use of an installation, a comparison, subject to paragraph 2, of the proposed technology with a technology which meets the requirements referred to in Article 143,
  - 9) an indication as to whether the project requires the designation of a restricted use area, the delineation of the boundaries of such an area, the imposition of restrictions on the range of use of the area and technical requirements for built structures and their uses;
  - 10) the presentation of issues in graphic form;
  - 11) analysis of potential social conflicts in relation to the proposed project;
  - 12) the presentation of the proposed monitoring of the effects of the proposed project at the stages of construction and operation;
  - 13) an indication of difficulties caused by technical deficiencies or gaps in current knowledge as encountered in preparing the report;
  - 14) a summary of the information contained in the report in a non-technical language;
  - 15) the name(s) of the person(s) who has(have) prepared the report,
  - 16) sources of information providing the basis for the report.
2. Where the proposed project involves the use of an installation requiring the granting of an integrated permit, the environmental impact report of a project shall contain a comparison of the proposed technique with the best available technique.
  3. The environmental impact report shall take into account the effects of the project at the stages of its implementation, operation and decommissioning.
  4. Where the environmental impact report is prepared within the procedure for granting a decision on building consent, it shall
    - 1) comprise the information referred to in paragraph 1, with the level of detail and accuracy corresponding to the data acquired from the building design

and other information obtained after the decision on the conditions for development and land use as well as following the authorisation for the location of a motorway;

- 2) lay down the extent and manner of taking into account the requirements of environmental protection as contained in the decision on the conditions for development and land use and other decisions relating to environmental protection.
5. The scope of the environmental impact report of the project as laid down in the procedure for granting a decision on the conditions for development and land use shall be taken into account when conducting the procedure for granting a decision on building consent for the same project.
6. The environmental impact report prepared prior to issuing the location indications pursuant to the provisions of the Act on Toll Motorways, in addition to the information referred to in paragraphs 1 and 3, shall propose sections which shall be defined as crucial in the light of the requirements of environmental protection or the possibility of public conflicts, for which it shall be mandatory to carry out another environmental impact assessment procedure at the stage of granting the authorisation for the location of the motorway.
7. To the extent where it pertains to the identification of cultural heritage sites existing in the vicinity or within the direct range of impact of the proposed motorway and to the determination of the effects on such sites, the report referred to in paragraph 6 shall be prepared by an expert included in the list of experts of the minister responsible for culture and the protection of national heritage.
8. The minister responsible for the environment and the minister responsible for culture and the protection of national heritage, in agreement with the minister responsible for health, shall lay down, by way of a regulation, the detailed requirements to be met by the environmental impact report for a motorway, with a view to identifying the environmental resources and cultural heritage sites existing in the vicinity or within the direct range of impact of the proposed motorway and determining the effects on such resources and sites.
9. The Regulation referred to in paragraph 8 shall lay down:
  - 1) the form wherein the report shall be prepared,
  - 2) the scope of issues which shall be identified and assessed in the report,
  - 3) the territorial ranges of the report,

- 4) the types of documents containing information which shall be taken into account in the report.

#### **Article 53**

The authority competent for the granting of decisions referred to in Article 46, paragraph 4, shall ensure the possibility of public participation in the procedure within which an environmental impact report is prepared for a project.

#### **Article 54**

In the light of the requirements of environmental protection or the possibility of public conflicts, the authority competent for the granting of the location indications pursuant to the provisions of the Act on Toll Motorways shall identify in such indications the crucial sections for which it shall be mandatory to carry out another environmental impact assessment procedure at the stage of granting authorisation for the location of the motorway.

#### **Article 55**

**Where the environmental impact assessment procedure results in finding that a project should be implemented in a way other than the proposed one, the administration authority shall either, if the applicant agrees, in the decision referred to in Article 46, paragraph 4, subparagraphs 1 and 3-8, indicate the alternative authorised to be implemented; or, if the applicant fails to agree, shall refuse to grant consent to the project.**

#### **Article 56**

1. The administration authority may:
  - 1) by a decision referred to in Article 46, paragraph 4, impose obligations to prevent, reduce and monitor the effects of the project on the environment;
  - 2) by a decision referred to in Article 46, paragraph 4, subparagraph 2, with regard to projects for which the preparation of the environmental impact report is required, impose on the applicant the obligation to submit a follow-up analysis, defining its scope and the time of its submission.
2. The follow-up analysis referred to in paragraph 1, subparagraph 2, shall compare the findings of the environmental impact report and the provisions of the decision referred to in Article 46, paragraph 4, subparagraph 2, with the real effects of the project on the environment and the measures undertaken to reduce them.

#### **Article 57**

1. The Powiat Sanitary Inspector shall be the authority competent for granting its approval prior to the granting of decisions referred to in Article 46, paragraph 4, subparagraphs 1 and 2, and for giving its opinion on the need for preparing the environmental impact report and its scope, with regard to the projects referred to in Article 51, paragraph 1, subparagraph 2.
2. The Chief Sanitary Inspector shall be the authority competent for the matters referred to in Article 46, paragraph 5.

### **Chapter 3**

#### **The procedure relating to the transboundary impact on the environment**

##### **Article 58**

1. Where it is found that a transboundary impact on the environment may originate in the territory of the Republic of Poland, as a result of:
  - 1) the implementation of proposed projects covered by decisions referred to in Article 46, paragraph 4;
  - 2) the implementation of draft policies, strategies, plans or programmes referred to in Article 40, paragraph 1, subparagraph 2,the procedure relating to the transboundary impact on the environment shall be carried out.

##### **Article 59**

The procedure relating to the transboundary impact on the environment shall also be carried out where the possible impact on the environment which originates outside of the borders of the Republic of Poland could manifest themselves in its territory.

##### **Article 60**

1. Where the administration authority which carries out the environmental impact assessment procedure for a proposed project finds that it may have a transboundary impact on the environment as a result of its implementation:
  - 1) it shall issue an interim decision that the procedure relating to the transboundary impact on the environment shall be carried out, imposing on the applicant the obligation to prepare documentation indispensable for this procedure to be carried out, in the language

of the country in whose territory the project may have its impact, and setting out the scope of this documentation,

- 2) it shall immediately inform the minister responsible for the environment that the proposed project may have a transboundary impact on the environment and forward the documentation indispensable for the actions referred to in Article 61 to be taken.
2. A complaint may be filed against the interim decision referred to in paragraph 1, subparagraph 1.

### **Article 61**

1. Having acquired information on the possible transboundary impact of the proposed project on the environment, the minister who is responsible for the environment shall immediately notify thereof the state in whose territory the project may have its impact and propose a time frame for the state to respond as to whether it is interested in participating in the environmental impact assessment procedure.
2. The minister who is responsible for the environment shall enclose with the notification the data referred to in Article 49, paragraph 3.

### **Article 62**

Where the state referred to in Article 61, paragraph 1, notifies that it is interested in participating in the environmental impact assessment procedure, in agreement with the administration authority which carries out the environmental impact assessment procedure, the minister responsible for the environment shall agree with this state on the dates of the stages of the procedure.

### **Article 63**

1. Having obtained the environmental impact report, the minister who is responsible for the environment shall forward it immediately to the state which participates in the environmental impact assessment procedure.
2. Via the minister responsible for the environment, the administration authority which carries out the environmental impact assessment procedure shall hold consultations with the state where the project may have its impact concerning the measures to eliminate or reduce the transboundary impact on the environment.

3. Where the minister responsible for the environment deems it purposeful in the light of the importance or intricacy of the case, the minister may take over the consultations referred to in paragraph 2.
4. The minister responsible for the environment shall participate in the consultations referred to in paragraph 2, whereas the administration authority which carries out the environmental impact assessment procedure shall participate in the consultations referred to in paragraph 3.

#### **Article 64**

1. Comments and recommendations submitted by the state which participates in the environmental impact assessment procedure and the results of the consultations referred to in Article 63 shall be taken into account in granting decisions referred to in Article 46, paragraph 4, and in making the interim decision on the scope of the environmental impact report.
2. The decisions referred to in Article 46, paragraph 4, shall not be granted before the conclusion of the procedure relating to the transboundary impact on the environment.

#### **Article 65**

The minister who is responsible for the environment shall forward the decisions referred to in Article 46, paragraph 4, to the state which participates in the environmental impact assessment procedure.

#### **Article 66**

1. Having obtained documents which contain information on a project undertaken outside of the borders of the Republic of Poland which may have its impact in its territory, the minister who is responsible for the environment shall immediately forward them to the relevant Voivode in the light of the area affected by the possible transboundary impact on the environment.
2. To the extent indispensable to allow for an analysis of the impact of the project on the environment, the Voivode shall make available for public review the documents referred to in paragraph 1 in the Polish language; the provision of Article 32, paragraph 1, subparagraph 1, shall apply, respectively.

3. The Voivode shall submit its draft position on the project which may have its impact on the environment in the territory of the Republic of Poland to the minister who is responsible for the environment.
4. The minister who is responsible for the environment shall notify the state which undertakes a project which may have impact on the environment in the territory of the Republic of Poland about its position on this project.

#### **Article 67**

The provisions of this Chapter shall apply respectively to the cancellation, modification or annulment of the decisions referred to in Article 46, paragraph 4.

#### **Article 68**

The provisions of Articles 61-66 shall apply, respectively, to the environmental impact assessment procedure relating to draft policies, strategies, plans or programmes referred to in Article 40, paragraph 1, subparagraph 2, the implementation whereof may have a transboundary impact on the environment.

#### **Article 69**

The provisions of Articles 20 and 21 shall apply, respectively, to the procedure relating to the transboundary impact on the environment.

#### **Article 70**

**Unless international agreements provide for a different procedure relating to the transboundary impact on the environment, the provisions of this Chapter shall apply.**

### **Part VII**

#### **Environmental protection in land use and the implementation of projects**

#### **Article 71**

1. The principles of sustainable development and environmental protection shall provide the basis for drawing up and updating the concepts of the national land-use policy, the

Voivodship development strategies, the Voivodship land-use plans, the Gmina studies of factors and directions of land use and local land-use plans.

2. In particular, the concepts, strategies and plans referred to in paragraph 1 shall:
  - 1) set out the measures indispensable to prevent the emergence of pollution, the provision of protection against emerging pollution and the restoration of the environment to the proper state,
  - 2) lay down the conditions for the implementation of projects which ensure that the optimum effects in environmental protection are achieved.
3. The purpose and manner of land use shall ensure to the largest extent that its landscape values are preserved.

## **Article 72**

1. Gmina studies of the factors and directions of land use and local land-use plans shall ensure the conditions for the preservation of the natural equilibrium and the rational management of environmental resources, in particular, by:
  - 1) establishing programmes for the rational use of the land surface, including the areas where mineral deposits are exploited, and for the rational land management,
  - 2) taking into account the areas where mineral deposits are present and the future needs for the exploitation of these deposits,
  - 3) ensuring a comprehensive solution to the problems of the building up of urban and rural areas, with particular consideration given to water management, wastewater discharge, waste management, transport systems, public transport and the laying out and development of greenery areas,
  - 4) by taking into account the need to protect waters, soil and land against pollution related to agriculture,
  - 5) ensuring the protection of landscape values and climatic conditions,
  - 6) taking into account the other needs in the scope of the protection of the air, waters, soil, land as well as the protection against noise, vibrations and electromagnetic fields.
2. When designating land for individual purposes and laying down the tasks relating to its uses in the structure of land use, Gmina studies of the factors and directions of land use and local land-use plans shall set out the proportions allowing for the preservation or restoration of the natural equilibrium and the correct living conditions on this land.

3. Gmina studies of the factors and directions of land use and local land-use plans shall also lay down the manner of management of land degraded as a result of man's activities and natural disasters.
4. The requirements set out in paragraphs 1 – 3 shall be laid down on the basis of ecophysiographic studies, depending on the type of a plan, the characteristics of the individual natural elements and their mutual linkages.
5. An ecophysiographic study shall mean documentation prepared for the purposes of land-use plans, characterising the individual natural elements in the area covered by the plan and their mutual linkages.
6. In agreement with the minister responsible for land use and housing, the minister responsible for the environment shall lay down, by way of a Regulation, the types and scope of the ecophysiographic studies referred to in paragraph 4.
7. The provisions of paragraph 1, subparagraph 2, shall apply, respectively, to the Voivodship land-use plan.

### **Article 73**

1. In particular, the local land-use plan and the decision on the conditions for land development and use shall take into account the restrictions resulting from:
  - 1) the establishment pursuant to the provisions of the Nature Protection Act of a national park, nature reserve, landscape park, protected landscape area, nature and landscape complex, ecological utility, documentation site, nature monuments and their buffers,
  - 2) the establishment of restricted use areas,
  - 3) the establishment pursuant to the provisions of the Water Law Act of the conditions for the use of river basin waters and the establishment of the protective areas of water intakes and the protective areas of groundwater aquifers.
2. Communication lines, above ground and underground pipelines, cable lines and other linear facilities shall be routed and implemented in a manner ensuring the limitation of their effects on the environment, including:
  - 1) the protection of landscape values,
  - 2) the mobility of wildlife.
3. In the administrative boundaries of towns/cities and within compact rural building, it shall be prohibited to build plants which cause dangers to human life or health, in particular, the hazard of major accidents. The expansion of such plants shall be allowed provided that it would reduce the dangers to human life or health, including the hazard of major accidents.

4. Plants which cause the hazard of major accidents shall be localised at a safe distance from one another, public utilities, collective housing and the areas referred to in paragraph 1, subparagraphs 1 and 3.

#### **Article 74**

1. In the course of the preparation and implementation of a project, economical use of land shall be ensured.
2. The requirements referred to in paragraph 1 shall be taken into account in particular by designers, the administration authorities which lay down the conditions for land development and use and the administration authorities competent for the matters of real-estate expropriation.

#### **Article 75**

1. In the course of construction works the investor who implements the project shall be obliged to ensure environmental protection on the site where the works are conducted, in particular the protection of soil, greenery, the natural relief of the terrain and water regime.
2. In the course of construction works, the use and transformation of natural elements shall be allowed only to the extent necessary for the implementation of a specific project.
3. Where the protection of natural elements is impossible, measures shall be taken to rectify the damage done, in particular through compensation for nature conservation.
4. In the construction permit, the competent administration authority shall lay down in detail the scope of the requirements referred to in paragraphs 1 and 3.

#### **Article 76**

1. A newly built or modernised building structure, a complex of such structures or installations shall not be set in operation unless they meet the requirements of the environmental protection as referred to in paragraph 2.
2. The requirements of environmental protection for a newly built or modernised building structure, a complex of such structures or installations shall be as follows:
  - 1) the implementation of technical measures protecting the environment as required by legislation or specified in administrative decisions,
  - 2) the use of appropriate technological solutions pursuant to laws or decisions,

- 3) the possession of the required decisions specifying the scope and conditions of the use of the environment,
  - 4) the performance of testing and checks required by law at the relevant stage and compliance with the emission standards as laid down by legislation and the conditions for emissions as set out in the permit.
3. A newly built or modernised building structure, a complex of such structures or installations shall not be allowed to operate within 30 days of the end of the start-up if they fail to comply with the emission standards as laid down by legislation and the conditions for emissions as provided for in the permit and set out for the stage following the end of the start-up.
4. 30 days before the date of the setting in operation of a newly built or modernised building structure, a complex of such structures or installations implemented as projects which are likely to have significant effects on the environment, as referred to Article 51, paragraph 1, the investor shall be obliged to notify the Voivodship Inspector for Environmental Protection of the planned date:
- 1) of the setting into operation of the newly built or modernised building structure, a complex of such structures or installations,
  - 2) of the end of the start-up of the installation where it is envisaged.

## **Part VIII**

### **Environmental education, studies in the scope of environmental protection and advertisements**

#### **Article 77**

1. The issues of environmental protection and sustainable development shall be covered in the basic curricula of general education for all types of schools.
2. The obligation referred to in paragraph 1 shall also apply to the organisers of training courses leading to the acquisition of vocational skills.

### **Article 78**

The mass media shall be obliged to shape a positive attitude of the public to environmental protection and popularise the principles of such protection in publications and broadcasts.

### **Article 79**

Administration authorities, institutions co-ordinating and directing scientific activities and scientific research as well as university-level schools, scientific and scientific research centres the scope of activity whereof covers the fields of science or scientific disciplines relating to environmental protection shall be obliged to include and develop research on the issues of environmental protection in their programmes and activities.

### **Article 80**

Advertisements or other types of product or service promotion shall not include any content promoting a consumption model in contradiction with the principles of environmental protection and sustainable development, in particular they shall not use the image of wildlife to promote products and services which have negative effects on the natural environment.

## **Title II**

### **The protection of environmental resources**

#### **Part I**

#### **General provisions**

### **Article 81**

1. The protection of environmental resources shall be implemented pursuant to this Act and special legislation.

2. The detailed principles of water protection shall be laid down by the provisions of the Water Law Act.
3. The detailed principles of the management of a mineral deposit and the environmental protection relating to the exploitation of the deposit shall be laid down by the Act - Geological and Mining Law.
4. The detailed principles of:
  - 1) the protection of areas and sites with natural values, the landscape, animals and plants endangered with extinction as well as trees, shrubs and greenery shall be laid down by the provisions of the Nature Conservation Act,
  - 2) the protection of forests - shall be laid down by the provisions of the Forest Act,
  - 3) the protection of animals living in the wild – shall be laid down by the provisions of the Hunting Framework Act of 13 October 1995 (Official Journal No. 147, Item 713; 1997, No. 14, Item 72, No. 60, Item 369, No. 88, Item 554, No. 110, Item 715, No. 133, Item 884; 1998, No. 106, Item 668; 1999, No. 40, Item 401; 2000, No. 120, Item 1268), of the Inland Fisheries Act of 18 April 1985 (Official Journal of 1999, No. 66, Item 750, No. 1010, Item 1178; 2000, No. 120, Item 1268) and the Marine Fisheries Act of 18 January 1996 (Official Journal No. 34, Item 145; 1999, No. 70, Item 778),
  - 4) the protection of livestock and domestic animals – shall be laid down by the provisions of the Animal Protection Act of 21 August 1997 (Official Journal No. 111, Item 724; 1998, No. 106, Item 668, No. 113, Item 715; 2000, No. 12, Item 136; 2001, No. 3, Item 21),
  - 5) the protection of farmland and forestland – shall be laid down by the Act on the Protection of Farmland and Forestland of 3 February 1995 (Official Journal No. 16, Item 78; 1997, No. 60, Item 370, No. 80, Item 505, No. 160, Item 1079; 1998, No. 106, Item 668; 2000, No. 12, Item 136, No. 120, Item 1268).

## **Article 82**

Environmental protection shall be implemented in particular by:

- 1) laying down the environmental quality standards and control of compliance therewith and also by taking measures to prevent them being exceeded or to restore them,
- 2) limiting emissions, following the principles set out in Title III.

### **Article 83**

1. When laying down the environmental quality standards the scale of the occurrence of substances and energies and the type of their environmental impact shall be taken into account.
2. The environmental quality standards may be differentiated depending on the areas and shall be expressed as the levels of substances or energy.

### **Article 84**

1. Programmes shall be drawn up to ensure compliance with the environmental quality standards in the cases indicated by statute or specific regulations adopted by an act of local law. The programmes shall be published in the Voivodship official journals.
2. The programme shall lay down:
  - 1) the area covered by the scope of its application,
  - 2) the environmental quality standards which have been violated, along with an indication of the extent of the violation,
  - 3) the basic directions and scope of the measures indispensable for the restoration of the environmental quality standards,
  - 4) the physical and financial timetable for the proposed measures,
  - 5) the entities to which the obligations set out in the programme are addressed,
  - 6) if necessary, additional obligations of the users of the environment relating to the limitation of their impact on the environment, consisting of:
    - a) the obligation to conduct measurements of the levels of emissions or the levels of substances or energies in the environment,
    - b) the obligation to forward, with the indicated frequency, the results of the measurements conducted and information regarding compliance with the requirements set out in the permits which have been granted to them,
    - c) the limitation of the validity term of the permits held by a given entity, no less however than up to 2 years,
  - 7) the obligations of administration authorities to transmit information on the issued decisions impacting the realisation of the programme to the authority approving the programme.
  - 8) the manner of surveillance and documentation of the implementation of the programmes and its effects.
3. The content of the programme will be laid down, in particular, on the basis of:

- 1) an assessment of the nature and scope of the current state of the environment, made particularly on the basis of the data from the state environmental monitoring system,
  - 2) analysis of the feasible organisational, technical or economic alternatives of the proposed measures, taking into account the necessity of applying the technologies referred to in Article 143 or the best available techniques,
  - 3) analysis of the costs of application of the proposed protective measures, with a view to optimising them,
  - 4) analysis of the nature of the restricted use areas existing in the area covered by the programme and the extent of the restrictions adopted in respect of the use of these areas.
4. The results of the assessments and analyses referred to in paragraph 3 shall be included in the justification for the programme, which shall be made available on the principles laid down in Title I, Part IV, Chapter 1.

## **Part II**

### **Ambient air protection**

#### **Article 85**

Ambient air shall be protected by ensuring its best possible quality, in particular by:

- 1) maintaining the levels of substances in ambient air below their limit values or at least at these levels,
- 2) reducing the levels of substances in ambient air at least to their limit values, where they are not complied with.

#### **Article 86**

1. In agreement with the minister responsible for health, the minister responsible for the environment shall lay down, by way of a Regulation, subject to paragraph 3:
  - 1) the limit values for certain substances in ambient air,
  - 2) the alert thresholds for certain substances in ambient air which can endanger human health even when exceeded over a short time,
  - 3) the conditions under which the substance levels shall be determined, such as temperature and pressure,

- 4) the numerical codes of substances allowing for their unambiguous identification,
  - 5) the periods over which the measured results shall be averaged – separately for the limit values of substances and for the alert thresholds of the substances in ambient air,
  - 6) the differentiated limit values for substances in ambient air for:
    - a) the territory of the country, excluding the areas of national parks and those covered by protection extended to health resorts,
    - b) the areas of national parks,
    - c) the areas covered by protection extended to health resorts.
2. The Regulation referred to in paragraph 1 may lay down:
    - 1) the limit frequency of exceedances,
    - 2) the periods when the limit values for certain substances shall apply in the territory of the country, excluding the areas of national parks and those covered by protection extended to health resorts, and in the areas of health resorts.
  3. In agreement with the minister responsible for health, the minister responsible for the environment may lay down, by way of a Regulation, the standards of odour quality of ambient air and the methods for the assessment of the odour quality of ambient air.
  4. The Regulation referred to in paragraph 3 shall lay down:
    - 1) the limit values for odorants in ambient air,
    - 2) the limit frequencies of exceedances for odorants in ambient air,
    - 3) the differentiated limit frequencies of exceedances of the limit values for odorants in ambient air, depending on the land uses and odour quality (neutral, pleasant and unpleasant),
    - 4) the periods over which the measured results shall be averaged.
  5. The Regulation laid down in paragraph 3 may set the periods over which the standards for the odour quality of ambient air shall apply.

## **Article 87**

1. The ambient air quality shall be assessed in zones.
2. The zone shall be:
  - a) an agglomeration with a population in excess of 250,000,
  - b) the area of a Powiat which is not part of the agglomeration referred to in subparagraph 1.

## **Article 88**

1. The ambient air quality shall be assessed and its variations shall be observed in the framework of the state environmental monitoring system.
2. For the purposes of laying down the adequate manner of ambient air quality assessment in the individual zones, at least every five years, subject to paragraph 4, the Voivode shall designate the zones, separately based on the level of each substance, singling out the zones where:
  - 1) the limit values are exceeded,
  - 2) the level of a substance does not exceed the limit value and exceeds the lower assessment threshold,
  - 3) the level of a substance does not exceed the upper assessment threshold and exceeds the lower assessment threshold,
  - 4) the level of a substance does not exceed the lower assessment threshold.
3. The upper and lower assessment thresholds shall mean the percentage parts of the limit value of a substance in ambient air as laid down in the regulations adopted pursuant to Article 90, paragraph 3.
4. The designation based on the level of a given substance shall be made before 5 years elapse where the total national quantity of this substance released into ambient air has changed by at least 20% from the time of the previous designation.

## **Article 89**

1. Every year the Voivode shall assess the levels of substances in a given zone and then designate the zones where:
  - 1) the level of at least one substance exceeds the limit value plus the margin of tolerance,
  - 2) the level of at least one substance falls between the limit value and the limit value plus the margin of tolerance,
  - 3) the levels of substances do not exceed the limit values.
2. The margin of tolerance shall mean the value as laid down by the regulations adopted pursuant to paragraph 4 the exceedance whereby of the limit value of a substance in ambient air shall not impose the obligation to take the measures referred to Article 91, paragraph 1.
3. Where the margin of tolerance has not been set for a substance, the area where the level of this substance exceeds the limit value of this substance in ambient air shall be included in the zone referred to in paragraph 1, subparagraph 1.

4. In agreement with the minister responsible for health, the minister responsible for the environment shall set, by way of a Regulation, the margins of tolerance of the limit values of certain substances in ambient air.
5. The Regulation referred to in paragraph 4 shall lay down:
  - 1) the numerical codes for substances allowing for their unambiguous identification,
  - 2) the margin of tolerance expressed as a decreasing percentage value relative to the limit value for the substance in ambient air in successive years.

### **Article 90**

1. The Voivode shall assess the levels of substances in ambient air on the basis of measurements:
  - 1) in agglomerations with a population in excess of 250,000,
  - 2) in the other zones:
    - a) where the level of a substance exceeds the upper threshold value but does not exceed the limit value,
    - b) where the level of a substance exceeds the limit value.
2. In cases other than those indicated in paragraph 1, subparagraphs 1 and 2, the Voivode may assess the level of a substance in ambient air on the basis of a combination of measurements and modelling methods, or using modelling only, or other assessment methods.
3. In agreement with the minister responsible for health, the minister responsible for the environment shall lay down, by way of a Regulation, the ways, methods and scope of the assessment of the levels of substances in ambient air, the upper and lower assessment thresholds for substances with fixed limit values and the reference methods for modelling ambient air quality.
4. The Regulation referred to in paragraph 3 shall lay down:
  - 1) the extent of the measurements required, with a division into continuous and periodic measurements, depending on the division into zones as referred to in paragraph 1 and Article 88, paragraph 2,
  - 2) the criteria for the localisation of substance sampling points when the measurements are conducted in respect of:
    - a) the protection of human health,
    - b) the protection of vegetation,
    - c) the impact of transport,

- 3) the minimum number of fixed measurement points when measuring:
    - a) the levels of substances in ambient air where they are emitted on a fugitive basis or from small installations,
    - b) the levels of substances in ambient air where they are emitted from large installations,
    - c) the levels of substances in ambient air where they are measured for the purpose of the protection of vegetation,
  - 4) the manner of selection of measuring points,
  - 5) the cases where ambient air quality may be assessed by a combination of measurement methods and modelling, and where it may be assessed solely by modelling or other assessment methods, depending on the division into the zones as referred to in paragraph 1 and Article 88, paragraph 2,
  - 6) the reference methods.
5. The Regulation referred to in paragraph 3 may also lay down:
- 1) the limit frequencies of exceedances of the assessment thresholds,
  - 2) the ways of determining the frequencies of exceedances of the assessment thresholds.

### **Article 91**

1. For the zones referred to in Article 89, Paragraph 1, subparagraph 1, having obtained the opinion of the relevant Starosts, the Voivode shall establish, by way of a Regulation, programmes to protect ambient air, designed to achieve compliance with the limit values of substances in ambient air.
2. For zones where the levels of more than one substance are exceeded, a common ambient air protection programme will be established covering all the substances.
3. Where the causes of exceedances in the zones referred to in Article 89, paragraph 1, subparagraph 1, are located within a Voivodship other than the one where the zones are located, the competent Voivodes shall work together in drawing up the programmes referred to in paragraph 1.
4. The minister responsible for the environment shall lay down, by way of a Regulation, the detailed requirements to be met by ambient air protection programmes.
5. The Regulation referred to in paragraph 4 shall lay down:
  - 1) the format in which the programme shall be drawn up,
  - 2) the indispensable components of the programme,
  - 3) the scope of issues to be identified and assessed by the programme.

## **Article 92**

1. Where there is the risk that the limit values or alert thresholds for substances in ambient air may be exceeded in a given zone, having obtained the opinion of the competent Starost, the Voivode shall lay down a short-term action plan setting out the measures designed to:
  - 1) reduce the risk of such exceedances,
  - 2) limit the effects and duration of exceedances once they occur.
2. In particular, the short-term action plan shall contain:
  - 1) the list of users of the environment obliged to limit or cease gas or dust releases into ambient air from their installations,
  - 2) the manner in which the traffic of internal-combustion vehicles and other equipment shall be organised, restricted or prohibited,
  - 3) the manner in which authorities, institutions, users of the environment and citizens shall act when exceedances take place,
  - 4) a description of the procedure and manner in which exceedance shall be notified.
3. The provisions of paragraphs 1 and 2 as well as Article 93 concerning the obligation to draw up a short-term action plan where the limit values of substances in ambient air are exceeded and the obligation to implement such a plan shall not apply to the zones referred to in Article 89, paragraph 1, subparagraph 1, in respect of the substances the limit values whereof have been exceeded.

## **Article 93**

1. The Voivode shall notify without delay the public and the entities referred to in Article 92, paragraph 2, subparagraph 1, in a manner commonly utilised in a given area, of the risk that the limit values or the alert thresholds for substances in ambient air are likely to be exceeded or have been exceeded.
2. This notification shall contain in particular:
  - 1) the date, hour and the area where the risk that an exceedance may occur or has occurred and the reasons for such a situation,
  - 2) the predicted change in the levels of substances in ambient air, along with the reasons for such a change, the area where it is expected and the duration or the risk of an exceedance,

- 3) an indication of the population groups sensitive to the exceedance and the precautionary measures that they shall take,
- 4) information on restrictions in effect and other remedial measures.

#### **Article 94**

1. The Voivode shall communicate to the Chief Inspector for Environmental Protection:
  - 1) the results of the designation of the zones referred to in Article 88, paragraph 2,
  - 2) the results of the measurements referred to in Article 90, paragraph 1,
  - 3) the results of the assessment of the levels of substances in ambient air and the results of the designation of the zones referred to in Article 89,
  - 4) information on the identified exceedances of the alert thresholds for substances in ambient air as referred to in Article 93.
2. The Voivode shall communicate to the minister responsible for the environment information concerning the ambient air protection programmes referred to in Article 91.
3. The minister responsible for the environment shall lay down, by way of a Regulation, the scope of, and the manner of communicating, the information referred to in paragraphs 1 and 2,
4. The Regulation referred to in paragraph 3 shall lay down:
  - 1) the date for the communication of information,
  - 2) the format of the communication of information,
  - 3) the layout of the information to be communicated,
  - 4) the required techniques for the communication of information.

#### **Article 95**

1. In the area where the limit value of a substance in ambient air is exceeded, in respect of a project likely to have significant effects on the environment as referred to Article 51, paragraph 1, the voivode may, by way of a decision, impose on the user of the environment conducting an activity causing emissions of the substance into the air the obligation to measure the levels of this substance in ambient air.
2. In the case referred to in paragraph 1, the entity shall be obliged to keep the results of the measurements for 5 years from the end of the calendar year to which they apply.
3. The procedure for the making of the decision referred to in paragraph 1 shall be initiated ex officio.

## **Article 96**

With a view to preventing a negative effect on the environment or cultural heritage, by way of a Regulation, the Voivode may lay down, for the area of the Voivodship or a part of it, the types or quality of fuels allowed to be used as well as the manner in which this obligation shall be met and controlled.

## **Part III**

### **Water protection**

## **Article 97**

1. The protection of waters shall consist of ensuring that their quality is as high as possible, including the maintenance of the quantity of water at a level ensuring the protection of the biological equilibrium, in particular by:
  - 1) maintaining the quality of waters at a level higher than, or at least the same as, the level required by regulations,
  - 2) taking measures to attain the quality of waters at the same level at least as required by regulations, where it has not been achieved.
2. The level of water quality shall be defined taking into account the quantities of substances and energies in waters and the capacity of aquatic ecosystems to function.

## **Article 98**

1. Groundwater and its recharge areas shall be covered by protection, consisting in particular of:
  - 1) reducing the risk of pollution of this water due to the reduction of impacts on its recharge areas,
  - 2) maintaining the equilibrium of the resources of this water.
2. In particular, for the purposes referred to in paragraph 1, on the principles laid down by the Water Law Act, protective areas of groundwater aquifers shall be established.
3. Unless a special provision provides otherwise, groundwater shall be used to meet the consumption needs of the population.

## **Article 99**

1. Administration authorities shall plan and implement measures to protect the level of water quality, taking into account the river basins.

2. For the purposes of water protection, the conditions for the use of waters in the river basin district shall be set.
3. An integral part of the conditions for the use of the waters in the river basin district shall be the water protection programmes for the areas where the levels of water quality have not been achieved.

#### **Article 100**

1. In planning and implementing a measure, such solutions shall be used as will limit the change in the water regime to the extent necessary in the light of the specific nature of the measure.
2. Where a temporary change in the water regime is necessary, it shall be allowed only over the period of time necessary.
3. Everyone who has caused a temporary change in the water regime shall be obliged to take measures to restore it once this change is no longer necessary.

### **Part IV**

#### **Land surface protection**

#### **Article 101**

The protection of the land surface shall consist of ensuring that its quality is as high as possible, in particular by:

- 1) its rational management,
- 2) the conservation of natural values,
- 3) the preservation of its potential for use in production,
- 4) the limitation of change in the natural relief of the terrain,
- 5) the maintenance of the quality of soil and earth at a level higher than, or at least the same as, the level required by standards,
- 6) taking measures to attain the quality of soil and earth at least at the level required by standards, where they are not complied with,
- 7) the preservation of cultural values, taking into account the cultural heritage of an archaeological nature.

## **Article 102**

1. The holder of the land surface, where soil or earth is polluted or the natural relief of the terrain has been transformed in an adverse way, shall be obliged, subject to paragraphs 2-5, to reclaim them.
2. Where the holder of the land surface demonstrates that the pollution of soil or earth, or an adverse transformation of the natural relief of the terrain which occurred after the date when the holder had gained the land surface was caused by another identified entity, the latter entity shall be obliged to reclaim the land surface.
3. Where the soil or earth has been polluted, or the natural relief of the terrain has been adversely transformed with the consent or knowledge of the holder of the land surface, the holder shall be obliged to reclaim within joint and several liability with the perpetrator
4. The Starost shall reclaim the land surface, where:
  - 1) the entity which has caused the pollution of the soil or earth, or the adverse transformation of the natural relief of the terrain, has no right to the land surface which would allow him to reclaim them, or
  - 2) it is impossible to initiate the execution procedure concerning the reclamation obligation or such a procedure has been ineffective, or
  - 3) the soil or earth has been polluted, or the natural relief of the terrain has been adversely transformed, as a result of a natural disaster.
5. The Starost shall also perform the reclamation where, in the light of danger to human life or health, or the possibility of irreversible damage to the environment, it is necessary to perform the reclamation immediately.
6. In the case referred to in paragraph 4, subparagraph 1, the reclamation costs shall be incurred by the entity which has caused the pollution of the soil or earth, or the adverse transformation of the natural relief of the terrain.
7. In the case referred to in paragraph 5, the reclamation costs shall be incurred by the holder of the land surface; the provisions of paragraphs 2 and 3 shall apply respectively.
8. By way of a decision, the Starost shall set out the obligation to incur the reclamation costs, their amount and the manner of their payment.
9. The provisions of Part III of the Act of 29 August 1997 - Tax Ordinance (Official Journal No. 137, Item 926, No. 160, Item 1083; 1998, No. 106, Item 668; 1999, No. 11, Item 95, No. 92, Item 1062; 2000, No. 94, Item 1037, No. 116, Item 1216, No. 120, Item 1268, No. 122, Item 1315) shall apply to the amounts payable under the obligation to cover the costs

referred to in paragraphs 6-8, with the Starost exercising the powers of the taxation authorities.

### **Article 103**

1. The reclamation relating to the adverse transformation of the natural relief of the terrain shall consist in its restoration to its previous state.
2. The reclamation of the polluted soil or earth shall consist in their restoration to the status required by quality standards.
3. The quality standard shall set out the contents of certain substances in soil or earth below which none of the functions served by the land surface is impaired.
4. The function served by the land surface shall be assessed on the basis of its actual development and land use, unless another function results from the land-use plan.

### **Article 104**

The soil and earth used for earthworks, including the sediments from the bottoms of standing water reservoirs or flowing waters, must not exceed the quality standards set by regulations adopted pursuant to Article 105.

### **Article 105**

1. In agreement with the minister responsible for agriculture, the minister responsible for the environment, by way of a Regulation:
  - 1) shall lay down the quality standards for soil,
  - 2) may lay down the quality standards for earth.
2. The Regulations referred to in paragraph 1 shall take into account:
  - 1) the groups of ground types, according to the criterion of their current or planned functions,
  - 2) the quality standards for soil or earth as the contents of certain substances in soil or earth, differentiated for the different groups of ground types and given their water permeability and depth.
3. The Regulations referred to in paragraph 1 may lay down:
  - 1) the quality standards for soil or earth when used for specific earthworks, including the sediments from the bottoms of standing water reservoirs or flowing waters where they are used for this purpose,
  - 2) the reference methods for testing the quality of soil or earth,

- 3) the reference methods for modelling the migration of substances in soil and earth.

#### **Article 106**

1. The entity obliged to perform the reclamation shall, subject to Article 108, agree its conditions with the environmental authority.
2. This agreement shall have the form of a decision laying down the scope and manner of, as well as deadline for, the completion of the reclamation.
3. The application for this agreement shall indicate:
  - 1) the area needing reclamation,
  - 2) the functions served by the land surface needing reclamation,
  - 3) the planned scope and manner of reclamation and the deadline for its completion.

#### **Article 107**

1. In the area where the quality standards for soil or earth are exceeded, the Starost may impose, by way of a decision, on the user of the environment who is the holder of the land surface and is obliged to perform the reclamation, the obligation to measure the contents of substances in soil or earth. In such a case the entity shall be obliged to keep the results of the measurements for 5 years from the end of the calendar year to which they apply.
2. The procedure for the making of the decision referred to in paragraph 1 shall be initiated ex officio.

#### **Article 108**

1. In the cases referred to in Article 102, paragraphs 4 and 5, by way of a decision, the Starost shall lay down the scope and manner of reclamation as well as the dates when the reclamation shall be started and completed.
2. The holder of the land surface shall be obliged to make it possible for reclamation to be performed in compliance with the conditions laid down in the decision referred to in paragraph 1.
3. The procedure for the making of the decision referred to in paragraph 1 shall be initiated ex officio.

### **Article 109**

1. The quality of soil and earth shall be assessed and its variations shall be observed in the framework of the state environmental monitoring system.
2. The Starost shall conduct periodic testing of the quality of soil and earth.
3. The minister responsible for the environment may lay down, by way of a Regulation, the scope and manner of the testing referred to in paragraph 2.
4. The Regulation referred to in paragraph 3 shall lay down:
  - 1) the manner of selecting the sampling points,
  - 2) the required sampling frequency.
5. The Regulation referred to in paragraph 3 may set out the manner of presenting the results of testing.
6. Where it is found that the quality standards for soil or earth have been exceeded the Voivodship Inspector for Environmental Protection shall communicate the results of measurements to the Starost.

### **Article 110**

The Starost shall keep an annually updated register containing information on the areas where the quality standards for soil or earth have been found to be exceeded, specifying the areas in respect of which the Starost is obliged to perform the reclamation.

### **Article 111**

1. The Powiat environmental protection programmes shall set out the order in which the Starost shall perform the tasks in the scope of reclamation of the land surface.
2. The Starost may perform the reclamation of the land surface despite the fact that the task is not included in the programme referred to in paragraph 1, where the Starost finds that a failure to perform the reclamation will cause a substantial deterioration of the state of the environment or danger to human life or health.

## **Part V**

### **Noise protection**

### **Article 112**

Noise protection shall consist in ensuring the best acoustic state in the environment, in particular by:

- 1) maintaining the noise level below the permissible one or at least at the latter level,
- 2) reducing the noise level at least to the permissible one, where it is not complied with.

### **Article 113**

1. In agreement with the minister responsible for health, the minister responsible for the environment shall lay down, by way of a Regulation, the permissible noise levels in the environment.
2. The Regulation referred to in paragraph 1 shall lay down:
  - 1) the differentiated noise levels for the particular types of areas designated for:
    - a) housing,
    - b) hospitals and social care facilities,
    - c) buildings where children and young people stay on a permanent basis or for many hours,
    - d) the purposes of health resorts,
    - e) the purposes of out-of-town recreation and rest,
  - 2) the noise levels corresponding to the type of site or activity generating noise,
  - 3) the noise levels for day-time and night-time,
  - 4) the reference periods of time to which the noise level refer.

### **Article 114**

1. When, in the course of the development of a local land-use plan, areas with different functions or under different principles of development are differentiated, it shall be indicated which of them belong to the particular types of area referred to in Article 113, paragraph 2, subparagraph 1.
2. Where an area can be assigned to several types of area referred to in Article 113, paragraph 2, subparagraph 1, it shall be understood to belong to the type of area for which the permissible noise level is the lowest.

### **Article 115**

In the absence of a local land-use plan, the administration authority competent to grant a decision on the conditions for land development and use shall assess on the basis of the actual development and use of the neighbouring properties whether the area where the project is planned belongs to the types of area referred to in Article 113, paragraph 2, subparagraph 1; the provisions of Article 114, paragraph 2, shall apply respectively.

### **Article 116**

1. By way of a resolution, subject to paragraphs 2 and 4, the Powiat Council shall restrict or prohibit the use of water vessels or certain types of them in specific reservoirs of standing waters or on flowing waters where this is indispensable to create the appropriate acoustic conditions in the areas designed for the purposes of recreation and rest.
2. In agreement with the minister responsible for transport, by way of a Regulation, the minister responsible for the environment shall impose restrictions and prohibitions for navigable inland waters.
3. The Regulation referred to in paragraph 2 shall specify:
  - 1) the name or other identification of the watercourse or water reservoir, or the part of it, where the prohibitions or restrictions shall apply,
  - 2) the types of water vessels covered by prohibitions or restrictions which may be characterised by:
    - 3) the purpose of the vessel,
    - 4) the technical parameters such as size or drive type,
    - 5) the prohibitions or restrictions concerning the use of the vessels in the course of the year, on the days of the week or in the course of the day.
4. The restrictions must not apply to the water vessels the use of which is indispensable for the purposes of public security or maintaining watercourses or water reservoirs.

### **Article 117**

1. The acoustic state of the environment shall be assessed and its variations shall be observed in the framework of the state environmental monitoring system.
2. The assessment of the acoustic state of the environment shall be mandatory for:
  - 1) agglomerations with the population in excess of 100,000,
  - 2) areas outside of agglomerations as referred to in Article 179, paragraph 1.
3. The Powiat environmental protection programme may designate areas other than those listed in paragraph 2 where the acoustic state of the environment shall be assessed.

## **Article 118**

1. For the purposes of the assessment of the acoustic state of the environment as referred to in Article 117, paragraph 2, subparagraph 1, and paragraph 3, every 5 years the Starost shall make acoustic maps, subject to paragraph 2.
2. When making the acoustic map, the Starost shall take into account the information from the acoustic maps referred to in Article 179, paragraph 1.
3. The map referred to in paragraph 1 shall consist of a narrative part and a graphic part.
4. The narrative part shall contain in particular:
  - 1) the characteristics of the area being assessed,
  - 2) the identification and characteristics of noise sources,
  - 3) the acoustic conditions resulting from the local land-use plan,
  - 4) the methods applied in the assessment,
  - 5) the results of testing,
  - 6) the identification of areas exposed to noise,
  - 7) the number of residents exposed to noise,
  - 8) analysis of trends in variations of the acoustical state in the environment,
  - 9) recommendations for noise protection measures.
5. The graphic part shall contain in particular:
  - 1) a map characterising the noise emitted from particular sources,
  - 2) a map of the acoustic state of the environment, marking the areas where the permissible noise levels are exceeded and referring to the local land use plan,
  - 3) a map of areas exposed to noise,
  - 4) a map presenting the expected results of the measures referred to in paragraph 4, subparagraph 9.
6. “Area exposed to noise” shall mean an area where noise levels are exceeded to an extent requiring that protective measures shall be taken in the first instance.
7. By way of a Regulation, the minister responsible for the environment shall lay down the threshold values for noise levels the exceedance whereof shall cause the area where the noise level exceeds the permissible level to be assigned to the category of areas exposed to noise.
8. The Regulation referred to in Article 7 shall lay down:
  - 1) the threshold values for noise levels in areas designated for the purposes referred to in Article 113, paragraph 2, subparagraph 1,

- 2) the threshold values for noise levels corresponding to the type of site or activity which is the source of noise,
- 3) the threshold values for the noise levels in day-time and night-time,
- 4) the reference periods of time to which the threshold values for noise levels shall refer.

#### **Article 119**

1. For the areas where the noise levels exceed the permissible level, action programmes shall be drawn up with the aim of reducing the noise levels to the permissible one.
2. The Powiat Council shall adopt action programmes for the areas referred to in Article 117, paragraph 2, subparagraph 1, and paragraph 3, and the Voivode shall lay down, by way of a Regulation, the action programmes for the areas referred to in Article 117, paragraph 2, subparagraph 2.
3. By way of a Regulation, the minister responsible for the environment shall set detailed requirements for the programme for the protection of the environment against noise.
4. The regulation referred to in paragraph 3 shall lay down:
  - 1) the format in which the programme shall be drawn up,
  - 2) the indispensable components of the programme,
  - 3) the scope of issues to be identified and assessed in the programme,
  - 4) the manner of establishing the timetable for measures planned for particular areas, using indicators characterising the extent of exceedance of the permissible noise level and the number of residents in a given area.

#### **Article 120**

As soon as the Starost has made the acoustic maps referred to in Article 118, the Starost shall forward them to the Voivodship Board, the Voivodship Inspector for Environmental Protection and the Voivodship Sanitary Inspector

### **Part VI**

#### **Protection against electromagnetic fields**

#### **Article 121**

The purpose of the protection against electromagnetic fields shall be to ensure the best possible state of the environment by:

- 1) maintaining the levels of electromagnetic fields below the permissible levels or at least at such levels,
- 2) reducing the levels of electromagnetic fields at least to the permissible levels where they are not complied with.

### **Article 122**

1. In agreement with the minister responsible for health, the minister responsible for the environment shall, by way of a Regulation, lay down the permissible levels of electromagnetic fields in the environment and the way of checking compliance with such levels.
2. The Regulation referred to in paragraph 1 shall lay down:
  - 1) the different levels of electromagnetic fields for:
    - a) areas designated for housing,
    - b) sites accessible to the public,
  - 2) the frequency ranges of electromagnetic fields for which the physical parameters characterising the environmental effects of electromagnetic fields whereto the levels of electromagnetic fields apply,
  - 3) the permissible values of the physical parameters referred to in subparagraph 2 for the different frequency ranges whereto the levels of electromagnetic fields apply.
3. The ways of checking compliance with the parameters referred to in paragraph 1 shall be set out by indicating the methods for:
  - 1) measuring the levels of electromagnetic fields in the environment for the different frequency ranges referred to in paragraph 2,
  - 2) determining the levels of electromagnetic fields where electromagnetic fields at frequencies in the different ranges as referred to in paragraph 2 occur in the environment.

### **Article 123**

1. The levels of electromagnetic fields in the environment shall be assessed and their variations shall be observed in the framework of the state environmental monitoring system.

2. The Voivode shall carry out periodical control measurements of the levels of electromagnetic fields in the environment.
3. The minister responsible for the environment may, by way of a Regulation, lay down the scope and manner of carrying out the measurements referred to in paragraph 2,
4. The Regulation referred to in paragraph 3 shall set out:
  - 1) the manner of selection of the measurement points,
  - 2) the required frequency of the measurements to be carried out.
5. The Regulation referred to in paragraph 3 may lay down the manner wherein the measured results shall be presented.

#### **Article 124**

The Voivode shall keep a register, to be updated every year, containing information on the areas where the permissible levels of electromagnetic fields in the environment have been found to be exceeded, specifying exceedances:

- 1) in areas designated for housing,
- 2) on sites accessible to the public.

### **Part VII**

#### **The protection of minerals**

#### **Article 125**

Mineral deposits shall be covered by the protection consisting of the rational management of their resources and a comprehensive use of minerals, including the accompanying minerals.

#### **Article 126**

1. Mineral deposits shall be exploited in an economically viable manner, taking measures to limit the damage to the environment and ensuring rational exploitation and management of minerals.
2. The entity which undertakes or carries out exploitation of mineral deposits shall be obliged to take the necessary measures to protect the resources of the deposits, to protect the land surface, surface waters and groundwater, to successively reclaim post-exploitation sites and to restore other natural elements to their proper state.

**Part VIII**  
**The protection of animals and plants**

**Article 127**

1. The protection of animals and plants shall consist of:
  - 1) preserving valuable ecosystems and biological diversity and maintaining the natural equilibrium,
  - 2) creating the conditions allowing animals and vegetation to develop correctly and to perform their biological functions in the environment to the optimum extent,
  - 3) preventing or limiting negative effects on the environment, which could have adverse impact on resources as well as the state of animals and plants,
  - 4) preventing dangers to natural complexes and nature elements.
2. The protection referred to paragraph 1 shall be implemented in particular by:
  - 1) extending protection to areas and sites which are valuable in terms of nature,
  - 2) establishing the protection of animal and plant species,
  - 3) limiting the possibilities of hunting animals living in the wild and picking plants existing in the wild,
  - 4) reproducing the populations of animals and the sites of plants as well as ensuring the reproduction of wild animals and plants,
  - 5) protecting forests and tree plantations against pollution and fires,
  - 6) limiting the possibilities of cutting down trees and shrubs and of liquidating green areas,
  - 7) afforestation, tree planting or creating vegetation assemblages, particularly where required for the purposes of the protection of soil and animals, the shaping of climate and other purposes related to ensuring biological diversity and the natural equilibrium and meeting human needs in the scope of recreation and rest,
  - 8) controlling releases of genetically modified organisms into the environment.

**Article 128**

1. The protection of animals and plants in military training areas in the course of training by the Armed Forces of the Republic of Poland, hereinafter referred to as “the Armed Forces”, shall be ensured by:
  - 1) localising military training facilities in areas with a low natural value,

- 2) designating areas with natural values on training areas, such as the breeding grounds of animals and birds, or the sites of protected plants, and imposing relevant restrictions on training activities,
  - 3) adopting organisational and technical measures to limit and successively rectify damage,
  - 4) instructing troops being trained about the rules of conduct in a military training area in the light of the restrictions due to the protection of animals and plants.
2. The principles of the protection of animals and plants in military training areas shall be included in the training instructions for military training areas.
3. In agreement with the minister responsible for the environment, the Minister of National Defence shall, by way of a Regulation, lay down the detailed principles of drawing up a training instruction in the scope of meeting the requirements of the protection of animals and plants in the course of training by the Armed Forces in military training areas.
4. The Regulation referred to in paragraph 3 shall cover:
  - 1) the issues in the training instruction in the framework whereof the requirements of the protection of animals and plants shall be taken into account,
  - 2) the manner of taking into account the particular requirements of the protection of animals and plants,
  - 3) the factors arising from the localisation and the specific functioning of military training areas which need to be taken into account when setting the requirements of the protection of animals and plants.
5. Where military training areas are made available to troops of foreign armed forces, the provisions of paragraphs 1 to 4 shall apply, respectively.

## **Part IX**

### **Restrictions on the use of a real estate in relation to environmental protection**

#### **Chapter 1**

#### **General provisions**

## **Article 129**

1. Where, due to the restrictions on the use of real estate, it has become impossible to use the real estate or a part of it in a previous manner or for the previous purpose, or the use has been significantly restricted, the owner of the real estate may request the buyout of the real estate or a part of it.
2. In relation to the restriction on the manner of the use of the real estate, its owner may seek compensation for the damage incurred; this damage also includes a decrease in the value of the real estate.
3. The entity which uses the real estate by way of usufruct shall be entitled to the claim referred to in paragraphs 1 and 2 and the person who has a property title to the real estate shall also be entitled to the claim referred to in paragraph 2.
4. The claim referred to in paragraphs 1-3 may be advanced within 2 years from the date of the entry into force of a regulation or act of local law providing for a restriction on the manner of use of the real estate.
5. The provisions of the Land-Use Act relating to claims for compensation for a restriction on the manner of use of the real estate shall not apply to the cases referred to in paragraphs 1-4.

## **Chapter 2**

### **Restrictions in relation to the protection of environmental resources**

## **Article 130**

1. The manner of the use of real estate in relation to the protection of environmental resources may be restricted by:
  - 1) the designation of areas or sites as protected ones pursuant to the provisions of the Nature Conservation Act,
  - 2) the approval of the conditions for the use of waters in the river basin or the establishment of protective zones of groundwater aquifers pursuant to the provisions of the Water Law Act.
2. The provision of paragraph 1 shall not exclude the possibility of restricting the manner of the use of real estate with the aim of protecting environmental resources pursuant to the provisions of the Land-Use Act.

### **Article 131**

1. Where the manner of the use of a real estate is restricted, as referred to in Article 130, paragraph 1, on request from the entity which incurs damage, the competent Starost shall set out, by way of a decision, the amount of compensation. This decision cannot be appealed.
2. Within 30 days from the date when the decision referred to in paragraph 1 is delivered to a party, the party which is not satisfied with the compensation granted may take action against the decision in a general court. Court action shall also be allowed where the competent authority fails to make a decision within 3 months from the date when the entity which incurs damage requests compensation.
3. Court action shall not stop the implementation of the decision referred to in paragraph 1.

### **Article 132**

The principles and procedure set out in the Real Estate Management Act of 21 August 1997 (Official Journal of 2000, No. 46, Item 543) shall apply, respectively, to the request for the buyout of real estate in cases of restrictions as referred to in Article 130, paragraph 1.

### **Article 133**

The amount of the compensation and the buyout price of the real estate shall be determined after a real estate expert has given his/her opinion as to the value of the real estate, in accordance with the principles and procedure laid down by the provisions of the Real Estate Management Act.

### **Article 134**

The following entities shall be obliged to pay the compensation or buy out the real estate:

- 1) the competent regional or local government – where the restriction on the manner of the use of the real estate results from the adoption of an act of local law by a regional or local government,
- 2) the State Treasury as represented by the Voivode – where the restriction on the manner of the use of the real estate results from the adoption of a Regulation by the Council of Ministers, the competent minister or Voivode.

## **Chapter 3**

### **Restricted use areas**

### **Article 135**

1. Where an environmental impact assessment procedure, a follow-up analysis or an environmental audit indicate that despite the application of available technical, technological and organisational measures the environmental quality standards cannot be complied with outside an establishment or another site, a restricted use area shall be established for a wastewater treatment plant, a municipal waste landfill, a composting plant, a transport route, an airfield, a power line and station as well as a radiocommunication, radionavigation or radiolocation installation.
2. The restricted use area for a project which may have significant impact on the environment as referred to in Article 51, paragraph 1, subparagraph 1, shall be established by the Voivode by way of a Regulation, setting out the boundaries of the area, the restrictions on the purpose of the use of the area, technical requirements for buildings and the use of the area as follow from the environmental impact assessment procedure, a follow-up analysis or an environmental audit.
3. The restricted use area for a project which may have significant impact on the environment as referred to in Article 51, paragraph 1, subparagraph 2, shall be established by the Powiat Council by a resolution; the provisions of paragraph 2 shall apply, respectively.
4. Until the restricted use area is established, the procedure for granting a construction permit or consent to change in the manner of the use of a building structure, allowing the implementation of the project referred to in paragraph 1, shall be suspended.

### **Article 136**

1. Where the manner of the use of the environment has been restricted by establishing a restricted use area, general courts shall be competent in cases of compensation or mandatory buyout of the real estate.
2. The entity whose activity has caused the imposition of restrictions resulting from the establishment of a restricted use area shall be obliged to pay the compensation or buy out the real estate.

### **Title III**

## **The prevention of pollution**

### **Part I** **General provisions**

#### **Article 137**

The prevention of pollution shall consist of preventing or limiting releases of substances or energies into the environment.

#### **Article 138**

1. The operation of an installation and equipment in compliance with the requirements of environmental protection shall be, subject to Article 139, the obligation of their owner, unless the owner demonstrates that, on the basis of a legal title, another entity holds the installation or equipment.
2. For an installation the emissions from which require, the obligations referred to in paragraph 1, can be transferred solely by a contract in the form of a notarial deed.

#### **Article 139**

Compliance with the requirements of environmental protection relating to the operation of roads, railway lines, tramway lines, airfields and ports shall be ensured by their operators.

#### **Article 140**

1. The user of the environment shall be obliged to ensure that the requirements of environmental protection are complied with, in particular by:
  - 1) the correct organisation of work,
  - 2) the assignment of functions in the scope of ensuring environmental protection to persons having appropriate professional qualifications,
  - 3) making the employees whose scope of duties relates to the issues of environmental protection familiar with the requirements in this respect, where it is not necessary for them to have appropriate professional training in this field,
  - 4) taking measures to eliminate or limit damage in the environment arising from employees' failure to comply with the requirements of environmental protection as well as taking appropriate measures to eliminate such cases in the future.
2. Employees shall be obliged to act in a manner ensuring environmental protection.

3. The minister responsible for the environment may, by way of a Regulation, lay down the operations, installations or equipment the performance or servicing whereof shall require special qualifications in the light of the possible effects of such operations on the environment.
4. The Regulation referred to in paragraph 3 shall lay down:
  - 1) separate lists of types of operations, installations and equipment,
  - 2) the requirements applicable to the persons responsible for the performance of specific operations, in the scope of:
    - a) professional qualifications,
    - b) employee training.

## **Part II**

### **Installations, equipment, substances and products**

#### **Chapter 1**

#### **Installations and equipment**

##### **Article 141**

1. The operation of an installation or equipment must not cause the emission standards to be exceeded.
2. The impact of an installation or equipment must not cause a substantial deterioration of the state of the environment or pose danger to human life or health.

##### **Article 142**

1. The emission levels from installation or equipment in conditions different from normal ones shall result from justified technical needs and must not persist longer than necessary.
2. The conditions different from normal ones shall be in particular the periods of start-up, breakdown and decommissioning of an installation or equipment.

### **Article 143**

The technology applied in new installations and equipment, or those where to a substantial change is made, shall meet the requirements in the setting whereof the following has been taken into account:

- 1) the use of substances posing low risk potential,
- 2) the efficiency of energy generation and use,
- 3) the need to ensure rational use of water and other raw materials as well as intermediate materials and fuels,
- 4) the use of no-waste or low-waste technologies and the possibility of recovering the waste generated,
- 5) the types, impact ranges and levels of emissions,
- 6) the use of comparable processes and methods which have been tried with success on an industrial scale,
- 7) the application of product life cycle analysis,
- 8) scientific and technical progress.

### **Article 144**

1. The operation of an installation must not cause the environmental quality standards to be exceeded.
2. The operation of an installation which causes gas or dust emissions into the air, noise emission, or generation of electromagnetic fields must not, subject to paragraph 3, cause the environmental quality standards to be exceeded outside of the site where to the operator of the installation has a legal title.
3. Where a restricted use area has been established in relation to the operation of installation, its operation must not cause the environmental quality standards to be exceeded outside of this area.
4. The application of a technology meeting the requirements referred to in Article 143 and also compliance with the emission standards referred to in Article 145 and separate regulations shall not exempt from the obligation to meet the environmental quality standards.

### **Article 145**

1. In agreement with the minister responsible for the economy, the minister responsible for the environment may, by way of a Regulation, lay down the standards for emissions from installations, in the scope of:
  - 1) gas or dust releases into the air,
  - 2) waste generation,
  - 3) noise emission.
2. The standards referred to in paragraph 1 shall be laid down:
  - 1) where gases or dust are released into the air, respectively, as:
    - a) gas or dust concentrations in waste gases, or
    - b) the masses of gases or dust released in a specific period, or
    - c) the ratio between the mass of gases or dust and the unit of raw material or fuel used, or product manufactured,
  - 2) where waste is generated – as the ratio between the unit volume or mass of waste generated and the unit of raw material or fuel used, or product manufactured,
  - 3) where noise is generated – as the sound power level of the installation.
3. The Regulation referred to in paragraph 1 may lay down:
  - 1) differentiated values of standards,
    - a) depending on the type of activity, technology or technical operation,
    - b) depending on the date when the installation was set in operation,
  - 2) situations warranting temporary derogation from standards and the limits of derogation,
  - 3) the conditions under which the standards shall be recognised to be complied with.

### **Article 146**

1. The operator of an installation and the user of equipment shall be obliged to ensure their correct operation, consisting in particular of:
  - 1) the use of fuels and raw and intermediate materials ensuring that their adverse effects on the environment are limited,
  - 2) the taking of appropriate measures in cases of disturbance in technological processes and technical operations with the aim of limiting their effects on the environment.
2. In agreement with the minister responsible for the economy, with a view to meeting the need to limit the negative environmental effects of the installations and equipment in

operation, the minister responsible for the environment may lay down, by way of a Regulation, the requirements in the scope of:

- 1) fuels, raw materials and process materials with specific properties, features or parameters,
  - 2) specific technical solutions ensuring the limitation of emissions.
3. The requirements referred to in paragraph 2 may be differentiated, depending on the date when the installation was set in operation and on the year of production of the equipment.
  4. In agreement with the minister responsible for the economy, the minister responsible for the environment may lay down, by way of a Regulation, the procedures in case of disturbance in technological processes and technical operations relating to the operation of an installation or equipment.
  5. The Regulation referred to in paragraph 4 may lay down:
    - 1) the types of disturbance where it shall be required to stop the use of an installation or equipment,
    - 2) remedial measures to be taken by the operator of an installation or the user of equipment,
    - 3) the cases where the operator of an installation or the user of equipment shall have to notify the Voivodship Inspector for Environmental Protection about the disturbance, the date where such notification shall be made and its required format.

#### **Article 147**

1. Subject to paragraph 2, the operator of an installation and the user of equipment shall be obliged to carry out periodic measurements of emission levels.
2. Where substantial quantities of substances or energies are released into the environment, the operator of an installation shall be obliged to carry out continuous measurements of emission levels.
3. The scope of the obligation to carry out the measurements referred to in paragraphs 1 and 2 may relate to the parameters characterising the capacity or power of the installation or equipment.
4. The operator of a new installation or a substantially changed installation emissions from which require a permit shall be obliged to carry out preliminary measurements of the emission levels from this installation.

5. The obligation referred to in paragraph 4 shall be met within 14 days at the latest from the end of the start-up of the installation or the setting of the equipment in operation, unless the authority competent to grant the permit has set a different date in the permit.
6. The operator of an installation or the user of equipment shall be obliged to record the results of the measurements carried out and to keep them for 5 years from the end of the calendar year where to they apply.

#### **Article 148**

1. Subject to paragraph 5, the minister responsible for the environment shall lay down, by way of a Regulation, the requirements for the carrying out of the measurements of emission levels as referred to in Article 147, paragraphs 1-4.
2. The Regulation referred to in paragraph 1 shall lay down:
  - 1) the cases where continuous measurements of the emission levels from the installation shall be required,
  - 2) the cases where periodical measurements of the emission levels from the installation or equipment shall be required, along with the frequencies at which such measurements shall be carried out,
  - 3) the reference methods for the performance of the measurements,
  - 4) the manner in which the measurements carried out shall be recorded.
3. The Regulation referred to in paragraph 1 shall contain the obligation to carry out measurements, depending, respectively, on:
  - 1) the type of the installation or equipment,
  - 2) the rated emission levels from the installation or equipment,
  - 3) the parameters characterising the capacity or power of the installation or equipment.
4. Where the obligation to carry out the measurements does not result from the rated emission levels, the Regulation referred to in paragraph 1 shall set out the substances or energies for which the measurements shall be mandatory.
5. The requirements for periodic emission measurements shall not be established where they are provided for in separate regulations.

#### **Article 149**

1. The operator of an installation shall submit results of the measurements referred to in Article 147, paragraphs 1-4, to the environmental authority where these measurements are

of particular significance in the light of the need to ensure systematic control of the emission levels.

2. The minister responsible for the environment shall lay down, by way of a Regulation, the types of results of measurements carried out in relation to the operation of an installation or equipment which, given their particular significance in the light of the need to ensure systematic control of the emission levels, shall be submitted to the competent environmental authorities as well as the dates and format of their presentation.
3. The Regulation referred to in paragraph 2 shall lay down:
  - 1) the cases where it shall be required to submit the results of measurements in the light of:
    - a) the type of the installation or equipment,
    - b) the rated emission levels,
    - c) the parameters characterising the capacity or power of the installation or equipment,
  - 2) the format of the results of measurements presented,
  - 3) the structure of the results of measurements communicated,
  - 4) the required techniques of submitting the results of measurements,
  - 5) the dates at which the results of measurements shall be submitted, depending on their types.

### **Article 150**

1. By way of a decision, the environmental authority may impose on the operator of an installation or the user of equipment the obligation to carry out in a specific period measurements of the emission levels additional to the obligations referred to in Article 147, paragraphs 1, 2 and 4, or those set out in the procedure provided for in Article 56, paragraph 1, subparagraph 1, where an inspection carried out indicates that the emission standards have been exceeded; the provision of Article 147, paragraph 6, shall apply to the results of the measurements carried out.
2. When issuing the decision referred to in paragraph 1, the competent authority may impose the obligation to submit the results of the measurements thereto, setting out the scope and dates for their submission as well as the requirements for the format, structure and the required techniques of their submission.
3. Where the inspection carried out indicates that the emission standards have been exceeded, the environmental authority may, by way of a decision, impose on the operator

of an installation or the user of equipment the obligation to submit the results of the measurements of the emission levels thereto, additional to the obligations referred to in Article 149, paragraph 1, setting out the scope and dates for their submission as well as the requirements for the format, structure and the required techniques of their submission.

4. The procedure relating to the issue of the decision imposing the obligation to carry out the measurements or submit their results shall be initiated ex officio.

### **Article 151**

Where a permit is required for the emissions from the installation, the authority competent to grant this permit may impose requirements additional to those referred to in Article 147 and the regulations adopted pursuant to Article 148 as well as lay down additional requirements regarding the scope of the measurements to be carried out, where this is required given the special considerations of environmental protection.

### **Article 152**

1. An installation the emissions wherefrom do not require a permit and which may have a negative effect on the environment shall be notified to the environmental authority, subject to paragraph 8.
2. The notification referred to in paragraph 1 shall contain:
  - 1) the name of the operator of the installation, the address of the place of residence or seat of the operator,
  - 2) the address of the site where the installation is operated,
  - 3) the type and scope of the activity performed, including the production output or the volume of the services rendered,
  - 4) the time when the installation is in operation (the days of the week and hours),
  - 5) the levels and types of emissions,
  - 6) a description of the methods used to limit the emission levels,
  - 7) information indicating whether the extent where to the emission levels are limited complies with the regulations in effect.
3. The operator of the installation referred to in paragraph 1 shall be obliged to make the notification before it is set in operation, subject to paragraph 5.
4. The operation of the installation may begin provided that the authority competent to receive the notification does not object thereto, by way of a decision, within 30 days from the date when the notification is delivered to the authority.

5. Where the installation referred to in paragraph 1 becomes subject to the obligation to be notified when it is already in operation, the operator of the installation shall be obliged to notify it within 6 months from the date when it becomes subject to this obligation.
6. The operator of the installation referred to in paragraph 1 shall be obliged to submit to the authority competent to receive the notification information to the effect that:
  - 1) the operator decides not to set the installation in operation or decides to close down its operation,
  - 2) the data referred to in paragraph 2, subparagraphs 2-6, have changed.
7. The notification referred to in paragraph 2 shall be made within 6 days from the date when the decision is taken to begin or close down the activity, or when the data referred to in paragraph 2, subparagraphs 2-6, change.
8. The principles of notifying an installation which may have adverse effects on the environment as a result of its waste generation shall be laid down by the provisions of the Waste Act.

### **Article 153**

1. The minister responsible for the environment shall lay down, by way of a Regulation, the types of installations the emissions wherefrom do not require a permit and the operation whereof requires notification, taking into account their adverse effects on the environment.
2. The Regulation referred to in paragraph 1 shall lay down the types of installations the operation whereof shall require notification in the light of:
  - 1) their releases of gases or dusts into the air,
  - 2) their discharge of wastewater into waters or to land,
  - 3) their noise generation
  - 4) their generation of electromagnetic fields.
3. The Regulation referred to in paragraph 1 may make the obligation to notify a given type of installation conditional on:
  - 1) the technique applied,
  - 2) the parameters characterising the capacity or power of the installation.

#### **Article 154**

1. By way of a decision, the environmental authority may lay down the requirements of environmental protection for the operation of an installation the emissions wherefrom do not require a permit, where this is justified by the need to protect the environment.
2. The provision of Article 188, paragraph 2, shall apply, respectively, to the decision referred to in paragraph 1.
3. The procedure relating to the issue of the decision referred to in paragraph 1 shall be initiated ex officio

#### **Article 155**

The means of transport shall meet the requirements of environmental protection as laid down in this Act and in separate regulations.

#### **Article 156**

1. It shall be prohibited to use sound amplification installations or equipment in areas accessible to the public, built-up areas or areas designated for recreation and rest purposes.
2. The provisions of paragraph 1 shall not apply to occasional ceremonies; ceremonies and events which are related to religious worship; sports, commercial and entertainment events; other legal gatherings and the cases of providing the public with information and notifications relating to public safety.

#### **Article 157**

1. By way of a resolution, the Gmina Council may establish limitations on the time of operation of installations or equipment the noise emissions wherefrom may have a negative effect on the environment, subject to paragraph 2.
2. The limitations referred to in paragraph 1 shall not apply to installations or equipment located at places of religious worship.

### **Chapter 2**

#### **Substances**

#### **Article 158**

The releases of substances produced, used or transported into the environment shall be allowed only to the extent necessary in the light of the nature of the activity conducted.

### **Article 159**

1. The entity which places a substance on the market shall be obliged to:
  - 1) pack the substance in a manner protecting against its accidental release into the environment,
  - 2) enclose information allowing for the identification of the dangers which arise from the release of the substance into the environment.
2. Where the accidental release of a substance into the environment may cause pollution, the information referred to in paragraph 2, subparagraph 2, shall define the conduct aimed at reducing the damage.

### **Article 160**

1. With the exception of the cases provided for in this Act and separate regulations, it shall be prohibited to place on the market or to reuse substances which pose particular danger to the environment.
2. The substances which pose particular danger to the environment shall be in particular:
  - 1) asbestos,
  - 2) PCBs.
3. By way of a Regulation, the minister responsible for the environment may list other substances, in addition to asbestos and PCBs, which pose particular danger to the environment, with a view to meeting the need to reduce the risk of damage to the environment.
4. The Regulation referred to in paragraph 3 shall lay down:
  - 1) the numerical code of the substance allowing for its unambiguous identification,
  - 2) the name of the substance.

### **Article 161**

1. Substances which pose particular danger to the environment shall be used, moved and eliminated with the application of particular precautions.
2. Installations or equipment where substances posing particular danger to the environment are and were used shall be cleaned or disposed of.
3. The requirements applicable to the handling of installations or equipment where substances posing particular danger to the environment are or were used shall apply to

installations or equipment in respect whereof it is justifiably suspected that substances posing particular danger to the environment were used therein.

### **Article 162**

1. The use of substances which pose particular danger to the environment shall be successively eliminated.
2. The user of substances which pose particular danger to the environment shall be obliged to provide documentation concerning their types, quantities, the locations where they are present and the manner of their elimination.
3. The user of substances which pose particular danger to the environment shall periodically submit to the Voivode information concerning their types, quantities and the locations where they are present, subject to paragraphs 4-6.
4. Natural persons who are not economic operators shall submit information concerning the types and quantities of substances which pose particular danger to the environment and the locations where they are present in simplified form; in such case the provisions of paragraph 2 shall not apply.
5. Information in simplified form shall be submitted to the head of the Gmina administration or the mayor of the town or the city.
6. The head of the Gmina administration or the mayor of the town or the city shall periodically submit to the Voivode information concerning the types and quantities of substances which pose particular danger to the environment and the locations where they are present.
7. The Voivode shall keep a register of the types and quantities of substances which pose particular danger to the environment and the locations where they are present.
8. The provisions of paragraphs 1-3 shall apply, respectively, to installations and equipment where substances which pose particular danger to the environment are or were used.
9. The provisions of the Waste Act shall also lay down the manner of handling substances which pose particular danger to the environment where they are eliminated as well as installations and equipment where such substances are or were used.

### **Article 163**

1. In agreement with the minister responsible for the environment, the minister responsible for transport and the minister responsible for health, the minister responsible for economy shall, by way of a Regulation, lay down the requirements for:

- 1) the use or movement of substances which pose particular danger to the environment,
  - 2) the use or cleaning of installations or equipment where substances which pose particular danger to the environment were or are used.
2. The Regulation referred to in paragraph 1 shall lay down the requirements for:
- 1) the use and movement of individual substances,
  - 2) the use and cleaning of installations or equipment where substances which pose particular danger to the environment were or are used.
3. Depending on the needs, the Regulation referred to in paragraph 1 may lay down:
- 1) the technical requirements which must be satisfied when using and moving the substances and when using and cleaning installations or equipment where the substances were or are used,
  - 2) the manner of marking installations or equipment where the substances were or are used and the rooms where they are present,
  - 3) the cases and the manner wherein inventories shall be made of the types and quantities of such substances and the places where they are present; of installations or equipment where they were or are used, as well as the scope and form of documentation concerning the manner of handling such substances and the period over which such documentation shall be kept,
  - 4) the dates whereat information shall be submitted to the Voivode, or the head of the Gmina administration, or the mayor of the town or the city concerning:
    - a) the types and quantities of substances being used and the locations where they are present,
    - b) the installations or equipment where the substances were or are used,
    - c) the time and manner wherein the substances were removed as well as the installations or equipment where they were or are used,
    - d) the time and manner wherein the substances were replaced by others posing less danger to the environment,
  - 5) the scope of information referred to in subparagraph 4, to be submitted, respectively, to the Voivode, or the head of the Gmina administration, or the mayor of the town or the city, specifying:
    - a) the form wherein the information shall be submitted,
    - b) the layout wherein the information shall be submitted,
    - c) the required techniques whereby the information shall be submitted,

- 6) the cases wherein, and the dates whereat, the use of the substances shall cease and the timetable for their elimination by their users,
  - 7) the cases wherein, and the dates whereat, installation or equipment where the substances were or are used shall be cleaned or eliminated.
4. By way of a Regulation, the minister responsible for the economy may lay down the installations or equipment where substances posing danger to the environment may have been used, to be treated as installations or equipment where such substances were or are used.
  5. The Regulation referred to in paragraph 4 shall lay down the types of installations or equipment, taking into account, in the light of the technology used, respectively:
    - 1) the date whereat the installation was set in operation or the production year of the equipment,
    - 2) the assembler of the installation or the producer of the equipment.
  6. By way of a Regulation, the minister responsible for the environment shall set out the manner wherein the head of the Gmina administration, the mayor of the town or the city shall submit to the Voivode information concerning the types and quantities of substances posing danger to the environment and the places where they are present.
  7. The Regulation referred to in paragraph 6 shall lay down:
    - 1) the dates whereat such information shall be submitted,
    - 2) the form wherein such information shall be submitted,
    - 3) the layout wherein such information shall be submitted,
    - 4) the required techniques whereby such information shall be submitted.
  8. By way of a Regulation, the minister responsible for the environment may lay down the manner wherein the Voivode shall keep a register of substances and the installations and equipment where such substances were or are used.
  9. The Regulation referred to in paragraph 8 may lay down:
    - 1) the form and layout of the register,
    - 2) the content of the register,
    - 3) the conditions under which and the period over which the register shall be kept.

## **Article 164**

For the purposes of Articles 160-163,

- 1) substances which pose particular danger to the environment shall also mean substances and objects containing substances which pose particular danger to the environment,
- 2) installations or equipment where substances which pose particular danger to the environment were or are used shall mean installations or equipment which have not been subjected to the cleaning process as required by law.

### **Article 165**

The detailed principles of handling chemical substances and the release of genetically modified organisms into the environment shall be laid down by separate regulations.

## **Chapter 3**

### **Products**

### **Article 166**

When manufacturing a product, without detracting from its useful values and the user's safety, it shall be necessary to limit:

- 1) the consumption of substances and energies,
- 2) the use of substances and technical solutions which have a negative effect on the environment in the period when the product is used and after it has been used,
- 3) the use of substances and technical solutions which make it difficult to:
  - a) repair the product,
  - b) dismantle the product in order to separate its used elements requiring special handling pursuant to the provisions of the Waste Act,
  - c) use parts of the product in another product or to use them for other useful purposes after the product has been used.

### **Article 167**

A product shall be provided with information concerning its environmentally safe use, dismantling, reuse or disposal.

### **Article 168**

The entity which places a product on the market shall ensure that the product meets the requirements of environmental protection.

### **Article 169**

1. In agreement with the minister responsible for the environment, by way of a regulation, the minister responsible for the economy may lay down detailed requirements in order to ensure that the obligations referred to in Articles 166 and 167 are met.
2. The Regulation referred to in paragraph 1 shall establish:
  - 1) the numerical code allowing for the identification of a product or a group of products and their names,
  - 2) the requirements applicable to specific products or groups of products.
3. The Regulation referred to in paragraph 1 may, depending on the needs, specify:
  - 1) the types of substances which shall be used to manufacture specific products or the use of which shall be prohibited,
  - 2) the technical solutions allowed to be used,
  - 3) the properties which specific products shall have, including:
    - a) the emission standards for equipment,
    - b) the allowable or required contents of specific substances in a product,
    - c) the prohibition on the presence of specific substances in a product,
    - d) the characteristics and parameters of a product,
  - 4) the requirements in respect of the information referred to in Article 167, including the coding of a product or its parts as well as the form and content of information concerning the contents of specific substances therein,
  - 5) the dates at which the individual requirements will become effective for particular products or groups of products.

### **Article 170**

1. Information on their adverse impacts on the environment shall be communicated on single-use plastic eating vessels and utensils placed on the market.
2. With a view to meeting the need to limit the use of products having adverse impacts on the environment, by way of a Regulation, the minister responsible for the environment may lay down plastic products other than those referred to in paragraph 1 whereon information on their adverse impacts on the environment shall be communicated.
3. The Regulation referred to in paragraph 2 shall lay down:
  - 1) the numerical codes allowing for the identification of a product or groups of products and their names,
  - 2) the date when the requirement for the provision of information shall become effective,

4. By way of a Regulation, the minister responsible for the environment may set out the manner of the provision and the content of information on the negative impacts of products on the environment on the products referred to in paragraphs 1 and 2.
5. The Regulation referred to in paragraph 4 may lay down:
  - 1) the extent of information,
  - 2) the formats of information,
  - 3) the graphic patterns and colours in which information shall be provided.

#### **Article 171**

It shall be prohibited to place on the market products which fail to meet the requirements referred to in Articles 166 and 167 and in the regulations adopted pursuant to Articles 169 and 170.

#### **Article 172**

Packaging shall meet the requirements of environmental protection as laid down in separate regulations.

### **Part III**

#### **Roads, railway lines, tramway lines, airfields and ports**

#### **Article 173**

The protection against pollution arising in relation to the operation of roads, railway lines, tramway lines, airfields and ports shall be ensured by:

- 1) the use of technical solutions limiting the propagation of pollutants, in particular:
  - a) noise abatement measures,
  - b) measures preventing the penetration of polluted rainwater into soil or earth,
  - c) measures to dispose of waste arising in the course of the operation of roads, railway lines, tramway lines, airfields and ports,
- 2) the proper organisation of traffic.

#### **Article 174**

1. The operation of roads, railway lines, tramway lines, airfields and ports must not cause the environmental quality standards to be exceeded.
2. The emissions consisting of:

- 1) gas or dust releases into ambient air,
- 2) wastewater discharges into water or earth,
- 3) waste generation,
- 4) noise generation,

arising in relation to the operation of a road, railway line, tramway line, airfield and port must not, subject to paragraph 3, cause the environmental quality standards to be exceeded outside of the area whereto the operator of the site concerned has a legal title.

3. Where in relation to the operation of a road, railway line, tramway line or airfield a restricted use area has been established, their operation must not cause the environmental quality standards outside of this area.

#### **Article 175**

1. Subject to paragraph 2, the operator of a road, railway line, tramway line, airfield or port shall be obliged to carry out periodic measurements of the levels in the environment of substances or energies released in relation to the operation of such facilities.
2. Where installations with specific features or belonging to categories in respect of which it is likely that substantial quantities of substances or energies may be released into the environment are operated, the operator of a road, railway line, tramway line, airfield or port shall be obliged to carry out continuous measurements of their levels in the environment.
3. Where a road, railway line, tramway line, airfield or port are reconstructed to substantially change the conditions of operations, the operator shall be obliged to carry out measurements of the levels in the environment of substances or energies released in relation to the operation of such installations.
4. The obligation referred to in paragraph 3 shall be met within 14 days at the latest from the date that the operation of the reconstructed installation begins.
5. Until the measurements referred to in paragraphs 1-3 have been carried out, the provisions of Article 147, paragraph 6, shall apply, respectively.

#### **Article 176**

1. By way of a Regulation, the minister responsible for the environment shall lay down the requirements in the scope of the carrying out of the measurements of the levels of substances or energies in the environment as referred to in Article 175, paragraphs 1-3.

2. The Regulation referred to in paragraph 1 shall lay down the cases where, in relation to the operation of roads, railway lines, tramway lines, airfields or ports, the following shall be required:
  - 1) continuous measurements of the levels of specified substances or energies in the environment,
  - 2) periodic measurements of the levels of specified substances or energies in the environment,
  - 3) reference methods for the performance of measurements,
  - 4) the criteria for locating measurement points,
  - 5) the ways of recording the measurements performed,
3. The Regulation referred to in paragraph 1 may impose the obligation to carry out measurements:
  - 1) depending on:
    - a) the category or class of the road, the category of the railway line or the tramway line,
    - b) the type of the railway line, tramway line, airfield or port,
    - c) the technical parameters of the road, the operating parameters of the railway line or the tramway line,
  - 2) in relation to the situation of the road, railway line, tramway line, airfield or port:
    - a) in densely populated areas,
    - b) in areas protected to meet the needs of environmental protection pursuant to special regulations,
  - 3) for particular sections of roads, railway lines or tramway lines.

### **Article 177**

1. The operator of a road, railway line, tramway line, airfield or port shall submit the results of the measurements referred to in Article 175 to the environmental authority where these measurements are particularly important for the systematic observation of the change in the state of the environment caused by the operation of these installations.
2. By way of a Regulation, the minister responsible for the environment shall lay down the types of the results of measurements carried out in relation to the operation of roads, railway lines, tramway lines, airfields or ports to be submitted to the relevant environmental authorities in the light of their particular significance for the systematic

observation of the change in the state of the environment caused by the operation of these installations as well as the dates and manner of their presentation.

3. The Regulation referred to in paragraph 2 shall lay down:
  - 1) the cases where the submission of the results of measurements shall be required in the light of the features of the installations referred to in Article 176, paragraph 3, subparagraph 1, and their situation,
  - 2) the form wherein the results of measurements shall be submitted,
  - 3) the layout wherein the results of measurements shall be submitted,
  - 4) the required techniques for the submission of the results of measurements,
  - 5) the dates whereat the results of measurements shall be submitted depending on their types.

### **Article 178**

1. By way of a decision, the environmental authority may impose on the operator of a road, railway line, tramway line, airfield or port the obligation to carry out at a specific time the measurements of the levels of substances or energies in the environment as released in relation to the operation of these installations which goes beyond the obligations referred to Article 175, paragraphs 1-3, or laid down in the procedure referred to in Article 56, paragraph 1, subparagraph 1, or Article 95 , subparagraph 1, or Article 107, paragraph 1, where the control measurements of the levels of substances or energies in the environment as emitted in relation to the operation of an installation demonstrate that the environmental quality standards are exceeded; with the provision of Article 147, paragraph 6, applicable to the results of the measurements carried out.
2. The provision of Article 150, paragraph 2, applies, respectively, to the decision referred to in paragraph 1.
3. Where the performed control measurements of the levels of in the environment of the substances or energies emitted in relation to the operation of an installation demonstrate that the environmental quality standards are exceeded, by way of a decision, the environmental authority may impose on the operator of a road, railway line, tramway line, airfield or port the obligation to submit to the authority the results of measurements of the levels of substances or energies in the environment which are additional to the obligations referred to in Article 177, paragraph 1, specifying their scope and dates for their submission as well as the requirements for their form, layout and techniques of submission.

4. The procedure to issue the decision to impose the obligation to carry out the measurements or to submit their results shall be initiated ex officio.

### **Article 179**

1. Every 5 years the operator of a road, railway line or port which are classified as installations which may have an adverse acoustic effect on large areas shall develop an acoustic map of the area where the operation of an installation may cause the permissible noise levels in the environment to be exceeded.
2. By way of a Regulation, the minister responsible for the environment shall lay down the roads, railway lines or airfields the operation whereof may have an adverse acoustic effect on large areas and the manner of delineating the boundaries of the areas to be covered by such maps, taking into account the features of the installations referred to in Article 176, paragraph 3.
3. The acoustic map shall be developed in sections covering the installations in the areas of particular Powiats; with the provisions of Article 118, paragraphs 3-5, applicable, respectively, to the sections of the acoustic map.
4. The operator of a road, railway line or airfield shall submit to the relevant Voivode and Starost the section of the acoustic map covering the Powiat concerned.
5. The operator of a road, railway line or airfield shall be obliged to develop the acoustic map of the areas for the first time within 1 year from the date when they were classified as installations the operation whereof may have an adverse acoustic effect on large areas.

## **Part IV**

### **Permits for the releases of substances or energies into the environment**

#### **Chapter 1**

#### **General provisions**

### **Article 180**

The operation of an installation causing:

- 1) gas or dust releases into the ambient air,
- 2) wastewater discharges into waters or to land,
- 3) waste generation,
- 4) noise generation,

- 5) the generation of electromagnetic fields  
shall be allowed after a permit has been granted where such permit is required.

### **Article 181**

1. The environmental authority may grant:
  - 1) an integrated permit,
  - 2) a permit for gas or dust releases into the ambient air,
  - 3) a permit for the discharge of wastewater into waters or to land,
  - 4) a permit for waste generation,
  - 5) a permit for the emission of noise into the environment,
  - 6) a permit for the emission of electromagnetic fields.
2. The conditions and procedure for the granting, withdrawal and limiting the permit referred to in paragraph 1, subparagraph 3, and the competence of the authorities shall be laid down by the provisions of the Water Law Act, subject to paragraph 3.
3. The provisions of Articles 187 and 198 shall apply, respectively, to permits for the discharge of wastewater into waters or to land granted pursuant to the Water Law Act.

### **Article 182**

The permits referred to in Articles 181, paragraph 1, subparagraphs 2-6, shall not be required where it is required to have an integrated permit.

### **Article 183**

1. A permit shall be granted by way of a decision of the environmental authority.
2. The authority competent to grant a permit shall rule on its expiry, withdrawal or limitation.

## **Chapter 2**

### **The granting of permits**

### **Article 184**

1. Subject to Article 189, a permit shall be granted on an application of the operator of an installation.
2. The application for a permit shall contain:

- 1) the name of the installation operator, the address of the place or residence or seat of the operator,
  - 2) the address of the establishment at the site whereof the installation is operated,
  - 3) information on the legal title to the installation,
  - 4) information on the type of the installation, the equipment and technologies used as well as the technical characteristics of the sources generating emissions and the places where the emissions take place,
  - 5) an assessment of the technical condition of the installation,
  - 6) information on the type of activities carried out,
  - 7) a description of the possible alternative modes of operation of the installation,
  - 8) the mass balance and types of the raw and auxiliary materials and fuels used, along with a technological flow chart,
  - 9) information on the energy used or generated by the installation,
  - 10) the levels and sources or places of current and foreseen emissions in the course of the normal operation of the installation and under conditions different from normal ones, in particular such as the start-up, malfunction or stoppages,
  - 11) information on the planned periods of the operation of the installation under conditions other than normal operating conditions,
  - 12) information on the existing or foreseen impact of emissions on the environment,
  - 13) the results of the measurements of the emissions from the existing installation,
  - 14) the change in the emission levels which have occurred since the permit was last granted for the existing installation,
  - 15) the planned action, including technical measures to prevent or reduce emissions,
  - 16) the proposed measures to monitor technological processes, in particular the measurements or recording of the emission levels,
  - 17) the foreseen manner of closing down the operation of the installation in an environmentally safe way,
  - 18) the time for which the permit is to be granted.
3. Where the application referred to in paragraph 1 relates to new installations or those substantially changed, it shall contain information indicating that the requirements referred to in Article 143 have been met.
  4. The following shall be enclosed with the application for a permit:
    - 1) a document confirming that the applicant is authorised to be party to transactions regulated by law where the installation operator is not a natural person,

- 2) an excerpt and a drawing from the local land-use plan where the latter has been adopted and a decision on the conditions for land development and use where it was required to obtain such a decision,
  - 3) a summary of the application made in a non-technical language.
5. Additional requirements for the application for the granting of a permit are laid down by Articles 208, 221, 232 and 235 and the provisions of the Waste Act.

#### **Article 185**

1. Where it becomes likely in the course of the procedure for the granting of a permit that other parties unknown to the administration authority may be involved in the matter, information on the initiation of the procedure shall be made public.
2. The making public of the information referred to in paragraph 1 shall meet the obligation to notify parties to the procedure in the meaning of the Administrative Procedure Code.

#### **Article 186**

The authority competent to grant a permit shall refuse to grant it where:

- 1) the requirements laid down in Article 141, paragraph 2, Article 143, Article 204, paragraph 1, or the provisions of the Waste Act are not complied with,
- 2) the operation of the installation would cause the emission standards to be exceeded,
- 3) the operation of the installation would cause the environmental quality standards to be exceeded,
- 4) the granting of the permit would be inconsistent with the action programmes referred to in Article 17, Article 91, paragraph 1, and Article 119, paragraph 1,
- 5) the application relates to the rights of the applicant which are covered by a decision to withdraw or limit the permit in the cases referred to in Article 194, paragraph 1, and Article 195, paragraph 1, subparagraph 1, and a period of 2 years has not elapsed yet from the date that the decision to withdraw or limit the permit became final.

#### **Article 187**

1. Where it is dictated by a particularly important public interest related to environmental protection, in particular the risk of a substantial deterioration of the state of the environment, the permit referred to in Article 181, paragraph 1, subparagraphs 1-4, a security for claims relating to the occurrence of adverse effects in the environment may be established.

2. The security referred to in paragraph 1 may have the form of a deposit, bank guarantee or insurance policy.
3. The security in deposit form shall be paid to a separate bank account indicated by the permitting authority, whereas the security in the form of a bank guarantee or an insurance policy shall be submitted to the permitting authority.
4. The bank guarantee or insurance policy shall provide that in case of adverse effects occurring in the environment, as a result of the failure of the entity to meet the obligations laid down in the permit referred to in Article 181, paragraph 1, subparagraphs 1-4, the bank or the insurance company shall settle the liabilities with the permitting authority.

### **Article 188**

1. A permit shall be granted for a specific period not exceeding 10 years.
2. The permit shall lay down:
  - 1) the type and parameters of the installation which are significant for the prevention of pollution,
  - 2) the emission limit values under the conditions of the normal operation of the installation, not exceeding those for the correct operation of the installation, for the different modes of operation,
  - 3) the maximum allowed duration of technologically justified conditions other than normal operating conditions, in particular in the case of the start-up and stoppage of the installation; the conditions for the releases of substances or energies into the environment in such cases; and the conditions for the emissions,
  - 4) the type and quantity of the energy, raw and auxiliary materials and fuels used,
  - 5) the sources where substances or energies are generated and the places where they are released into the environment,
  - 6) the scope and manner of the monitoring of technological processes, including the monitoring and recording of the emission levels,
  - 7) the procedure to be followed in the case of a breakdown of the measuring systems used to monitor technological processes where it is required to use such systems,
  - 8) the manner and frequency of the communication of the information and data referred to in subparagraph 6 to the authority competent to grant the permit,
  - 9) the required measures, including the technical measures to prevent or reduce emissions.
3. The permit may lay down:

- 1) the procedure applicable where the operation of the installation is closed down,
- 2) the extent and form wherein claims shall be secured.
4. The operation of the installation shall be allowed after a security has been provided where it is established.
5. Additional requirements for the granting of a permit are laid down by Articles 211, 224, 233 and 236 and the provisions of the Waste Act.

#### **Article 189**

A permit may be granted on request from the party interested in the purchase of an installation or its indicated part.

#### **Article 190**

1. The party interested in the purchase of the whole installation may submit an application for the rights and obligations under the permits covering this installation to be transferred to the party.
2. It shall be possible to transfer the rights and obligations only where it is established that the purchaser is able to secure the correct performance of the duties of such obligations.
3. The transfer of rights and obligations or a refusal to transfer them shall be made by way of a decision.
4. The purchaser referred to in paragraph 1 shall take over all the obligations relating to the operation of the installation which were incumbent on the previous owner of the installation under the permit and the provisions of this Act as well as under the Water Law Act and the provisions of the Waste Act.

#### **Article 191**

1. The decisions referred to in Article 189 and Article 190, paragraph 3:
  - 1) shall become legally effective after a legal title to the installation or its indicated part has been assigned,
  - 2) expire in one year from the date whereon they are granted where the applicant has not gained a legal title to the installation or its indicated part.
2. The decisions referred to in Article 189 and Article 190, paragraph 3, can be granted to more than one applicant.

## **Article 192**

The provisions on the granting of a permit shall apply respectively where its conditions are changed.

## **Chapter 3**

### **The expiry, withdrawal and limitation of permits**

## **Article 193**

1. A permit shall expire:
  - 1) after the period for which it was granted has elapsed,
  - 2) where the operator has lost a legal title to the installation, subject to Article 190, paragraphs 1-3, or for other reasons the permit has become immaterial,
  - 3) on request of the operator of the installation,
  - 4) where the operator of the installation has not started the activity covered by the permit within 2 years from the date whereon the permit became effective,
  - 5) where the operator of the installation has not carried out the activity covered by the permit for 2 years,
  - 6) in the case referred to in Article 229, paragraph 4.
2. The permits referred to in Article 181, paragraph 1, subparagraphs 2-6, shall expire as the integrated permit becomes final.
3. The authority competent to grant a permit shall rule, by way of a decision, on the expiry of a permit where the circumstances referred to in paragraph 1 occur.
4. The decision ruling on the expiry of a permit shall not be issued where the operator of the installation has obtained a new permit and where the rights and obligations referred to in Article 190, paragraphs 1-3, have been transferred.

## **Article 194**

1. A permit shall be withdrawn or limited without compensation where the installation is not properly operated, thus creating the risk of a substantial deterioration of the state of the environment, or posing danger to human life or health.
2. In the case referred to in paragraph 1 the decision concerning the withdrawal or limitation of the permit shall be executed immediately.

### **Article 195**

1. A permit may be withdrawn or limited without compensation, where:
  - 1) the installation is operated in violation of the conditions of the permit, other provisions of this Act or the Waste Act,
  - 2) the provisions concerning environmental protection have changed to a degree preventing emissions under the conditions as set out in the permit,
  - 3) the installation is subject to the procedure referred to in Articles 227-229.
2. In the case referred to in paragraph 1, subparagraph 1, prior to the making of a decision to withdraw or limit the permit, the authority shall request the operator of the installation to eliminate the violation at a specific date.

### **Article 196**

1. A permit may be withdrawn or limited with compensation, where:
  - 1) this is dictated by the considerations of environmental protection, or
  - 2) the use of the permit poses danger to human life or health.
2. The compensation shall be set out by a decision of the authority competent to withdraw or limit the permit. This decision is not subject to appeal.
3. The compensation shall be due from the authority competent to withdraw or limit the permit.
4. A party which is not satisfied by the compensation granted may, within 30 days from the date whereon the decision referred to in paragraph 2 is delivered, take legal action before a general court; legal action can also be taken where the competent authority fails to issue a decision within 3 months from the date whereon the injured person has made the claim.
5. Legal action before court shall not stay the execution of the decision referred to in paragraph 2.
6. The claim for compensation shall expire after one year from the date whereon the decision to withdraw or limit the permit becomes final.

### **Article 197**

1. Where the adverse effects in the environment arising from the activity conducted have not been eliminated, the authority competent to grant the permit shall set out the scope and date of meeting this obligation in its decision on the expiry, withdrawal or limitation of the permit.

2. The powers referred to in paragraph 1 shall not infringe upon the competence of the administration authority as provided for in Article 362, paragraph 1, subparagraph 2.

#### **Article 198**

1. After a decision on the expiry, withdrawal or limitation of a permit has been issued, where the operator of the installation has rectified the adverse effects in the environment arising from the activity conducted or such effects have never occurred, on request of the operator of the installation the authority competent to grant a permit shall rule on the return of the security established.
2. Where it is found that the adverse effects in the environment arising from the activity conducted have not been rectified by the date laid down, the authority competent to grant a permit shall rule that the security will be used for this purpose, to the extent necessary to rectify these effects.

#### **Article 199**

The procedure relating to the expiry, withdrawal or limitation of a permit shall be initiated ex officio or on request of the operator of the installation or a party interested in its purchase.

#### **Article 200**

Where the liquidation or bankruptcy of the user of the environment has been declared the provisions of Article 198 shall apply, respectively, to the ruling on the return of the security or its use to rectify the damage.

### **Chapter 4**

#### **Integrated permits**

#### **Article 201**

1. An integrated permit shall be required for an installation whose operation, given the type and scale of the activity conducted therein, is likely to cause substantial pollution of the particular natural elements or the environment as a whole.
2. By way of a Regulation, the minister responsible for the environment shall lay down the types of installations which are likely to cause substantial pollution of the particular natural elements or the environment as a whole.

3. In the Regulation referred to in paragraph 2, the minister responsible for the environment shall take into account the type and scale of the activity conducted in installations and the effects which the operations of the installations may have on the particular natural elements or the environment as a whole.

#### **Article 202**

1. Unless this Act provides otherwise, the integrated permit shall lay down the conditions for emissions on the principles as set out for the permits referred to in Article 181, paragraph 1, subparagraphs 2-6.
2. The integrated permit shall lay down the emission limit values for gases or dusts released into the air from the installation, irrespective of whether the installation would require, under this Act, a permit for releases of gases or dusts into the air.
3. The integrated permit shall lay down the permissible noise level, irrespective of whether the installation would require, under this Act, a permit for noise emissions into the environment.
4. The integrated permit shall lay down the conditions for waste production and handling on the principles as set out in the Waste Act, irrespective of whether the installation would require, under this Act, a permit for waste production.
5. Where an installation covered by an integrated permit discharges wastewater into the collecting system, the permit shall lay down the requirements for this wastewater.
6. The integrated permit shall lay down the conditions for water abstraction on the principles set out in the Framework Water Act.

#### **Article 203**

Where the installations referred to in Article 201, paragraph 1, are located on the same site they shall be covered by one integrated permit.

#### **Article 204**

1. Installations requiring an integrated permit shall meet the requirements of environmental protection which result from the best available technique and in particular, subject to Article 207, paragraph 2, they must not cause the emission limit values to be exceeded.
2. The emission limit values shall be understood to mean those additional emission standards that cannot be exceeded by installations requiring an integrated permit.

## **Article 205**

Where the emission limit values resulting from the use of the best available technique are not exceeded, the obligation to meet the environmental quality standards shall still have to be observed.

## **Article 206**

1. The minister responsible for the environment shall collect information on the best available techniques and co-ordinate the flow of such information for the purposes of the authorities competent to grant permits and the interested users of the environment.
2. In agreement with the minister responsible for the economy, taking into account the need to ensure a common approach to the granting of integrated permits throughout the country, the minister responsible for the environment may lay down, by way of a Regulation, the minimum requirements resulting from the best available technique, to be met by the installations referred to in Article 201, paragraph 2, including:
  - 1) the emission limit values,
  - 2) in justified cases, the mutual, alternative relations between the emission limit values for gas or dust releases into the air, wastewater discharge, waste production and the emissions of noise and electromagnetic fields,
  - 3) the margins of tolerance for justified deviations from the fixed emission limit values and the period over which they apply,
  - 4) the requirements in relation to energy and material consumption,
  - 5) other necessary technical requirements.
3. The margin of tolerance shall be understood to mean the value set out pursuant to paragraph 2, subparagraph 3, by which over an indicated period the emission limit values may be exceeded.
4. Where emission limit values are set out for:
  - 1) gas or dust releases into the air,
  - 2) waste production,
  - 3) noise emissions,the provisions of Article 145, paragraphs 2 and 3, shall apply, respectively.
5. Where wastewater is discharged the emission limit values shall be set out, respectively, as:
  - 1) the mass of a substance in wastewater per unit mass of raw material, intermediate material, fuel or final product,
  - 2) the concentration of the substance in wastewater,

- 3) the mass of the substance in wastewater discharged in a specific time,
- 4) the temperature of wastewater.

The provisions of Article 145, paragraph 3, shall apply, respectively.

6. Where electromagnetic fields are generated, the emission limit values may be set out as:
  - 1) the rated voltage of power lines and electricity sub-stations,
  - 2) the maximum equivalent isotropic radiation power for installations emitting electromagnetic fields at frequencies from 0.003 MHz to 300,000 MHz, including radiocommunication, radionavigation and radiolocation stations.

The provisions of Article 145, paragraph 3, shall apply, respectively.

### **Article 207**

1. The best available technique shall meet the requirements set taking, at the same time, into account:
  - 1) the cost and benefit analysis,
  - 2) the time indispensable for the implementation of the best available technique in a given type of installation,
  - 3) the prevention or minimisation of dangers to the environment as caused by emissions,
  - 4) the adoption of measures to prevent major industrial accidents or to minimise the dangers which they pose to the environment.
2. It shall be allowed to deviate from the emission limit values by margins of tolerance as set pursuant to Article 206, paragraph 2, subparagraph 3, provided that:
  - 1) this is beneficial to the environment as a whole,
  - 2) the emission standards are complied with.
3. Where the emission limit values have not been fixed pursuant to Article 206, paragraph 2, subparagraph 1, the limit values for the emissions from the installation shall be set out, taking into account the need to comply with the effective emission standards.

### **Article 208**

1. The application for an integrated permit shall meet the requirements set for applications for the permits referred to in Article 181, paragraph 1, subparagraphs 2-6, and for the application for a permit for the abstraction of water under the provisions of the Water Law Act.
2. The application for an integrated permit shall contain:
  - 1) information on:

- a) the effect of emissions on the environment as a whole,
  - b) the existing or likely transboundary effect on the environment,
- 2) justification for the proposed emission levels in the cases referred to in Article 207, paragraphs 2 and 3, indicating compliance with the requirements laid down in these provisions.
- 3. The application shall be submitted in two copies.
- 4. The following shall be enclosed with the application:
  - 1) two copies of an assessment of compliance with the minimum requirements resulting from the best available technique as carried out by an accredited institution for the installation whereto the application for an integrated permit applies, provided that these requirements have been set pursuant to Article 206, paragraph 2,
  - 2) the receipt for the registration charge.
- 5. By way of a Regulation, the minister responsible for the environment shall lay down the required scope of accreditation for institutions performing assessments of compliance of the installation with the minimum requirements resulting from the best available technique, taking into account the need to ensure that such assessment is reliable.

#### **Article 209**

The authority competent to grant a permit shall submit without delay to the minister responsible for the environment or the entity referred to in Article 213, paragraph 1, copies of the application for an integrated permit and the assessment of compliance with the minimum requirements resulting from the best available technique.

#### **Article 210**

- 1. The application for an integrated permit shall be considered provided that a registration charge is paid to a separate bank account held by the minister responsible for the environment.
- 2. The proceeds from the registration charge shall be special resources in the meaning of the Public Finance Act of 26 November 1998 (Official Journal No. 155, Item 1014; 1999, No. 38, Item 360, No. 49, Item 485, No. 70, Item 778, No. 110, Item 1255; 2000, No. 6, Item 69, No. 12, Item 136, No. 48, Item 550, No. 95, Item 1041, No. 119, Item 1251, No. 122, Item 1315), destined to finance the tasks of the minister responsible for the environment as referred to in Articles 206 and 212.
- 3. The amount of the registration charge shall not exceed EUR 3,000.

4. By way of a Regulation, the minister responsible for the environment shall lay down the amount of the registration charge, taking into account the scope of documentation indispensable for the granting of the permit in the light of the scale and type of the activity conducted in installations and the need to collect resources enabling the tasks referred to in Articles 206 and 212 to be carried out.

#### **Article 211**

1. The integrated permit shall meet the requirements set for the permits referred to in Article 181, paragraph 1, subparagraphs 2-6.
2. The integrated permit shall also define:
  - 1) the type of activity being conducted,
  - 2) the measures to ensure that a high level of the protection of the environment as a whole is achieved,
  - 3) the measures to reduce the transboundary effects on the environment,
  - 4) the requirement for notification of the occurrence of an industrial accident, unless it is provided for in Article 264,
  - 5) the course of action to be taken where the operation of the installation is closed down, including the measures to eliminate the negative effects on the environment as caused by the past operation provided that they can be predicted.
3. The integrated permit may set additional requirements for the installation where they are necessary to ensure that a high level of the protection of the environment as a whole is achieved.
4. The authority competent to grant a permit shall submit without delay to the minister responsible for the environment or the entity referred to in Article 213, paragraph 1, copies of the integrated permit granted.

#### **Article 212**

1. The minister responsible for the environment shall keep a register of applications for integrated permits, assessments of compliance with the minimum requirements and integrated permits granted as well as analyse the applications and the permits granted from the point of view of compliance with the requirements resulting from the best available technique as set in the Regulation issued pursuant to Article 206, paragraph 2.
2. The minister responsible for the environment or the entity referred to in Article 213, paragraph 1, may request that the Starost should provide information or documents, other

than those referred to in paragraph 1, relating to the granting of integrated permits; the entity referred to in Article 213, paragraph 1, shall exercise this right in respect of the Voivode as well.

3. Where irregularities are found in respect of the granting of integrated permits by the Starost, the minister responsible for the environment shall make a submission, in particular, a request that the decision to grant the integrated permit should be considered invalid.
4. Where the minister responsible for the environment makes the submission referred to in paragraph 3, the minister shall have the rights of a party to the administrative proceedings or to the proceedings before the High Administrative Court.
5. The entity referred to in Article 213, paragraph 1, shall forward to the minister responsible for the environment information which may provide the basis for the minister's action to eliminate irregularities in granting integrated permits.

### **Article 213**

1. The minister responsible for the environment may commission the performance of the tasks referred to in Article 206, paragraph 1, and Article 212, paragraphs 1 and 2, to a natural or legal person who guarantees, in the light of the person's qualifications, experience and equipment, the correct performance of these tasks.
2. The commission referred to in paragraph 1 shall be made in accordance with the procedure laid down in the Public Procurement Act of 10 June 1994 (Official Journal of 1998, No. 119, Item 773; 1999, No. 45, Item 437; 2000, No. 12, Item 136, No. 93, Item 1027, No. 110, Item 1167) for a period of 5 to 8 years.
3. When establishing the conditions of the tender for the performance of these tasks, the minister shall take into account the requirements referred to in paragraph 1 as well as the need for the selected entity to ensure the security of documents and databases as provided or developed in connection with the performance of these tasks.
4. Information to the effect that a contract has been signed to commission the performance of these tasks, that it has been terminated or expired, shall be published by way of a public notice in the Journal of the Government of the Republic of Poland "Monitor Polski" no later than 60 days prior to the date when the contract becomes effective, is terminated or expires, respectively.
5. The public notice referred to in paragraph 4 shall communicate:

- 1) the given and family names, the place of residence of the natural person, or the name and address of the seat of the legal person, with whom the contract has been signed,
  - 2) the date on which the indicated person will start to carry out the tasks commissioned or the date on which the person will cease to perform them in the light of the expiry or termination of the contract.
6. Within the scope of the performance of the tasks by the entity referred to in paragraph 1, the authority competent to grant an integrated permit shall provide this entity with a copy of the application for an integrated permit, a copy of the assessment of compliance with the minimum requirements resulting from the best available technique and a copy of the permit granted.
  7. Within 30 days of the date of expiry or termination of the contract, the entity referred to in paragraph 1 shall be obliged to return to the minister responsible for the environment the documents and databases provided or developed in connection with the performance of the tasks.
  8. The performance of the tasks referred to in paragraph 7 shall be subject to execution under the procedure as provided for by the regulations on the administrative execution procedure.

#### **Article 214**

1. Before a change is made in the installation consisting of a change in the manner of its operation, the installation operator shall be obliged to notify the authority competent to grant the permit of the planned change.
2. The authority referred to in paragraph 1 may recognise that the planned change in the installation requires adjustment of certain conditions of the integrated permit granted and oblige the installation operator to submit an application for the adjustment of the permit within 30 days of the receipt of such notice.

#### **Article 215**

1. Before a substantial change is made in the installation covered by an integrated permit, the installation operator shall be obliged to notify the authority competent to grant an integrated permit of the planned change and submit an application requesting adjustment of the integrated permit granted.
2. The application for adjustment of the integrated permit and the decision to allow for the adjustment of the integrated permit shall contain the data referred to in Articles 184 and

208 and specify the requirements contained in Articles 188 and 211 where they are related to the planned change referred to in paragraph 1.

#### **Article 216**

1. At least every five years the authority competent to grant a permit shall review the integrated permit granted.
2. The integrated permit granted shall also be subject to review where there has been a change in the best available techniques, allowing for a substantial reduction in the emission levels without entailing excessive costs, or where this results from the need to align the operation of the installation with the amended environmental legislation.

#### **Article 217**

Where analyses carried out in accordance with Article 216 indicate the need to modify the content of the integrated permit the date of expiry whereof is due later than a year from the finalisation of the analyses, the provisions of Article 195 shall apply, respectively.

#### **Article 218**

The administration authority shall ensure public participation in the procedure for the granting of an integrated permit or a decision to modify the integrated permit.

#### **Article 219**

Where an installation requiring an integrated permit may have a transboundary effect on the environment, the provisions of Articles 58-70 shall apply, respectively.

### **Chapter 5**

#### **Permits for gas or dust releases into the ambient air**

#### **Article 220**

1. Gas or dust releases into the ambient air shall require a permit, subject to paragraph 2.
2. No permit shall be required for gas or dust releases from the installations:
  - 1) from which gases or dusts are released into the air in a fugitive fashion, i.e., not through technical systems designed to be used for this purpose,
  - 2) gravity ventilation systems,
  - 3) energy installations:

- a) fired by hard coal, with a total rated power of up to 5 MWth,
- b) fired by coke, wood, straw, diesel oil and heating oil, with a total rated power of up to 10 MWth,
- c) fired by gaseous fuels, with a total rated power of up to 15 MWth,
- 4) installations other than energy-generating, with a total rated power of up to 1 MWth, when fired by hard coal, coke, wood, straw, diesel oil, heating oil and gaseous fuels,
- 5) installations for the pressure pumping of liquid fuels,
- 6) grain drying installations,
- 7) at painting shops using less than 3 kg of water lacquers and lacquers with a high content of solid particles,
- 8) used at outlets serving food,
- 9) at wastewater treatment plants,
- 10) at non-outflow tanks of local wastewater collecting systems,
- 11) at fruit and vegetable storage facilities,
- 12) used at glassworks, with a capacity of less than 1 tonne a day,
- 13) used at breeding farms, excluding installations classified as projects which may have significant impact on the environment, as referred to in Article 51, paragraph 1,
- 14) installations for coal drying, briquetting and milling, with a processing capacity of less than 30 tonnes of raw material an hour,
- 15) used at food-producing mills,
- 16) for the production of quicklime, with a capacity of less than 10 tonnes a day.

### **Article 221**

1. In addition to the information referred to in Article 184, paragraphs 2-4, the application for a permit for gas or dust releases into the ambient air shall also include;
  - 1) the time of operation of the sources generating gases and dusts and the places where they are released into the ambient air in the course of the year,
  - 2) the specification of the types and quantities of gases or dusts released into the ambient air per unit of raw or auxiliary material used, fuel or final product,
  - 3) a description of the area within the extent representing fifty times the height of the most elevated place where gases or dusts are released into the ambient air, taking into account the areas protected pursuant to the provisions of the Nature Conservation Act and the Act on the Protection of Health Resorts and Health Resort Treatment of 17 June 1966 (Official Journal, No. 23, Item 150; 1987, No. 33, Item 180; 1989, No. 35,

Item 192; 1990, No. 34, Item 198; 1998, No. 162, Item 1116; 2000, No. 120, Item 1268),

- 4) the specification of the aerodynamic roughness of the terrain,
  - 5) the current ambient air quality,
  - 6) a description of weather conditions,
  - 7) a graphical representation of the results of calculations of ambient air quality, taking into account the reference modelling methods.
2. The information referred to:
- 1) in Article 184, paragraph 2, subparagraph 10, shall specify the emission levels of gases or dusts released into the ambient air, expressed as  $\text{mg/m}^3$  of waste gasses in dry mass at a temperature of 273 K and a pressure of 101.3 kPa as well as expressed as kg/h and Mg/year,
  - 2) in Article 184, paragraph 2, subparagraph 16, shall indicate the location of stations for measuring the emission levels of gases or dusts released into the ambient air as well as the proposed scope, method and manner of carrying out these measurements.

## **Article 222**

1. In the absence of emission standards or limits for substances in ambient air, the quantities of gases or dusts authorised to be released into ambient air shall be set at a level which does not cause the reference values in the air and the standards of ambient air quality applicable to odours to be exceeded.
2. In agreement with the minister responsible for health, by way of a Regulation, the minister responsible for the environment shall lay down the reference values for certain substances in ambient air.
3. The Regulation referred to in paragraph 2 shall lay down:
  - 1) the conditions under which the reference values for substances shall be determined, such as temperature and pressure,
  - 2) the numerical codes of substances allowing for their unambiguous identification,
  - 3) the periods over which the reference values shall be averaged,
  - 4) the differentiated levels of substances in ambient air for:
    - a) the territory of the country, excluding the areas of national parks and those covered by protection extended to health resorts,
    - b) the areas of national parks,
    - c) the areas covered by protection extended to health resorts,

- 5) the reference methods for modelling the levels of substances in ambient air.
4. The Regulation referred to in paragraph 2 may lay down:
  - 1) the periods over which the reference values shall apply,
  - 2) the conditions under which the reference values shall be deemed to be complied with.

### **Article 223**

In the absence of the reference values for gases or dusts, the applicant for the granting of a permit shall be obliged to submit a justified proposal for such values.

### **Article 224**

1. In addition to the requirements referred to in Article 188, the permit for the release of gases or dusts into ambient air shall contain:
  - 1) the characteristics of the places where gases or dusts are released into ambient air,
  - 2) the situation of the stations measuring the emission levels of gases or dusts released into ambient air.
2. When establishing in the permit the conditions referred to in Article 188, paragraph 2, subparagraph 2, the types and quantities of gases or dusts allowed to be released into ambient air shall be set out for each of their sources, each place where they are released and the whole installation, expressed in:
  - 1)  $\text{mg/m}^3$  of waste gases in dry mass at a temperature of 273 K and a pressure of 101.3 K, or in  $\text{kg/h}$ ,
  - 2)  $\text{Mg/year}$ .
3. The permit shall not set out the emission levels for those types of gases and dusts that when released into ambient air do not cause the limit values for substances in ambient air to be exceeded by 10% or their reference values to be exceeded by 10%; in such a case the permit shall indicate the types of gases or dusts the emission levels whereof have not been set out.
4. Where the emission standards have been set out for an installation, the permit for the release of gases or dusts into ambient air shall not lay down the types of gases or dusts other than those covered by the standards; in such a case the permit shall indicate that no conditions have been set out for the emissions of the other gases or dusts.

### **Article 225**

1. In an area where the ambient air quality standards have been exceeded, it shall be possible to grant a permit for the release of gases or dusts into ambient air for a new installation or a substantially changed installation provided that the quantities of gases or dusts released into ambient air from other installations localised in this area and causing these standards to be exceeded are adequately reduced.
2. The overall reduction of the quantities of gases or dusts released into ambient air from other installations shall be greater at least by 30% than the quantity of gases or dusts allowed to be emitted into ambient air from a new installation or a substantially changed installation.
3. The permit referred to in paragraph 1 may be granted where it does not cause greater danger to human health.

### **Article 226**

1. The granting of a permit in the case referred to in Article 225, paragraph 1, shall require the conduct of the compensation procedure referred to in Articles 227-229.
2. The compensation procedure shall be conducted in conformity with the conditions laid down in Chapters 2 and 3, taking into account the changes resulting from the present Chapter.

### **Article 227**

The operators of other installations who have consented to reduce the quantities of gases and dusts released into ambient air shall participate in the compensation procedure.

### **Article 228**

The following shall be enclosed with the application for the conduct of the compensation procedure:

- 1) an application for the granting of a permit for the release of gases or dusts into ambient air,
- 2) the consent of the participants in the procedure to adequately reduce the quantities of gases and dusts released into ambient air.

### **Article 229**

1. The permit for the release of gases or dusts into ambient air from a new installation or a substantially changed installation shall become effective at the earliest on the date whereon the decisions referred to in paragraph 2 become final.
2. The authority competent to grant a permit shall withdraw or limit without compensation the permits for the release of gases or dusts into ambient air from other installations covered by the compensation procedure to the extent whereto the participants in the procedure have consented.
3. As the decisions referred to in paragraph 2 become final, the authority competent to grant a permit shall forthwith notify the applicant thereof.
4. Where the decision relating to the permit issued as a result of the compensation procedure does not become effective within two years from the date of its making, the authority competent to grant a permit shall declare its expiry.

## **Chapter 6**

### **Permits for noise emission into the environment**

### **Article 230**

1. The permit for noise emission into the environment shall be required where the noise level in the environment exceeds the permissible levels, subject to paragraph 2 and Article 321, paragraph 2.
2. The permit for noise emission into the environment shall not be required where noise is generated in relation to the operation of a road, railway line, tramway line, airfield or port, or in relation to the activity of a physical person who is not an economic operator.

### **Article 231**

1. Where the authority competent to grant a permit for noise emission into the environment finds that the permissible noise levels are exceeded outside of the establishment the authority shall call on the establishment, by way of an interim decision, to submit an application for the granting of a permit; this interim decision shall be subject to appeal.
2. The obligation to have a permit for noise emission into the environment becomes effective after 6 months from the date of delivery of the interim decision referred to in paragraph 1.

### **Article 232**

1. In addition to the information referred to in Article 184, paragraphs 2-4, the application for a permit for noise emission into the environment shall contain:
  - 1) the distribution of the operation times of noise sources in day-time and night-time,
  - 2) the characteristics of the area where the establishment is situated and the surrounding areas as provided by the local land-use plan, or, in the absence of such a plan, in accordance with Article 115, the area in the range affected by the noise emitted by the establishment,
  - 3) the current acoustic state of the environment round the establishment.
2. The information referred to in Article 182, paragraph 2, subparagraph 10, shall contain:
  - 1) the indication of the sound power levels of noise sources,
  - 2) the proposed permissible values of noise levels emitted by the plant in day-time and night-time.

### **Article 233**

1. In addition to the requirements referred to in Article 188, paragraphs 2 and 3, a permit for noise emission into the environment shall also lay down for day-time and night-time:
  - 1) the operation times of sources,
  - 2) the permissible alternative modes of operation of the operation, taking into account the equipment used.
2. The requirements referred to in Article 188, paragraph 2, subparagraph 2, shall also include the permissible noise levels emitted by the establishment as laid down separately for day-time and night-time.

## **Chapter 7**

### **Permits for the emission of electromagnetic fields**

### **Article 234**

The permit for the emission of electromagnetic fields shall be required for:

- 1) power lines and electricity substations with a rated voltage of 110 kV and more,
- 2) radiocommunication, radionavigation and radiolocation installations with the equivalent isotropic radiation power of 15 W or more, which emit electromagnetic fields at frequencies from 0.03 MHz and 300,000 MHz.

### **Article 235**

1. In addition to the information referred to in Article 184, paragraphs 2-4, an application for the granting of a permit for the emission of electromagnetic fields into the environment shall contain the proposed measures to prevent public access and the designation of the areas where electromagnetic fields with higher values than permissible ones will occur.
2. The information referred to:
  - 1) in Article 184, paragraph 2, subparagraph 10, shall specify the frequency ranges of the electromagnetic fields emitted by installations and the rated voltages of power lines and electricity substations,
  - 2) in Article 184, paragraph 2, subparagraph 12, shall indicate, in narrative and graphic form, the areas in the vicinity of the installations to be affected by electromagnetic fields having the limit values for areas designated for housing and areas accessible to the public.

### **Article 236**

1. In addition to the provisions referred to in Article 188, a permit for the emission of electromagnetic fields into the environment shall indicate the boundaries of the areas inaccessible to the public in the vicinity of the installation where electromagnetic fields with values exceeding the limit values will occur and the measures to prevent public access to them as well as their marking.
2. When setting out in the permit the conditions referred to in Article 188, paragraph 2, subparagraph 2, the following shall be laid down:
  - 1) the rated voltages of power lines and electricity substations,
  - 2) the maximum equivalent isotropic radiation power of radiocommunication, radionavigation and radiolocation installations which emit electromagnetic fields at frequencies from 0.03 MHz and 300,000 MHz.

## **Part V**

### **Environmental audits**

### **Article 237**

Where the environmental authority finds circumstances indicating the possibility of adverse impact of the installation on the environment, by way of a decision, the authority may impose

on the user of the environment operating the installation the obligation to perform and submit an environmental audit.

### **Article 238**

The environmental audit of an installation classified as a project which may have significant impact on the environment as referred to in Article 51, paragraph 1, shall include:

- 1) a description covering:
  - a) the type, size and location of the installation,
  - b) the surface area of the site occupied or the building structure,
  - c) the type of technology,
  - d) the housing and public buildings existing in the vicinity or in the area directly affected by the installation,
  - e) cultural heritage sites existing in the vicinity or in the area directly affected by the installation which are protected pursuant to the Act on the Protection of Cultural Heritage Sites of 15 February 1962 (Official Journal of 1999, No. 98, Item 1150; 2000, No. 120, Item 1268),
  - f) sites and areas existing in the vicinity or in the area directly affected by the installation which are protected pursuant to the provisions of the Nature Conservation Act, the Forest Act, the Water Law Act and the Act on Health Resorts and Health Resort Treatment,
- 2) the identification of the impact of installation on the environment, including its impact in the event of a major industrial accident,
- 3) a description of measures to prevent and mitigate the impact on the environment,
- 4) comparison of the technology used and the technology meeting the requirements referred to in Article 143,
- 5) an indication whether it is necessary to establish a restricted use area for the installation, the delineation of the boundaries of such an area, the specification of restrictions on the use of the area and technical requirements for building structures and their uses,
- 6) a brief summary of the information contained in the audit in a non-technical language,
- 7) the name(s) of the person(s) who has/have performed the audit.

### **Article 239**

In the decision referred to in Article 237, the authority competent to make it may:

- 1) limit the scope of issues covered by the environmental audit,
- 2) indicate the methods for survey and study.

#### **Article 240**

Where the adverse impact on the environment may arise from the operation of an installation not classified as a project which may have adverse impact on the environment as referred to in Article 51, paragraph 1, the authority competent to impose the obligation to perform the audit shall specify which of the requirements listed in Article 238 shall be met when performing the environmental audit.

#### **Article 241**

1. Where the adverse impact on the environment arises from the activity of the user of the environment other than the operation of an installation, Article 237, Article 239, subparagraph 2, and Article 240 shall apply, respectively.
2. Where the environmental audit covers a road, railway line, tramway line, airfield or port, the operators of these installations shall be obliged to perform the audit.

#### **Article 242**

1. By way of a Regulation, the minister responsible for the environment may lay down additional requirements for environmental audits for the different types of installation.
2. The Regulation referred to in paragraph 1 may lay down detailed requirements relating to:
  - 1) the form wherein the audit shall be prepared,
  - 2) the scope of issues to be identified and assessed in the audit,
  - 3) the type of documents information wherefrom shall be taken into account in the audit.

**Title IV**  
**Major accidents**

**Part I**  
**General provisions**

**Article 243**

The purpose of the protection of the environment against a major accident, hereinafter referred to as “accident” shall be to prevent events likely to cause an accident and to reduce its effects on man and the environment.

**Article 244**

The operator of an establishment which poses the hazard of a major accident, the undertaking which transports dangerous substances and the administration authorities shall be obliged to protect the environment against accidents.

**Article 245**

1. Every person who notices the occurrence of an accident shall be obliged immediately to notify thereof the persons present in the danger zone and an organisational unit of the State Fire Service, or the Police, or the head of the Powiat administration, or the mayor of the town/city.
2. Following the procedure and the principles laid down in the Decree of 23 April 1953 on the services destined to combat natural disasters (Official Journal No.23, Item 93; 1959, No. 27, Item 167; 1970, No. 16, Item 138; 1983, No. 44, Item 200; 1996, No. 106, Item 496; 1998, No. 106, Item 668), the administration authorities may impose the obligation to render personal and material services for the purposes of actions to protect human life and health or the environment against the effects of the accident.

**Article 246**

1. In the event of an accident, acting through the Voivodship Commandant of the State Fire Service and the Voivodship Inspector for Environmental Protection, the Voivode shall take measures and use means necessary to eliminate the accident and its effects, laying down, in particular, the related duties of the administration authorities and the users of the environment.

2. The Voivode shall notify the Voivodship Marshall of the measures taken.

#### **Article 247**

1. In the event of an accident the Voivodship Inspector for Environmental Protection may, by way of a decision:
  - 1) order an adequate inquiry into the causes, course and effects of the accident,
  - 2) impose bans or restrictions on the use of the environment.
2. The decision referred to in paragraph 1 shall be immediately enforceable.
3. Where the nature of the accident warrants the need to take quick action, in particular, where a failure to take action could lead to greater danger to human life or health, or the direct risk of a substantial deterioration of the state of the environment, the decision may be announced verbally, with the information thereof recorded.
4. On request of the party obliged, the decision announced verbally shall be delivered in written form immediately, where possible; the request shall be submitted within 7 days of the announcement of the decision.
5. In the scope of enforcing the duties arising from the decision referred to in paragraph 1, the Voivodship Inspector for Environmental Protection shall be authorised to enforce verbal orders within the limits set out in the Act on the Administrative Execution Procedure (Official Journal of 1991, No. 36, Item 161; 1992, No. 20, Item 78; 1993, No. 28, Item 127; 1995, No. 85, Item 426; 1996, No. 43, Item 189, No. 146, Item 680; 1997, No. 137, No. 926, No. 141, Items 943 and 944, 1998, No. 162, Item 1126; 2000, No. 114, Item 1193, No. 120, Item 1268, No. 122, Item 1315).

### **Part II**

#### **Legal instruments designed to prevent a major industrial accident**

#### **Chapter 1**

#### **General provisions**

#### **Article 248**

1. Depending on the type, category and quantity of a dangerous substance present in the establishment, an establishment which poses the hazard of a major industrial accident, hereinafter referred to as an “industrial accident”, shall be classified as an establishment posing an increased hazard of major accidents, hereinafter referred to as an “increased-

hazard establishment”, or as an establishment posing a high hazard of major accidents, hereinafter referred to as a “high-hazard establishment”.

2. The provision of paragraph 1 shall apply, respectively, to an establishment where the presence of a dangerous substance may be expected, or to an establishment where such a substance may be produced in the course of an industrial process, depending on the foreseen quantity of a dangerous substance present in the establishment.
3. In agreement with the minister responsible for health, the minister responsible for internal affairs and the minister responsible for the environment, by way of a Regulation, the minister responsible for the economy shall lay down the types and quantities of dangerous substances the presence whereof in the establishment shall decide whether it is classified as an increased-hazard establishment or a high-hazard establishment.
4. The Regulation referred to in paragraph 3 shall lay down:
  - 1) the names and quantities of dangerous substances the presence whereof decides whether the establishment concerned is classified as an increased-hazard establishment or a high-hazard establishment,
  - 2) the numerical codes of the substances referred to in paragraph 1, allowing for their unambiguous identification,
  - 3) the criteria for qualifying substances not mentioned on the basis of subparagraph 1 as belonging to the following categories:
    - a) very toxic,
    - b) toxic,
    - c) oxidising,
    - d) explosive,
    - e) flammable,
    - f) highly flammable,
    - g) extremely flammable,
    - h) dangerous, in particular for man or the environmentas well as their quantities which decide whether the establishment is classified as an increased-hazard establishment or a high-hazard establishment.

## **Chapter 2**

### **The obligations of the operator of an establishment posing the hazard of an industrial accident**

#### **Article 249**

Every person who intends to operate or operates an increased-hazard or high-hazard establishment shall be obliged to ensure that such an establishment is so designed, built, operated and decommissioned as to prevent industrial accidents and limit their effects on man and the environment.

#### **Article 250**

1. The operator of an increased-hazard or high-hazard establishment shall be obliged to make a notification of the establishment to the competent authority of the State Fire Service.
2. The notification referred to in paragraph 1 shall contain the following data:
  - 1) the name of the operator, the place or residence or the seat of the operator,
  - 2) the address of the establishment,
  - 3) information on the legal title,
  - 4) the nature of the activity conducted or planned,
  - 5) the type of the installation and existing safety systems,
  - 6) the type, category and quantity of the dangerous substance as well as its physicochemical, fire-hazard and toxic characteristics,
  - 7) the characteristics of the area in the direct vicinity of the establishment, in particular taking into account the factors which may increase the hazard of an industrial accident or aggravate its effects.
3. With the document referred to in paragraph 1, a document shall be enclosed to confirm that the notifier is authorised to participate in legal transactions, where the operator is not a physical person.
4. The operator of the establishment shall be obliged to make the notification referred to in paragraph 1 at least 30 days before the establishment, or a part of the establishment, is set into operation.
5. Any significant change in the quantity or type of a dangerous substance or its physicochemical, fire-hazard and toxic characteristics, a change in the technology or profile of the production with respect to the data contained in the notification referred to in

paragraph 1 shall be notified to the competent authority of the State Fire Service within 14 days before the change is introduced.

6. A significant change in the quantity of a dangerous substance shall be an increase or decrease in the quantity of a specific type of substances by more than 20% with respect to the data given in the notification.
7. A significant change in the type of a substance or its physicochemical, fire-hazard and toxic characteristics shall be such a change as causes it to be assigned to a different category of dangerous substances with respect to the category set out in the notification.
8. The operator of the establishment shall be obliged to make a notification of the date of expected end of the operation of the installation or the closure of the establishment to the competent authority of the State Fire Service at least 14 days before the closure.
9. The operator shall also forward the notifications referred to in paragraphs 1, 5 and 8 to the Voivodship Inspector for Environmental Protection.

### **Article 251**

1. The operator of an increased-hazard or high-hazard establishment shall develop a major-accident prevention programme, hereinafter referred to as the “accident-prevention programme”, wherein the operator shall present the management system of the establishment guaranteeing the protection of human beings and the environment.
2. In particular, the accident-prevention programme shall:
  - 1) identify the probability of the hazard of an industrial accident,
  - 2) lay down the principles of preventing and eliminating the effects of an industrial accident which are anticipated to be adopted,
  - 3) lay down the measures to reduce the effects of an industrial accident on human beings and the environment in the event of its occurrence,
  - 4) set out the frequencies whereat analyses of the accident-prevention programme shall be conducted to assess its current usefulness and effectiveness.
3. The operator of an increased-hazard or high-hazard establishment shall submit the accident-prevention programme to the competent authority of the State Fire Service before the establishment is set in operation and forward it, at the same time, for information to the Voivodship Inspector for Environmental Protection.
4. An increased-hazard or high-hazard establishment may be set in operation after 14 days from the date of receipt of the accident-prevention programme by the competent authority

of the State Fire Service provided that by then this authority does not object thereto by way of a decision.

### **Article 252**

1. The operator of a high-hazard establishment shall be obliged to develop and implement a safety management system as part of the overall management and organisation system of the establishment.
2. The following shall be covered by the safety management system:
  - 1) the identification, at all levels, of the duties of the staff responsible for response measures in the event of an industrial accident,
  - 2) the training of the staff whose duties are related to the operation of the installation where the dangerous substance is present,
  - 3) the functioning of schemes allowing for systematic analysis of the hazard of an industrial accident and the probability of its occurrence,
  - 4) the instructions on the safe operation of the installation where the dangerous substance is present for the normal operation of the installation and for its maintenance and temporary stoppages in operation,
  - 5) the instructions on the conduct to be followed where it becomes necessary to modify the industrial process,
  - 6) analysis of the anticipated potential accident situations serving for the development of adequate emergency plans,
  - 7) the proposed monitoring of the operation of the installation where the dangerous substance is present, allowing for response measures to be taken where effects other than those related to the normal operation of the installation occur,
  - 8) a systematic review of the accident-prevention programme and the safety management system with a view to ensuring their current usefulness and effectiveness.

### **Article 253**

1. The operator of a high-hazard establishment shall be obliged to develop a safety report.
2. The safety report shall demonstrate that:
  - 1) the operator of a high-hazard establishment is prepared to apply the accident-prevention programme and to respond to industrial accidents,
  - 2) the establishment meets the requirements for the implementation of the safety management system referred to in Article 252,

- 3) the possibility of the occurrence of an industrial accident has been analysed and the necessary measures to prevent it have been taken,
  - 4) the design, construction and operation of the installation where the dangerous substance is present ensures its safety,
  - 5) internal emergency plans have been developed and information has been provided for the development of external emergency plans.
3. In agreement with the minister responsible for the environment, the minister responsible for internal affairs and the Minister of National Defence, by way of a Regulation, the minister responsible for economy shall lay down the requirements for the safety report for a high-hazard establishment.
4. The Regulation referred to in paragraph 3 shall lay down:
- 1) the form wherein the report shall be developed,
  - 2) the scope of issues to be identified and assessed in the report,
  - 3) the territorial range of the report,
  - 4) the types of documents information wherefrom shall be taken into account in the report.

#### **Article 254**

1. Prior to the start of the operation of the establishment, the operator of a high-hazard establishment shall be obliged to submit the safety report to the Voivodship Commandant of the State Fire Service and the Voivodship Inspector for Environmental Protection.
2. The safety report and amendments thereto shall be approved, by way of a decision, by the Voivodship Commandant of the State Fire Service, after the Voivodship Inspector for Environmental Protection has given his opinion.

#### **Article 255**

The operation of a high-hazard establishment can only start after the safety report has been approved.

#### **Article 256**

1. At least every 5 years, the safety report shall be reviewed and appropriately amended by the operator of a high-hazard establishment, subject to paragraphs 2 and 3.
2. The safety report shall be amended by the operator of a high-hazard establishment where this modification is justified by safety considerations in consequence of change in the

actual situation, scientific and technological developments or analysis of past industrial accidents.

3. Where the operator of a high-hazard establishment fails to make the amendments referred to in paragraph 2, the Voivodship Commandant shall order the operator to amend the safety report, setting the date by which the amendments shall be made.

#### **Article 257**

1. Prior to the introduction of any change in the operation of the establishment which may affect the hazard of an industrial accident, the operator of a high-hazard establishment shall be obliged to review the accident-prevention programme, the safety management system and the safety report.
2. In the circumstances referred to in paragraph 1, prior to the introduction of the change in the operation of the establishment, the operator of a high-hazard establishment shall be obliged to seek the approval of the Voivodship Commandant of the State Fire Service for the revised safety report, while, at the same time, forwarding it to the Voivodship Inspector for Environmental Protection.

#### **Article 258**

1. Prior to the introduction of any change in the operation of the establishment which may affect the hazard of an industrial accident, the operator of an increased-hazard establishment shall be obliged to review the accident-prevention programme and, where necessary, revise it.
2. In the circumstances referred to in paragraph 1, the operator of an increased-hazard establishment shall be obliged to submit the modifications in accident-prevention programme to the Powiat Commandant of the State Fire Service and forward them, at the same time, to the Voivodship Inspector for Environmental Protection.
3. The change in the operation of the establishment can be introduced after 14 days from the date whereon the Powiat Commandant of the State Fire Service obtains the changes in the accident-prevention programme, unless by this date this authority objects to such changes by way of a decision.

#### **Article 259**

1. By way of a decision, the Voivodship Commandant of the State Fire Service may identify a group of increased-hazard or high-hazard establishments the localisation whereof at a

short distance from each other may increase the probability of the occurrence of an industrial accident or aggravate its consequences, in particular in the light of the concentration of the types, categories and quantities of dangerous substances in these establishments.

2. In the decision referred to in paragraph 1, the Voivodship Commandant of the State Fire Service may oblige the operators of the establishments to:
  - 1) mutually exchange information allowing for the increased probability of the occurrence of an industrial accident or its aggravated consequences to be reflected in their accident-prevention programmes, safety reports and internal emergency plans,
  - 2) provide indispensable information for the development of external emergency plans and for the preparation of information on the hazards of industrial accidents at high-hazard or increased-hazard establishments as well as the anticipated safety measures.

#### **Article 260**

1. In order to prevent and control an industrial accident and to limit its effects, internal and external emergency plans shall be developed.
2. The emergency plans shall cover in particular:
  - 1) the proposed measures to limit the effects of the industrial accident on man and the environment,
  - 2) the proposed methods and means of protecting man and the environment against the effects of the industrial accident,
  - 3) information on existing hazards, the preventive measures taken and on the response measures to be taken in the event of an industrial accident, to be provided to the public and the competent authorities of the State Fire Service, the Voivode, the Voivodship Inspector for Environmental Protection, the Starost, the head of the Gmina administration, the mayor of the town/city,
  - 4) an indication of the ways wherein the effects of an industrial accident will be eliminated and the previous state of the environment restored, and, where impossible, the identification of reclamation measures,
  - 5) an indication of the measures to prevent the transboundary impact of an industrial accident.
3. In agreement with the minister responsible for the environment, the minister responsible for internal affairs and the Minister of National Defence, by way of a Regulation, the

minister responsible for the economy shall lay down the requirements for internal and external emergency plans.

4. The Regulation referred to in paragraph 3 shall lay down:

- 1) the form wherein the plans shall be prepared,
- 2) the scope of issues to be identified, assessed and resolved,
- 3) the territorial scope of the plans.

#### **Article 261**

1. The operator of a high-hazard establishment shall be obliged to:

- 1) develop an internal emergency plan and, in the event of the hazard or the occurrence of an industrial accident, immediately start to implement the plan,
- 2) provide the Voivodship Commandant of the State Fire Service with information indispensable for the development of an external emergency plan, taking into account the transboundary impact of the industrial accident.

2. The internal emergency plan shall be developed and the information referred to in paragraph 1, subparagraph 2, shall be provided prior to the start of the operation of a high-hazard establishment.

3. At least every 3 years, the operator of a high-hazard establishment shall be obliged to review and test the implementation of the internal emergency plan, with a view to its updating and revising where justified; in particular, the operator shall take into account the changes introduced in the installation, in the mode of operation of the fire protection units, the state of knowledge in the scope of preventing and controlling an industrial accident and eliminating its effects as well as scientific and technological development.

4. The operator of a high-hazard establishment shall immediately notify the Voivodship Commandant of the State Fire Service and the Voivodship Inspector for Environmental Protection of the review of the internal emergency plan and its results.

#### **Article 262**

The operator of a high-hazard establishment shall ensure the participation in the procedure relating to the development of an internal emergency plan of the personnel particularly exposed to the effects of an industrial accident or performing the functions of non-governmental labour inspectors, or representatives of trade unions with responsibilities for occupational safety and health.

### **Article 263**

The operator of a high-hazard establishment shall be obliged to submit to the Voivodship Commandant of the State Fire Service and the Voivodship Inspector for Environmental Protection a record containing data on the types, categories and quantities of dangerous substances present on the site of the establishment and to update the record every years, representing the situation as of 31 December, by the end of January of the next year.

### **Article 264**

In the event of an industrial accident , the operator of an increased-hazard or high-hazard establishment shall be obliged to:

- 1) immediately notify thereof the competent authority of the State Fire Service and the Voivodship Inspector for Environmental Protection,
- 2) immediately provide the authorities referred to in subparagraph 1 with information:
  - a) on the circumstances of the accident,
  - b) on the dangerous substances involved in the accident,
  - c) allowing for an assessment of the effects of the accident on man and the environment,
  - d) on the emergency measures taken as well as the measures to limit the effects of the accident and to prevent its recurrence,
- 3) continuously update the information referred to in subparagraph 2, depending on the developments.

## **Chapter 3**

### **The duties of the administration authorities in relation to industrial accidents**

### **Article 265**

1. On the basis of information provided by the operator of an establishment posing the hazard of an industrial accident, the Voivodship Commandant of the State Fire Service shall develop an external emergency plan for the area exposed to the effects of an industrial accident situated outside of the high-hazard establishment.
2. The costs of the development of the external emergency plan shall be borne by the operator of the high-hazard establishment.
3. By way of a decision, the Voivodship Commandant of the State Fire Service shall set out the amount and the way of the payment of the costs referred to in paragraph 2; the

justification of this decision shall include in particular a list of the works carried out and the costs of their performance.

4. The provisions of Part III of the Act - Tax Ordinance shall apply to the amounts payable under the obligation to cover the costs of the development of an external emergency plan, with the Voivodship Commandant of the State Fire Service exercising the powers of the taxation authorities.
5. An external emergency plan shall be developed prior to the start of the operation of the establishment.
6. The Voivodship Commandant of the State Fire Service shall ensure the possibility of public participation in the procedure relating to the development of an external emergency plan.
7. After the procedure requiring public participation has been conducted, the Voivodship Commandant of the State Fire Service shall approve the external emergency plan.
8. Where it is necessary to revise the content of an external emergency plan, the provisions of paragraphs 1-3, 6 and 7 shall apply, respectively.
9. At least every 3 years, the Voivodship Commandant of the State Fire Service shall be obliged to review and test the implementation of an external emergency plan, with a view to its updating and revising where justified; in particular, the operator shall take into account the changes introduced in the installation and in the mode of operation of the fire protection units, the state of knowledge in the scope of preventing and controlling an industrial accident and eliminating its effects as well as scientific and technological development.
10. The provisions of the Fire Protection Act of 24 August 1991 (Official Journal, No. 81, Item 351; 1994, No. 27, Item 96, No. 89, Item 414; 1996, No. 106, Item 496; 1997, No. 111, Item 725, No. 121, Item 770; 1998, No. 106, Item 668, No. 162, Item 1126; 2000, No. 120, Item 1268) shall apply to the development of external emergency plans.

### **Article 266**

1. In the case of the hazard or the occurrence of an industrial accident, the Voivodship Commandant of the State Fire Service shall immediately act to implement the external emergency plan.
2. The Voivodship Commandant of the State Fire Service may resign from the development of an external emergency plan, where the information provided by the operator of the

establishment indicates beyond any doubt that there is no risk of the effects of the accident expanding to the outside of the establishment.

#### **Article 267**

1. The Voivodship Commandant of the State Fire Service shall inform the public that data on the annually updated register of dangerous substances present in the establishment localised in his jurisdiction have been placed in a publicly accessible record.
2. In addition to the information referred to in paragraph 1, the Voivodship Commandant of the State Fire Service shall also communicate to the public:
  - 1) information that data on the decision referred to in Article 259, paragraph 1, have been placed in a publicly accessible record
  - 2) information on approved safety reports or amendments thereto,
  - 3) information on approved external emergency plans or amendments thereto,
  - 4) instructions for the behaviour of residents in the event of an accident.
3. At least every 3 years, the Voivodship Commandant shall review the documents containing the data referred to in paragraph 2, subparagraph 4, and in Article 259, paragraph 2, subparagraph 2, to check their conformity with the safety requirements and their current usefulness, and, where necessary, revise them.
4. By way of a Regulation, the minister responsible for the environment shall set out the detailed scope of information referred to in paragraphs 1 and 2 which needs to be communicated to the public.
5. The Regulation referred to in paragraph 4 shall lay down:
  - 1) the form wherein information shall be provided,
  - 2) the detailed scope of issues to be communicated in the information.

#### **Article 268**

In the event of an industrial accident, the competent authorities of the State Fire Service shall be obliged to:

- 1) take emergency action, in co-operation with the operator of the establishment,
- 2) collect information necessary for a review of the accident and the formulation of recommendations for the operator of the establishment,
- 3) check whether the operator of the establishment has taken all the necessary remedial measures,
- 4) draw up recommendations for the use of specific preventive measures in the future,

- 5) check whether the operator of the establishment has implemented the recommendations of the competent authority of the State Fire Service.

### **Article 269**

In the course of inspection and identification activities carried out at least once a year at an establishment posing the hazard of the occurrence of an industrial accident, the Powiat Commandant of the State Fire Service shall check whether the safety requirements have been satisfied, in particular whether:

- 1) measures have been taken to prevent an industrial accident,
- 2) sufficient means have been provided to limit the effects of an industrial accident at the establishment and outside of the establishment, taking into account the transboundary impact,
- 3) the data in the documents referred to in this Act, such as the notification of an increased-hazard or high-hazard establishment, the accident-prevention programme, the safety report, the internal emergency plan, information necessary for the development of an external emergency plan, to be submitted to the competent authorities of the State Fire Service, are reliable and reflect the safety conditions at the establishment.

## **Part III**

### **International co-operation**

### **Article 270**

1. The Voivodship Commandant of the State Fire Service who finds, on the basis of information received from the operator of a high-hazard establishment, that the possible impact of an industrial accident may have a transboundary range, shall immediately communicate information of importance for this case to the minister responsible for the environment, in particular the safety report as well as internal and external emergency plans.
2. Having received the information referred to in paragraph 1, the minister responsible for the environment shall immediately notify the state in the territory whereof the effects of the accident may occur, of the location of the high-hazard establishment. Information on the safety report and the external emergency plan in its part concerning transboundary hazards, shall be enclosed with the notification.

3. Having received information from the Voivodship Commandant of the State Fire Service on the occurrence of an industrial accident in the territory of the Republic of Poland, the minister responsible for the environment shall notify the state on the territory whereof the effects of this accident may occur and communicate all the information of importance for this case.

#### **Article 271**

1. Having obtained information that an industrial accident has occurred outside of the borders of the Republic of Poland which may have an impact on its territory, the minister who is responsible for the environment shall immediately communicate this information to the Chief Commandant of the State Fire Service.
2. In the situation referred to in paragraph 1, the Chief Commandant of the State Fire Service shall immediately launch emergency operations.
3. Following the conclusion of the emergency operations, for the purposes of a claim to be addressed to the entities responsible, the Chief Commandant of the State Fire Service shall estimate the damage caused by the transboundary impact of the industrial accident on the environment and the costs of the emergency operations.

### **Title V**

#### **Financial and legal instruments**

##### **Part 1**

##### **General provisions**

#### **Article 272**

The financial and legal instruments of environmental protection shall be in particular:

- 1) fees for the use of the environment,
- 2) administrative fines,
- 3) the rates of taxes and other public levies as differentiated to serve the purposes of environmental protection.

#### **Article 273**

1. Fees for the use of the environment shall be paid for:
  - 1) the gas or dust emissions into ambient air,

- 2) the discharge of wastewater into waters or to land,
  - 3) water abstraction,
  - 4) the landfill of waste.
2. Administrative fines shall be paid for exceeding or violating the conditions for the use of the environment as set out by a decision within the scope referred to in paragraph 1 as well as relating to waste storage and noise emission into the environment.
  3. The provisions of the Nature Conservation Act, the Act - Geological and Mining Law and other acts shall lay down separate cases and principles of the payment of fees for the use of the environment and administrative fines.

#### **Article 274**

1. The amounts of fees for the use of the environment and administrative fines shall depend, respectively, on:
  - 1) the quantities and types of gases or dusts emitted into the air,
  - 2) the quantity and quality of water abstracted and whether water is abstracted from surface waters or groundwater.
2. Subject to paragraph 4, the amount of the fee for the discharge of wastewater shall depend on the types of substances contained in the wastewater, and, in the case of cooling waters, on the temperature of these wasters.
3. The substances contained in wastewater shall also mean the substances expressed as the indicators referred to in Article 295, paragraph 1.
4. The amount of the fee for the discharge of wastewater referred to in Article 3, subparagraph 38, letter c, shall depend on the size, type and use of the area wherefrom the wastewater is discharged.
5. The amount of the fee for the landfill of waste shall depend on the quantity and type of the waste landfilled, with the rate of the increased fee also depending on the time over which waste is kept at a landfill.
6. The amount of a fine shall depend respectively, on:
  - 1) the quantity, condition and composition of wastewater,
  - 2) the quantities and types of waste landfilled or stored and on the time over which it is kept at a landfill or stored,
  - 3) the time of the day and the extent whereto the permissible noise level is exceeded.
7. The composition of wastewater shall mean the concentrations of the substances contained therein.

8. The condition of wastewater shall mean the temperature, reaction and levels of synthetic radioactive substances.

#### **Article 275**

Subject to Article 284, paragraph 2, the users of the environment shall be obliged to pay fees for the use of the environment and administrative fines.

#### **Article 276**

1. The entity which uses the environment without being granted the required permit or another decision shall pay an increased fee for the use of the environment.
2. Where the user of the environment exceeds or violates the conditions set out in the permit or in another decision the user shall pay a fine, in addition to a fee.

#### **Article 277**

1. The user of the environment shall pay fees for the use of the environment to the account of the Marshall's Office competent in the light of the place where the use of the environment occurs.
2. Fees for gas or dust emissions into the environment arising from the operation of equipment shall be paid to the account of the appropriate Marshall's Office, competent due to the place of registration of the user of the environment .
3. The user of the environment shall pay administrative fines to the account of the Voivodship Inspector for Environmental Protection who issued the decision imposing the fine.
4. The resources from fees and fines shall be the revenues of the respective Funds for Environmental Protection and Water Management.

#### **Article 278**

The Voivodship Marshall and the Voivodship Inspector for Environmental Protection shall draw up reports on the revenues and expenditures referred to in Article 277, on the principles laid down in separate regulations.

#### **Article 279**

1. Where the conditions for the use of the environment are laid down in the permits referred to in Article 181, paragraph 1, subparagraphs 1-3, 5 and 6, and in the permit for water

abstraction in the meaning of the Water Law Act, the holder of the permit shall be the entity obliged to pay the fee for the use of the environment or an administrative fine.

2. Where waste is landfilled or stored, the waste holder in the meaning of the provisions of the Waste Act shall be the user of the environment obliged to pay fees for the use of the environment and administrative fines.
3. Where waste has been transferred to an entity which has not been granted the required authorisation for waste management, the user of the environment obliged to pay the fees for the use of the environment shall be the entity which has transferred the waste concerned, subject to paragraph 4.
4. Where a physical person who is not an economic operator has transferred waste to an entity which has not been granted the required authorisation for waste management, the user of the environment obliged to pay the fees for the use of the environment shall be the entity whereto the waste has been transferred.

#### **Article 280**

Where waste landfilled or stored is mixed, the fee for the use of the environment or the administrative fine shall be based on the type of waste whereto the highest fee rate applies.

#### **Article 281**

1. Subject to paragraph 2, the provisions of Part III of the Act - Tax Ordinance shall apply, respectively, to the payment of fees for the use of the environment and administrative fines, with the Voivodship Marshall or the Voivodship Inspector for Environmental Protection exercising the powers of the taxation authorities.
2. Unless the provisions of Part IV provide otherwise, the provisions of the Act - Tax Ordinance relating to the deferred dates of the due payments of amounts payable, the resignation from the establishment of the liability, the resignation from the exaction of amounts payable and default interest shall not apply to the payment of the fees referred to in Article 276, paragraph 1, and administrative fines.

#### **Article 282**

The procedure relating to fees for the use of the environment and administrative fines shall be initiated ex officio or on request of the user of the environment whereto the fee or fine applies.

### **Article 283**

1. The rates of taxes and other public levies shall be differentiated, taking into account the objectives relating to environmental protection.
2. In particular, the rates of excise tax shall be so calculated as to ensure lower market prices of:
  - 1) lead-free petrol compared with lead-containing petrol,
  - 2) diesel and heating oils with a lower sulphur content compared with oils with a higher sulphur content,
  - 3) diesel and lubricating oils produced with a share of components derived from regeneration of waste oils compared with oils produced without a share of such components,
  - 4) biofuels based on the use of biomass, in particular crops, compared with fuels produced from non-renewable sources.

## **Part II**

### **Fees for the use of the environment**

#### **Chapter 1**

#### **The payment of fees**

### **Article 284**

1. Users of the environment shall calculate by themselves the amount of the due fee and pay it to the account of the competent Marshall's Office.
2. Natural persons who are not economic operators shall pay fees for the use of the environment to the extent that the use requires a permit for the release of substances or energies into the environment and a permit for water abstraction in the meaning of the provisions of the Water Law Act.

### **Article 285**

1. The fee shall be calculated according to the rates in effect when the use of the environment was made.
2. The user of the environment shall pay the fee by the end of the month following each elapsed quarter of the year.

### **Article 286**

1. On the date that the payment of the fee is made the user of the environment shall submit to the Voivodship Marshall a record containing the information and data referred to in Article 287 as used to calculate the amount of the fee.
2. The user of the environment shall also submit the record on the basis whereof the fees for the landfill of waste were calculated to the head of the Gmina administration and the mayor of the town/city who is competent in the light of the location of the landfill.
3. By way of a Regulation, the minister responsible for the environment shall lay down the format of records containing information and data on the extent of the use of the environment as well as the manner of their presentation.
4. The Regulation referred to in paragraph 3 shall lay down:
  - 1) the format of the record,
  - 2) the content of the record, including the requirement for the record to include summary information on the extent of the use of the environment as referred to in Article 273, paragraph 1,
  - 3) the layout of the record,
  - 4) the required techniques for the submission of the record.

### **Article 287**

1. The user of the environment shall keep records, updated every quarter of the year, containing, respectively:
  - 1) information on the quantities and types of gases or dusts released into the ambient air and the data on the basis whereof these quantities have been identified,
  - 2) information on the quantity and quality of surface and ground waters abstracted,
  - 3) information on the quality, condition and composition of wastewater discharged into waters and to land,
  - 4) information on the size, type and use of the area wherefrom the wastewater referred to Article 3, subparagraph 38, letter c, is discharged.
2. The provisions of the Waste Act shall lay down the principles of keeping records on waste.

### **Article 288**

1. Where the user of the environment fails to pay the fee or pays it in a questionable amount the Voivodship Marshall shall set the fee by way of a decision based on the Marshall's

own findings or inspection or based on an inspection carried out by the Voivodship Inspector for Environmental Protection.

2. The Voivodship Marshall shall base his own findings on:
  - 1) the measurements carried out by the administration authorities or by the user of the environment obliged to pay the fee,
  - 2) other technical and technological data.

### **Article 289**

1. No fee shall be paid for those uses of the environment out of the ones listed in Article 273, paragraph 1, the quarterly amount for which, subject to paragraph 2, does not exceed 25% of the lowest employee salary in effect on 30 September of the previous year, as set out pursuant to separate regulations.
2. By way of an act of local law, the Voivodship Assembly may adopt a resolution setting an increased percentage base than the one referred to in paragraph 1, however, not exceeding 50%.

## **Chapter 2**

### **The rates of fees for the use of the environment**

### **Article 290**

1. The upper limits for unit rate of fees shall be, subject to Article 291, paragraph 1:
  - 1) PLN 273 for 1 kg of gases or dusts released into the ambient air,
  - 2) PLN 175 for 1 kg of substances discharged in wastewater into waters or to land,
  - 3) PLN 20 for 1 dam<sup>3</sup> of cooling waters,
  - 4) PLN 200 for the deposit of 1 Mg of waste at a landfill,
  - 5) PLN 3 for 1 m<sup>3</sup> of groundwater abstracted,
  - 6) PLN 1.5 for 1 m<sup>3</sup> of surface water abstracted,
  - 7) PLN 3 per year for 1 m<sup>2</sup> of the surface area wherefrom the wastewater referred to in Article 3, subparagraph 38, letter c, is discharged.
2. By way of a Regulation, the Council of Ministers:
  - 1) shall lay down the unit rates of the fees referred to in paragraph 1,
  - 2) may differentiate the fee rates, depending on:
    - a) the types of gases, dusts, waste or substances in wastewater and the temperature of the wastewater,

- b) the quality and quantity of water abstracted,
  - c) the area of the country,
  - d) the use of the area in the case of the rates of fees for rainwater and melt-water.
- 3. When adopting the Regulation referred to in paragraph 2, the Council of Ministers shall take into account:
  - 1) the quantity of water resources available for use in the different river basins and the cost of abstracting water from these resources, the availability of environmental resources, the requirements of environmental protection and the extent of degradation of particular areas and resources as resulting from the existing uses of the environment,
  - 2) the disturbance caused for the environment by gases, dusts, substances or energies present in wastewater and waste,
  - 3) the need to ensure special protection of the resources of groundwater and lake waters,
  - 4) the technical or technological capacities and the environmental or economic viability of waste recovery.
- 4. The Regulations referred to in paragraph 2 shall be published no later than by 30 September of the year preceding the year where they are to take effect.

### **Article 291**

- 1. On 1 January of each calendar year, the fee rates laid down in Article 290, paragraph 2, shall be raised to a degree corresponding to the mean annual overall index of the prices of consumer goods and services as adopted in the Budget Act for the previous year.
- 2. No later than by 31 October of each year, the minister responsible for the environment shall, by way of a public notice, publish in the Government Journal of the Republic of Poland "Monitor Polski" the amounts of the rates of fees for the next year, taking into account the previous changes in the amounts of the rates of the fees and the principle set out in paragraph 1.

## **Chapter 3**

### **Increased fees**

### **Article 292**

The user of the environment shall pay fees increased by 500% in the absence of the required permit for:

- 1) gas or dust releases into the ambient air,
- 2) water abstraction or wastewater discharge into waters or to land.

### **Article 293**

1. Subject to paragraphs 3-5, for the landfill of waste for which no decision has been granted to approve the instruction for the operation of the landfill, the user of the environment shall pay fees raised by 0.05 of the unit fee rate for the deposit of waste at a landfill for each day that the waste is kept at the landfill.
2. Waste storage for which no required decision has been granted to set out the manner and place of waste storage shall be treated as the landfill of waste without the required decision to approve the instruction for the operation of the landfill, subject to paragraph 3.
3. For the landfill of waste at a site not destined for this purpose the user of the environment shall pay fees increased by 0.1 of the unit rate of the fee for the deposit of waste at a landfill for each day that the waste is kept at the landfill.
4. Where waste is discarded:
  - 1) on the banks of water reservoirs, in particular in the protective zones of water intakes and in the areas where waters flow out of aquifers,
  - 2) in the areas of national parks and nature reserves,
  - 3) in forests, health resorts or areas designated for recreation and rest purposes,the user of the environment shall pay fees increased by 0.15 of the unit rate of the fee for the deposit of waste at a landfill for each day that the waste is kept at the landfill.
5. Where the user of the environment discards waste into inland surface waters and groundwater, internal sea waters or territorial sea waters, the user of the environment shall pay a fee increased by a factor of 100 in respect of the unit rate of the fee for the deposit of waste at a landfill.

## **Chapter 4**

### **Special provisions applicable to fees for water abstraction, wastewater discharge and waste landfill**

### **Article 294**

Water abstraction shall be exempted from a fee where:

- 1) water is abstracted for the purposes of water transfers,

- 2) water is abstracted for the purposes of hydro-power generation, provided that the same amount of water, at least not of worse quality, is returned at a distance of less than 1 km from the place where the water was abstracted,
- 3) surface water is abstracted for the purposes of heat or electricity generation, in the part corresponding to the amount of such water discharged into the reservoir, provided that such abstraction and the discharge of cooling waters and the waters originating from cooling systems comply with the permit,
- 4) water is abstracted for the purposes of the operation of heat pumps and geothermal applications aimed at making use of the energy of groundwater, provided that the same amount of water, at least not of worse quality, is returned to groundwater,
- 5) water is abstracted for the purposes of the breeding or farming of fish and other aquatic organisms, provided that the abstraction and discharge of used water comply with the permit,
- 6) surface water is abstracted for the purposes of irrigating farm and forest land,
- 7) water is drained from land, building sites or trenches and mining establishments.

#### **Article 295**

1. Subject to paragraphs 3-6, the fees for wastewater discharge into waters or to land shall be paid for substances expressed as the indicators: five-day biological oxygen demand, chemical oxygen demand, total suspended solids, the sum of chloride and sulphate ions. The amount of the fee shall be calculated on the basis of the indicator which causes the highest fee.
2. The fees for other substances present in wastewater shall be added to the fee calculated according to the principles set out in paragraph 1.
3. The fee for the discharge of saline waters shall be paid for the sum of chloride and sulphate ions.
4. The fee for the discharge of wastewater into waters or to land shall be calculated on the basis of the quantities of substances present in wastewater, minus the quantities of these substances present in water abstracted.
5. The fee for the discharge of cooling waters shall depend on their temperature.
6. The fee for the wastewater referred in Article 3, subparagraph 38, letter c, shall be paid in a bulk form.
7. The quantity and composition of wastewater discharged into waters or to land shall be identified at the place where wastewater leaves installations designed to clean it or

collecting systems operated by users of the environment, with the qualification that, where cooling waters are discharged along with other types of wastewater, the quantity and composition of wastewater shall be identified prior to its mixing.

#### **Article 296**

Discharges shall be exempted from fees where:

- 1) wastewater is discharged to land for the purpose of its agricultural application, where a permit pursuant to the Water Law has been granted for such use of wastewater,
- 2) cooling waters and wasters from cooling systems are discharged into waters, provided that their temperature does not exceed +26°C or the natural temperature of water where it is higher than +26°C,
- 3) saline waters are discharged into waters, provided that the sum of chloride and sulphate ions in these waters does not exceed 500 mg/l.

#### **Article 297**

The fee for the landfill of waste shall be paid for the deposit of waste at a landfill, subject to Article 293, paragraphs 1 and 3-5.

### **Part III**

#### **Administrative fines**

#### **Chapter 1**

#### **The procedure relating to the imposition of fines**

#### **Article 298**

1. By way of a decision, the Voivodship Inspector for Environmental Protection shall impose administrative fines for:
  - 1) exceeding the limit values of gas or dust emissions into the ambient air in terms of quantity and type as set out in the permits referred to in Article 181, paragraph 1, subparagraphs 1 and 2,
  - 2) exceeding the limit values in terms of the quantity, condition or composition of wastewater as set out in the permits referred to in Article 181, paragraph 1, subparagraphs 1 and 3,

- 3) exceeding the quantity of water abstracted as set out in the permits referred to in Article 181, paragraph 1, subparagraph 1, and the permits for water abstraction,
  - 4) violating the conditions of a decision approving the instruction for the operation of a waste landfill or a decision setting out the place and manner of waste storage, as required by the provisions of the Waste Act, relating to the type and manner of waste landfill or storage,
  - 5) exceeding the noise levels as set out in the permits referred to in Article 181, paragraph 1, subparagraphs 1 and 5.
2. In the cases referred to in paragraph 1, subparagraphs 1, 2, 4 and 5, administrative fines shall be imposed by:
    - 1) establishing the rate of a current fine, setting out the hourly or daily rate of the fine for the period over which the exceedance or violation lasts,
    - 2) imposing the fine for the period over which the exceedance or violation lasted.

#### **Article 299**

1. The Voivodship Inspector for Environmental Protection shall identify an exceedance or violation on the basis of:
  - 1) inspections, in particular the measurements and other findings made in the course of such inspections,
  - 2) measurements carried out by the user of the environment obliged to carry out such measurements, subject to Article 305, paragraph 1.
2. Where an exceedance or violation has been identified on the basis of an inspection, within 21 days from the performance of measurements, the Voivodship Inspector for Environmental Protection shall notify thereof the user of the environment, forwarding the results of the measurements to the user of the environment.

#### **Article 300**

1. Having identified an exceedance or violation, the Voivodship Inspector for Environmental Protection shall issue a decision setting the amount of a current fine, subject to Article 305.
2. The amount of the current fine shall be set taking into account the exceedance or violation over the period of a day, subject to paragraph 3.

3. Where the limit values of gas or dust emissions into the ambient air are exceeded in terms of quantity or type, the amount of a current fine shall be set taking into account the exceedance over the period of an hour.
4. The decision setting the amount of a current fine shall lay down:
  - 1) the extent of the exceedance or violation identified, respectively, over the period of a day or an hour,
  - 2) the amount of the current fine,
  - 3) the time from which the current fine will be calculated, respectively, as the day or the hour following directly the conclusion of the measurements or other findings on the basis whereof the exceedance or violation is identified.

### **Article 301**

1. Subject to paragraph 2 and Article 304, the current fine shall be imposed until the extent of the exceedance or violation has been found to change, on the principles set out in Article 299, paragraph 1.
2. The amount of the current fine may be revised in response to a request from the user of the environment, containing:
  - 1) the results of measurements or a report on the user's own findings,
  - 2) the date whereon the measurements were carried out or the user made his own findings,
  - 3) information on the manner of reducing the exceedance or violation.
3. The request referred to in paragraph 2, shall be submitted to the Voivodship Inspector for Environmental Protection within 30 days from the date when the user carried out his own measurements or made his own findings.
4. Where the exceedance was identified on the principles set out in Article 299, paragraph 1, subparagraph 1, the measurements referred to in paragraph 2, subparagraph 1, shall be carried out at a place and in a manner consistent with the measurements carried out by the Voivodship Inspector for Environmental Protection who has identified the exceedance.
5. By way of a decision, the Voivodship Inspector for Environmental Protection shall set the amount of the new current fine, laying down the period of the calculation of such a fine for a full hour or day from the date referred to in paragraph 2, subparagraph 2, unless he questions the justification for the request submitted.

### **Article 302**

1. On the basis of the final decisions setting out the amount of the current fine, the Voivodship Inspector for Environmental Protection shall issue a decision imposing the fine:
  - 1) for the period until the cessation of the exceedance or violation – having determined ex officio or in response to a request from the user of the environment that the exceedance or violation has ceased, or
  - 2) for the period until 31 December of each year – where the exceedance or violation has not been eliminated until that date.
2. Where the request referred to in paragraph 1, subparagraph 1 has been submitted, the provisions of Article 301, paragraphs 2-5, shall apply, respectively.

### **Article 303**

Where, within 30 days from the receipt of the request referred to in Article 302, paragraph 2, or in Article 302, paragraph 1, subparagraph 1, the Voivodship Inspector for Environmental Protection finds that the exceedance or violation is greater than stated in the request or has not ceased, the Inspector shall impose the new amount of a current fine, using twice as high a rate of the fine, for a period of 60 days, beginning, respectively, from the day or the hour when the request was found to be unjustified.

### **Article 304**

Where the identified exceedance or violation has not ceased until the date when the rates of fees for the use of the environment, providing the basis for the amount of the fine, are revised, or until the date when the rates of the fines referred to in Article 310, paragraph 2, and Article 311, paragraph 2, are revised, the Voivodship Inspector for Environmental Protection shall set out, by way of a decision, the new amount of the current fine, using the new rates from the date of their adoption.

### **Article 305**

1. Where the user of the environment carries out continuous measurements of emission levels and the conditions referred to in paragraph 3 are met, the Voivodship Inspector for Environmental Protection shall impose the fine on the basis of the submitted results of the measurements.
2. Exceedances based on continuous measurements shall be identified for a calendar year.

3. Exceedances may be identified on the basis of continuous measurements of emission levels, provided that the measuring system:
  - 1) allows for continuous automatic recording of the results and was used for a calendar year preceding the year where the exceedance is identified,
  - 2) is certified in the meaning of the Act on Measures of 3 April 1993 (Official Journal, No. 55, Item 248; 1997, No. 43, Item 272, No. 121, Item 770; 2000, No. 43, Item 489, No. 120, Item 1268).
4. Where the results of the continuous measurements referred to in paragraph 3, subparagraph 1, raise doubts, Articles 299-304 shall apply, respectively.

### **Article 306**

1. By way of a Regulation, the minister responsible for the environment may lay down the detailed conditions for the imposition of a fine on the basis of continuous measurements.
2. The Regulation referred to in paragraph 1 may lay down:
  - 1) the detailed conditions under which measurements shall be recognised as continuous,
  - 2) the ways of identifying exceedances on the basis of continuous measurements in the scope of:
    - a) gas or dust emissions into the ambient air,
    - b) wastewater discharges into waters or to land,
    - c) noise emission into the environment.
3. The Regulation referred to in paragraph 3 may lay down the manner wherein the missing results of measurements shall have to be complemented.

### **Article 307**

1. Subject to paragraph 4, the Voivodship Inspector for Environmental Protection shall impose a fine for exceeding the authorised quantity of water abstracted on the basis of the measurements of the water abstracted as carried out by the user of the environment using certified systems in the meaning of the Act on Measures.
2. The exceedance shall be determined as the quantity of water abstracted in excess of the permit in the period between inspections.
3. Where the quantities of water abstracted at one water intake cause the exceedance of several conditions of the permit, the fine shall be imposed for the exceedance whereto the highest amount of the fine applies.

4. Where the user of the environment does not carry out the measurements referred to in paragraph 1, the exceedance shall be determined by taking the maximum technical capacity of the installations or equipment used to abstract water, multiplied by the estimated time of their use.

### **Article 308**

The Voivodship Inspector for Environmental Protection shall not initiate the procedure relating to the imposition of a fine where its expected amount does not exceed the lowest employee salary in effect on 30 September of the previous year as set out pursuant to separate regulations.

## **Chapter 2**

### **The amounts of fines**

### **Article 309**

1. A fine shall be imposed in the amount of 10 times the unit fee rate for:
  - 1) gas or dust emissions into the ambient air,
  - 2) water abstraction.
2. For the landfill of waste in violation of the provisions relating to the type and manner of the landfill of waste as set out in a decision approving the instruction for the operation of a waste landfill or for waste storage in violation of the provisions of a decision setting out the place and manner of waste storage, a fine shall be imposed in the amount of 0.1 of the rate of the fee for the deposit of waste at a landfill for each day that the waste is kept at the landfill.

### **Article 310**

1. The upper limits for unit fine rates shall be, subject to Article 312:
  - 1) PLN 984 – for 1 kg of substances, where the allowed composition of wastewater is exceeded,
  - 2) PLN 10 – for 1 m<sup>3</sup> of wastewater, where the allowed temperature, reaction or level of synthetic radioactive substances are exceeded.
2. By way of a Regulation, the Council of Ministers shall lay down the amounts of unit fine rates for exceeding:
  - 1) the limit levels of substances in wastewater as well as the manner wherein the fine shall be calculated where the exceedance applies to more than one substance,

- 2) the allowed temperature, reaction and level of synthetic radioactive substances in wastewater.
3. In adopting the Regulation referred to in paragraph 2, the Council of Ministers shall take into account:
  - 1) the adverse impact of the substances present in wastewater on the aquatic environment,
  - 2) the extent whereto the conditions concerning wastewater are exceeded.

### **Article 311**

1. The upper limit for unit fine rate for exceeding the permissible noise level penetrating into the environment shall be PLN 48 for 1 dB in excess, subject to Article 312.
2. By way of a Regulation, the Council of Ministers shall lay down the unit rates of fines for exceeding the permissible noise level.
3. In adopting the Regulation referred to in paragraph 2, the Council of Ministers shall provide for:
  - 1) the differentiation, depending on the extent of the exceedance, of the unit rate of the fine for 1dB exceedance of the permissible noise level penetrating into the environment, for the following ranges of the exceedance:
    - a) from 1 dB to 5 dB,
    - b) more than 5 to 10 dB,
    - c) more than 10 to 15 dB,
    - d) more than 15 dB,
  - 2) the differentiation of the amount of the fine for day-time or night-time.

### **Article 312**

The provisions of Article 290, paragraph 4, and Article 291 shall apply, respectively, to the unit fine rates set out in Article 310, paragraph 1, and Article 311, paragraph 1, and those set out pursuant to Article 310, paragraph 2, and Article 311, paragraph 2.

## **Chapter 3**

**Special provisions relating to fines for gas or dust emissions into the ambient air,  
wastewater discharges and noise emission**

**Article 313**

1. The fine for the exceedance referred to in Article 298, paragraph 1, subparagraph 1, shall be imposed for each substance emitted into the ambient air in excess of the conditions set out in the permit.
2. Where the conditions of the permit relating to the quantity or type of gases or dusts are found to be exceeded at the same time in respect of the place of their generation and the place of their release or for the whole installation, the fine shall be imposed on the basis of measurements carried out at the measuring points where the exceedance is highest.

**Article 314**

1. The determination of the exceedance in terms of the quantity, condition or composition of wastewater shall be based on the results of measurements of the condition or composition of wastewater carried out three times in an hour, with the qualification that:
  - 1) the determination of the exceedance in terms of the composition of wastewater and the level of synthetic radioactive substances shall be based on the results of the analysis of a sample of wastewater arising from the mixing of three samples of wastewater with equal volume, taken in the course of an hour,
  - 2) the exceedance of the allowed temperature and the allowed value of pH reaction shall be determined by taking the average value from the exceedances identified as a result of three measurements carried out in the course of an hour.
2. The determination of an exceedance subject to a fine may be based on one measurement where the discharge of wastewater into waters or to land lasts for less than one hour.
3. The rules of determining the extent of an exceedance as referred to in paragraphs 1 and 2 shall not apply in the case where continuous measurements are taken of the quantity, condition or composition of wastewater.
4. The exceedance in terms of the quantity or composition of wastewater shall be expressed by the quantities of substances discharged into waters or to land in violation of the permit.
5. The exceedance in terms of the condition of wastewater shall be expressed by the quantity of wastewater discharged into waters or to land in violation of the permit.

### **Article 315**

The fine for the exceedance referred to in Article 298, paragraph 1, subparagraph 5, shall be imposed:

- 1) taking into account the exceedances determined separately for day-time and night-time,
- 2) for exceeding the noise level at the measuring point where the exceedance has the highest values for day-time and night-time.

### **Part IV**

#### **Deferment, reduction and remission of increased fees for the use of the environment and administrative fines**

### **Article 316**

The Voivodship Marshall shall be the competent authority in the scope of the deferment of the date of the payment of the fee for the use of the environment as referred to in Article 276, paragraph 1, and in the scope of its reduction and remission, whereas the Voivodship Inspector for Environmental Protection shall be competent in the matters of administrative fines.

### **Article 317**

1. The date of the payment of a fee for the use of the environment and an administrative fine shall be deferred on request from the user of the environment obliged to pay them, where the user implements in timely fashion a project the execution whereof will ensure the elimination of the reasons for the payment of increased fees or fines over a period not longer than 5 years from the date when the request is submitted.
2. Subject to paragraph 3, the date of the payment a part or the whole of the fee or fine may be deferred.
3. The deferment may cover at most the part of the fee in excess of the amount which the user of the environment would have paid if the user had had a permit, or if another required decision had been granted.
4. The date of the payment may be deferred only for the period necessary for implementing the project referred to in paragraph 1.

### **Article 318**

1. The request for the deferment of the date of the payment of a fee or fine shall be submitted to the competent authority before the term wherein they should be paid expires.
2. The submission of the request for the deferment of the date of the payment of a fee shall not exempt from the obligation to pay the part of the fee which is not deferred.
3. The request shall contain:
  - 1) an indication of the amount of the fee or fine the deferment of the payment date whereof the party seeks,
  - 2) a description of the project being implemented as referred to in Article 317, paragraph 1,
  - 3) the timetable for the implementation of the project, with an indication of its stages not longer than 6 months.
4. Where there are doubts as to the capacity of the applicant to finance the proposed project, the competent authority may demand the submission of additional evidence to confirm the applicant's capacity to finance the project.
5. The decision to defer the date of the payment of a fee or fine shall lay down:
  - 1) the fee or fine the date of the payment whereof has been deferred and its amount,
  - 2) the project implemented by the applicant,
  - 3) the timetable for the implementation of the project,
  - 4) the date whereto the payment of the fee or fine has been deferred.
6. By way of a decision, the competent authority shall refuse to defer the date of the payment of a fee or fine, where the conditions for deferment as provided for by law are not satisfied.
7. Where the request referred to in paragraph 1 is submitted, the default interest shall be calculated in accordance with the principles set out in Part III of the Act - Tax Ordinance.

### **Article 319**

1. Where the timely implementation of a project which warrants the deferment of the payment has eliminated the grounds for the payment of a fee or fine, by way of a decision, the competent authority shall rule, subject to paragraph 3, to reduce the fee and fine deferred by the sum total of the party's own resources expended on the implementation of the project; where the deferment applies to a project aimed at the execution of the

Gmina's own tasks, the resources expended from the Gmina budget shall be included in the party's own resources.

2. In the case referred to in paragraph 1, the provisions of Part III of the Act - Tax Ordinance relating to the prolongation charge shall apply to the outstanding amounts.
3. Where the deferment applies to fees or fines imposed in relation to the landfill or storage of waste in the absence of a decision approving the instruction for the operation of a landfill or in the absence of a decision setting out the place and manner of waste storage, or those imposed for exceeding the conditions laid down in a decision, should the project be implemented in timely fashion the competent authority shall rule, by way of decision, to write off the fees or fines deferred.
4. Where the timely implementation of a project providing the basis for the deferment of the payment fails to eliminate the grounds for the payment of a fee or fine, by way of a decision, the competent authority shall rule to impose the obligation to pay the fee or fine deferred, along with the prolongation charge referred to in the provisions of Part III of the Act - Tax Ordinance.

#### **Article 320**

1. Where the project providing the basis for the deferment of the payment fails to be implemented on time, by way of a decision, the competent authority shall rule to impose the obligation to pay the fee or fine deferred, along with the default interest calculated for the deferment period as set out in the provisions of Part III of the Act - Tax Ordinance.
2. The competent authority may also issue the decision referred to in paragraph 1 prior to the expiry of the deferred date where the authority finds that the project providing the basis for the deferment is not implemented in accordance with the timetable.

#### **Article 321**

Where the date of the payment of a fee or fine is deferred, the provisions of the Act - Tax Ordinance relating to the interruption of the passage of the period of limitation in respect of amounts payable shall apply, respectively.

**Title VI**  
**Environmental liability**

**Part I**  
**Civil liability**

**Article 322**

Unless this Act provides otherwise, the provisions of the Civil Code shall apply for the liability for damage caused by impact on the environment.

**Article 323**

1. Every person who is directly threatened by damage or has suffered damage as a result of illegal impact on the environment may demand that the entity responsible for this threat or violation should restore the state complying with law and take preventive measures, in particular by putting in place an installation or equipment to protect against the threat or violation; where this is impossible or too difficult, the person may demand that the activity causing the threat or disturbance should be stopped.
2. Where the threat or violation affects the environment as a common good, the claim referred to in paragraph 1 may be brought by the State Treasury, a unit of local/regional administration as well as an environmental organisation.

**Article 324**

Where damage is caused by an increased-hazard or high-hazard establishment, Article 435, paragraph 1, of the Civil Code shall apply irrespective of whether the establishment is powered by the forces of nature.

**Article 325**

The liability for damage caused by impact on the environment shall not be excluded by the circumstance that the activity responsible for the damage is conducted on the basis of an administrative decision and within its limits.

### **Article 326**

The entity which has rectified damage to the environment shall be entitled to bring a claim for compensation in return of the resources expended for this purpose from the entity which has caused the damage, with the amount of compensation in such a case limited to the justified costs of the restoration of the previous state.

### **Article 327**

1. Every person who is entitled to bring the claims referred to in this Chapter may demand, in taking legal action, that the court should oblige the person to whose activity the claim brought relates, to communicate information indispensable for identifying the scope of liability.
2. The defendant shall bear the costs of preparing the information, unless the legal action proves to be unwarranted.

### **Article 328**

Environmental organisations may take legal action demanding that advertisements or other forms of promotion of a commodity should be abandoned where such advertisements or the other forms of promotion are in contradiction with Article 80.

## **Part II**

### **Penal liability**

### **Article 329**

He who, when obliged to do so under Article 28, fails to collect, process and make available free of charge information to meet the needs of the state environmental monitoring system shall be liable to the penalty of a fine.

### **Article 330**

He who, when obliged to do so under Article 75 in the course of construction works, fails to ensure protection of the environment on the site where the works are conducted shall be liable to the penalty of a fine.

### **Article 331**

He who, when obliged to do so under Article 76, paragraph 4, fails to notify the Voivodship Inspector for Environmental Protection of the planned date of the setting into operation of a building structure, or a complex of such structures or installations, or of the end of the start-up of the installation

shall be liable to the penalty of a fine.

### **Article 332**

He who fails to comply with the restrictions, orders or bans set out in the Regulation issued pursuant to Article 92, paragraph 1,

shall be liable to the penalty of a fine.

### **Article 333**

He who, when obliged under the decision made pursuant to Article 95 to measure the levels of substances in the ambient air, fails to meet this obligation or fails to keep the results of the measurements for the required period

shall be liable to the penalty of a fine.

### **Article 334**

He who fails to comply with the restrictions, orders or bans set out in the Regulation issued pursuant to Article 96

shall be liable to the penalty of a fine.

### **Article 335**

He who does not reclaim the land surface, thus failing to fulfil the obligations set out in Article 102, paragraphs 1 and 2,

shall be liable to the penalty of a fine.

### **Article 336**

1. He who, when obliged under Article 106, paragraph 1, to agree with the environmental authority the conditions for the reclamation of the land surface, fails to fulfil this obligation or conducts the reclamation in a manner other than the one set out in the conditions,

shall be liable to the penalty of a fine.

2. The same penalty shall be imposed on him who:
  - 1) prevents the reclamation of land in compliance with the obligation set out in Article 108, paragraph 2,
  - 2) uses in earth works soil or earth which exceeds the quality standards laid down pursuant to Article 105.

#### **Article 337**

He who, when obliged under the decision issued pursuant to Article 107 to carry out the measurements of the contents of substances in soil or earth, fails to fulfil this obligation or fails to keep the results of the measurements for the required period of time shall be liable to the penalty of a fine.

#### **Article 338**

He who fails to comply with the restrictions, orders or bans set out in the resolution of a Powiat Council adopted pursuant to Article 116, paragraph 1, shall be liable to the penalty of a fine.

#### **Article 339**

1. He who, when releasing substances or energies into the environment in the scope not requiring a permit, exceeds the emission limit values laid down pursuant to Article 145, paragraph 1, or Article 169, paragraph 1, shall be liable to the penalty of a fine,
2. The same penalty shall apply to him who:
  - 1) fails to comply with the requirements relating to the correct operation of an installation or equipment as set out pursuant to Article 146, paragraph 2,
  - 2) fails to meet in the event of a disturbance in the operation of installation the requirements set out pursuant to Article 146, paragraph 4.

#### **Article 340**

1. He who, when obliged under:
  - 1) Article 147, paragraph 1, to carry out periodic measurements of emission levels,
  - 2) Article 147, paragraph 2, to carry out continuous measurements of emission levels,

- 3) Article 147, paragraph 4, to carry out preliminary measurements of emission levels from a new or substantially changed installation,  
fails to fulfil these obligations or fails to keep the results of the measurements for the required period,  
shall be liable to the penalty of a fine,
2. The same penalty shall be imposed on him who, when obliged by way of a decision issued pursuant to Article 150, paragraphs 1-3 to carry out measurements at a specific time or to submit their results, fails to fulfil this obligation and who also fails to keep the results of the measurements in the required period.

#### **Article 341**

He who, when obliged to do so under Article 149, paragraph 1, fails to submit the results of measurements to the competent authorities,  
shall be liable to the penalty of a fine.

#### **Article 342**

1. He who, when obliged under Article 152 to communicate information concerning the operation of an installation, fails to fulfil this obligation or does not operate the installation in agreement with the information communicated,  
shall be liable to the penalty of a fine
2. The same penalty shall be imposed on him who operates an installation in spite of the expression of the objection referred to in Article 152, paragraph 4, or starts the operation of an installation before the period envisaged for the expression of the objection expires.

#### **Article 343**

1. He who violates the prohibition on the use of sound amplification installations or equipment as laid down in Article 156, paragraph 1,  
shall be liable to the penalty of a fine
2. The same penalty shall be imposed on him who fails to comply with the restrictions, orders or bans set out in the resolution of a Gmina Council adopted pursuant to Article 157, paragraph 1.

#### **Article 344**

He who violates the prohibition on the placing on the market or reuse of substances which pose particular danger to the environment as set out in Article 160, paragraph 1, shall be liable to the penalty of arrest, a limitation of freedom or a fine.

#### **Article 345**

He who, when obliged to do so under Article 161, fails to clean or dispose of the installations or equipment where substances which pose particular danger to the environment were or are used, or those in respect whereof it is warranted to presume that such substances were used therein,

shall be liable to the penalty of arrest, a limitation of freedom or a fine.

#### **Article 346**

1. He who, when using substances which pose particular danger to the environment, fails to submit periodically information, respectively, to the Voivode, the head of the Gmina, or the town/city mayor, concerning their types, quantities and the place where they are present, thus, failing to fulfil the obligation set out in Article 162, paragraphs 3 and 4, shall be liable to the penalty of a fine.
2. The same penalty shall be imposed on him who fails to provide the required scope of documentation on the types and quantities of substances which pose particular danger to the environment, the places where they are present and the manner of their elimination, thus failing to fulfil the obligation set out in Article 162, paragraph 2.

#### **Article 347**

1. He who, when placing on the market single-use plastic eating vessels and utensils, fails to enclose thereon information on their adverse impact on the environment, thus failing to meet the obligation set out in Article 170, paragraph 1, shall be liable to the penalty of a fine.
2. The same penalty shall be imposed on him who places on the market plastic products referred to in Article 170, paragraph 2, failing to enclose thereon the information on their adverse impacts on the environment.

### **Article 348**

He who violates the prohibition under Article 171 on the placing on the market of products which fail to meet the requirements referred to in Article 169, paragraph 1, shall be liable to the penalty of a fine.

### **Article 349**

1. He who, when obliged under:
  - 1) Article 175, paragraph 1, to carry out periodic measurements of the levels in the environment of substances or energies released,
  - 2) Article 175, paragraph 2, to carry out continuous measurements of the levels in the environment of substances or energies released,
  - 3) Article 175, paragraph 3, to keep the results of measurements of the levels in the environment of substances or energies released in relation to the operation of such installations,fails to fulfil these obligations or fails to keep the results of the measurements for the required period , shall be liable to the penalty of a fine.
2. The same penalty shall be imposed on him who, when obliged by way of a decision issued pursuant to Article 178, paragraphs 1-3, to carry out the measurements at a specific time or to submit them, fails to fulfil this obligation and on him who fails to keep the results of the measurements for the required period.

### **Article 350**

1. He who, when obliged to do so under Article 177, paragraph 1, fails to submit the results of measurements to the competent authorities, shall be liable to the penalty of a fine.
2. The same penalty shall be imposed on him who, when obliged to do so under Article 179, fails to submit the acoustic map of the areas.

### **Article 351**

1. He who operates an installation without the required permit or in violation of its conditions, shall be liable to the penalty of arrest, a limitation of freedom or a fine.

2. The same penalty shall be imposed on him who operates an installation without the required security referred to in Article 187.

#### **Article 352**

He who, when noticing the occurrence of an accident, fails to immediately notify thereof the persons present in the danger zone and an organisational unit of the State Fire Service, or the Police, or the head of the Gmina administration, or the mayor of the town/city, thus failing to fulfil the obligation set out in Article 245, paragraph 1,

shall be liable to the penalty of a fine.

#### **Article 353**

He who fails to fulfil the obligations imposed by a decision issued pursuant to Article 247, paragraph 1,

shall be liable to the penalty of arrest, a limitation of freedom or a fine.

#### **Article 354**

1. He who, when operating an increased-hazard or a high-hazard establishment, fails to fulfil the obligations set out in Articles 250 and 251,  
shall be liable to the penalty of arrest, a limitation of freedom or a fine.
2. The same penalty shall be imposed on him who in the event of an accident fails to fulfil the obligations set out in Article 264.

#### **Article 355**

He who, when operating a high-hazard establishment:

- 1) fails to draw up or implement the safety management system referred to in Article 252,
  - 2) starts the operation of the establishment without having an approved safety report,
  - 3) fails to review and fails to make warranted amendments to the safety report at the date set out in Article 256, paragraph 1,
  - 4) fails to fulfil the obligations set out in Article 261, paragraph 1, subparagraph 1, or paragraph 3,
  - 5) fails to fulfil the obligations set out in Article 263,
- shall be liable to the penalty of arrest, a limitation of freedom or a fine.

### **Article 356**

He who has introduced a change in the operation of a high-hazard establishment which may contribute to the hazard of an industrial accident without having received the authorisation of the Voivodship Commandant of the State Fire Service for the change in the safety report, shall be liable to the penalty of arrest, a limitation of freedom or a fine.

### **Article 357**

He who has introduced a change in the operation of an increased-hazard establishment which may contribute to the hazard of an industrial accident without having communicated a change in the accident-prevention programme to the Powiat Commandant of the State Fire Service and the Voivodship Inspector for Environmental Protection, shall be liable to the penalty of arrest, a limitation of freedom or a fine.

### **Article 358**

He who fails to fulfil the obligations imposed by a decision issued pursuant to Article 259, paragraph 1, shall be liable to the penalty of a fine.

### **Article 359**

1. He who, when obliged to do so under Article 287, paragraph 1, fails to keep the required records, shall be liable to the penalty of a fine.
2. The same penalty shall be imposed on him who fails to submit the record referred to in Article 286.

### **Article 360**

He who fails to implement the decision to:

- 1) stop an activity as issued under Article 364,
- 2) stop the bringing into use or prohibit the use of a building structure, a complex of structures, an installation or equipment as issued under Articles 365, 367 or 368,
- 3) prohibit the production, import or placing on the market of products which fail to meet the requirements of environmental protection as issued under Article 370,

shall be liable to the penalty of arrest, a limitation of freedom or a fine.

### **Article 361**

Rulings on the offences set out in Articles 329-360 shall be made pursuant to the provisions of the Misdemeanour Procedure Code.

## **Part III**

### **Administrative liability**

### **Article 362**

1. Where the user of the environment causes an adverse effect on the environment, by way of a decision, the environmental authority may impose on the user the obligation to:
  - 1) limit the impact on the environment and the related threats,
  - 2) restore the appropriate state of the environment.
2. The decision referred to in paragraph 1 shall lay down:
  - 1) the extent where to the impact on the environment shall be limited or the state of the environment which shall be restored,
  - 2) the date whereby the obligation shall be fulfilled.
3. Where it is impossible to impose the obligation to take the action referred to in paragraph 1, the environmental authority may impose on the user of the environment to pay to the relevant Gmina Fund for Environmental Protection and Water Management, subject to paragraph 4, an amount of money corresponding to the extent of the damage arising from the disturbance of the state of the environment.
4. Where the damage affects several Gminas, the authority referred to in paragraph 1 shall impose the obligation to pay the amounts to the relevant Gmina Funds for Environmental Protection and Water Management in proportion to the extent of the damage.
5. The provisions of Part III of the Act - Tax Ordinance shall apply to the amounts payable in relation to the obligation to pay the amount of money referred to in paragraph 3, with the qualification that the environmental authority competent to impose the obligation shall exercise the powers of the tax authorities.
6. The provisions of paragraph 1, subparagraph 2, and paragraphs 3-5 shall apply, respectively, to the users of the environment holding the land surface which do not have

an adverse effect on the environment, where, on the principles set out in the Act, they are obliged to reclaim the land surface.

### **Article 363**

The head of the Gmina administration, the mayor of the town or city may, by way of a decision, order a natural person who operates an installation within the scope of ordinary use of the environment or operates equipment, to take in a specific time measures to limit their adverse impact on the environment.

### **Article 364**

Where the activity conducted by the user of the environment or a natural person causes a substantial deterioration of the state of the environment or poses danger to human life or health, the Voivodship Inspector for Environmental Protection shall issue a decision stopping this activity in the scope necessary to prevent the deterioration of the state of the environment.

### **Article 365**

1. By way of a decision, the Voivodship Inspector for Environmental Protection shall stop the use of an installation:
  - 1) operated without the required integrated permit,
  - 2) operated in violation of the conditions of the integrated permit for a period exceeding 6 months.
2. In respect of a new or modernised building structure, a complex of structures or installations related to a project which has been classified as one of those that may have significant impact on the environment as referred to in Article 51, paragraph 1, the Voivodship Inspector for Environmental Protection may, by way of a decision, stop:
  - 1) their bringing into use, where they fail to meet the requirements of environmental protection referred to in Article 76,
  - 2) their use where they are found to fail to comply with the emission standards set out by law or the conditions for the emissions as set out in the permit after the lapse of 30 days from the conclusion of their start-up,
  - 3) their use where in the course of 5 years from their bringing into use it is revealed that when they were brought into use they failed and continue to fail to meet the requirements of environmental protection as referred to in Article 76 and that the investor has failed to fulfil the obligation to notify the Voivodship Inspector for Environmental Protection of the bringing of the installations or structures into use.

### **Article 366**

1. Subject to paragraph 2, the decisions referred to in Articles 364 and 365 shall be immediately enforceable.
2. They shall not be immediately enforceable in the circumstances set out in Article 365, paragraph 2, subparagraph 3; Article 367, paragraph 2, shall apply, respectively.
3. The decisions referred to in Article 364 and Article 365, paragraph 1, subparagraphs 2 and 3, shall set out the date whereon the activity shall be stopped, taking into account the need to ensure that its closedown is safe for the environment.

### **Article 367**

1. In the event where:
  - 1) the user of the environment releases substances or energies into the environment without the required permit or in violation of its conditions,
  - 2) the user of the environment violates the conditions of a decision setting out the requirements for the operation of an installation requiring notification,by way of a decision, the Voivodship Inspector for Environmental Protection may stop the use of the installation.
2. In the case referred to in paragraph 1, on request of the operator of the installation, the Voivodship Inspector for Environmental Protection may set the date for the elimination of the violation.
3. Where the violation has not been eliminated by the set date, by way of a decision, the Voivodship Inspector for Environmental Protection shall stop the use of the installation.
4. The decision referred to in paragraphs 1 and 3 shall set out the date whereon the activity shall be stopped, taking into account the need to ensure that its closedown is safe for the environment.

### **Article 368**

1. Where the conditions of a decision setting out the requirements for the operation of an installation, run by a natural person within the limits of the common use of the environment, the emissions wherefrom do not require a permit, by way of a decision, the head of the Gmina administration, or the mayor of a town or city, may stop the use of the installation; the provisions of Article 367, paragraphs 2-4, shall apply, respectively.

2. By way of a decision, the head of the Gmina administration, or the mayor of a town or city, may stop the use of the installation or equipment where the natural person has not complied with the requirements of the decision referred to in Article 363.

#### **Article 369**

The provisions of Article 367, paragraph 1, and Article 368 shall not apply where there are grounds for issuing a decision to stop the activity, in accordance with Article 364 or Article 365.

#### **Article 370**

By way of a decision, the Voivodship Inspector for Environmental Protection shall prohibit the import or placing on the market of products which fail to meet the requirements of environmental protection.

#### **Article 371**

The provisions of the Waste Act shall indicate the cases other than those referred to in this Act where the Voivodship Inspector for Environmental Protection shall stop, by way of a decision, activities conducted in violation of the requirements of environmental protection.

#### **Article 372**

1. Having ascertained that the grounds for stopping an activity have ceased to exist, on request of the interested party, the Voivodship Inspector for Environmental Protection, the head of the Gmina administration, the mayor of the town or the city, shall consent to the re-launching of the activity stopped.
2. Where a decision was made to stop the bringing into use of a building structure, a complex of structures or installations, the provision of paragraph 1 shall apply, respectively.

#### **Article 373**

1. Where the provisions of Articles 248-269 are violated, the competent authority of the State Fire Service may issue a decision:

- 1) ordering the elimination of the shortcomings identified, or
  - 2) stopping the use of the installation,
- where the shortcomings identified may cause the hazard of the occurrence of an industrial accident.
2. The decision referred to in paragraph 1, subparagraph 2, shall be immediately enforceable.
  3. The decision referred to in paragraph 1, subparagraph 2, shall lay down the date whereon the activity shall be stopped, taking into account the need to ensure that its closedown is safe for the environment.

#### **Article 374**

1. With the exception of the decisions referred to in Articles 365 and 372, the decisions set out in this Chapter concerning:
  - 1) the operation of a mining plant – shall require agreement with the director of the competent regional mining office,
  - 2) the strip for the protection of the sea – shall require agreement with the director of the competent maritime office.
2. Where the authority competent to express its agreement fails to communicate its position within 14 days, this shall mean that it has no comments or objections.
3. This agreement shall not be required where a decision is made under the conditions of danger to human life or health, or the direct threat of a substantial deterioration of the state of the environment.

#### **Article 375**

The procedures relating to the making of the decision referred to in this Chapter shall be initiated ex officio.

### **Title VII**

#### **Environmental authorities and institutions**

##### **Part I**

##### **Environmental authorities**

#### **Article 376**

Subject to Article 377, the environmental authorities shall be:

- 1) the head of the Gmina administration, the mayor of the town or the city,
- 2) the head of the Powiat administration (Starost),
- 3) the Voivode,
- 4) the minister responsible for the environment.

#### **Article 377**

The authorities of the Inspectorate for Environmental Protection acting pursuant to the provisions of the Act on the Inspectorate for Environmental Protection shall carry out their duties in the field of environmental protection, where this Act so provides.

#### **Article 378**

1. Subject to paragraphs 2 and 3, the Starost shall be the environmental authority competent in the matters referred to in Article 48, paragraphs 2 and 3; Article 51, paragraph 2; Articles 106, 149 and 150; Article 152, paragraph 1; Article 154, paragraph 1; Article 178; Article 183, paragraph 1; Article 237; Article 362, paragraphs 1 and 3.
2. The Voivode shall be the authority competent in the matters:
  - 1) related to the projects which may cause significant adverse impact on the environment as referred to in Article 51, paragraph 1, subparagraph 1, and those related to the operation of installations on the sites of establishments classified as such projects,
  - 2) related to projects and events on closed sites.
3. Where natural persons use the environment in a common manner, the head of the Gmina administration, or the mayor of the town or the city, shall be competent for:
  - 1) issuing the decisions referred to in Article 150, paragraph 1, and Article 154, paragraph 1,
  - 2) receiving the results of the measurements referred to in paragraphs 149 and 150,
  - 3) receiving the notifications referred to in Article 152, paragraph 1.

#### **Article 379**

1. The Voivodship Marshall, the Starost and the head of the Gmina administration, the mayor of the town or the city shall exercise the control of compliance with, and application, of the regulations on environmental protection to the extent covered by the competence of these authorities.

2. The authorities referred to in paragraph 1 may delegate the control powers to the staff of the Marshall's Offices, Powiat Offices, Municipal or Gmina Office subordinated to them, or the officers of the Gmina Guard.
3. When carrying out an inspection, the inspector shall be authorised to:
  - 1) enter, along with experts and necessary equipment, over 24 hours of the day and night, the site of a real estate, installation or parts thereof, where an economic activity is conducted; and from 6 a.m. to 10 p.m. to the other sites,
  - 2) carry out tests or other necessary control activities,
  - 3) require written or verbal information and to summon and question persons to the extent indispensable for identifying the actual state of matters,
  - 4) request access to documents and all data related to the issues covered by the inspection,
4. The head of the Gmina administration, the mayor of the town or the city, the Starost, the Voivodship Marshall or persons authorised by them shall be entitled to appear as the public prosecutor in cases of violation of the requirements relating to environmental protection.
5. The head of the Gmina administration, the mayor of the town or the city, the Starost and the Voivodship Marshall shall request the Voivodship Inspector for Environmental Protection to take appropriate action within the scope of his competence, where, as a result of an inspection, these authorities find that the entity inspected violates the regulations relating to environmental protection or there is warranted suspicion that such a violation may have occurred, transferring the documentation of the case.
6. The manager of the entity inspected and the natural person covered by the inspection shall be obliged to make the inspection possible, in particular by carrying out the activities referred to in paragraph 3.

### **Article 380**

1. The inspector shall make a record of the inspection activities carried out, with one copy thereof handed to the manager of the entity inspected or the natural person covered by the inspection.
2. The record shall be signed by the inspector, the manager of the entity inspected or the natural person covered by the inspection, who may enter their objections and comments, along with a justification, into the record.

3. Where the manager of the entity inspected or the natural person covered by the inspection refuse to sign the record, the inspector shall note this in the record and within 7 days the party refusing to sign the record may present its position in writing to the head of the Gmina administration, the mayor of the town or the city, the Starost or the Voivodship Marshall.

### **Article 381**

1. The environmental authority competent in the matters of the environmental impact assessment procedures for plans and programmes as referred to in the Act shall be:
  - 1) the minister responsible for the environment – in respect of procedures conducted by a central government administration authority,
  - 2) the Voivode – in respect of the other procedures.
2. The environmental authority competent in the matters of the environmental impact assessment procedures relating to indications of location for a motorway shall be the minister responsible for the environment.

### **Article 382**

1. Unless a provision of the Act provides otherwise, the competent authority with local competence to conduct the case, in the meaning of the Administrative Procedure Code, shall be the authority which is competent in the light of the location of the real estate where the project related to the subject of the procedure is proposed or implemented.
2. Where the real estate referred to in paragraph 1 is located in the area of competence of more than one authority, the competent authority shall be the authority in the area of competence whereof a larger part of the real estate lies; this authority shall issue its decisions as provided for by law in agreement with the other competent authorities.

### **Article 383**

The requirement to have the agreement or opinion of the environmental authority shall not apply where the authority competent to conduct the procedure in the case is, at the same time, the authority competent for expressing its agreement or opinion.

#### **Article 384**

The competent authorities shall ensure the conditions necessary for implementing the regulations on environmental protection by the organisational units which are subordinate to them and which they supervise.

#### **Article 385**

1. By way of executive orders, the Minister of National Defence:
  - 1) shall specify the organisational units to be responsible for the supervision over compliance with the regulations on environmental protection in the Armed Forces,
  - 2) may specify, in agreement with the minister responsible for the environment, the detailed manner of the implementation of the regulations on environmental protection in the Armed Forces.
2. The executive order referred to in paragraph 1, subparagraph 1, shall lay down:
  - 1) the organisational units to be responsible for the supervision,
  - 2) the scope of responsibilities of the subordinate and supervised units,
  - 3) their competence in the scope of the tasks which they carry out.
3. The executive order referred to in paragraph 1 may set out the format, scope, layout, techniques and dates for the submission by the supervised units of information of essential importance for ensuring compliance with the regulations on environmental protection.
4. In issuing the executive order referred to in paragraph 1, subparagraph 2, the minister shall take into account the specific nature of the operations of the Armed Forces:
  - 1) in the scope of their use of characteristic infrastructure,
  - 2) in the course of training,
  - 3) in the course of other specific activities related to the need to comply with the requirements of environmental protection.

### **Part II**

#### **Environmental institutions**

#### **Chapter 1**

#### **General provisions**

#### **Article 386**

The environmental institutions shall be:

- 1) the State Environmental Protection Council,
- 2) the environmental impact assessment commissions,
- 3) the funds for environmental protection and water management.

## **Chapter 2**

### **The State Environmental Protection Council**

#### **Article 387**

The State Environmental Protection Council, hereinafter referred to as the “Council”, shall be established as an advisory and opinion-making authority to assist the minister responsible for the environment.

#### **Article 388**

The duties of the Council shall include the preparation of opinions on the issues of environmental protection for the minister responsible for the environment and the submission of proposals and recommendations aimed at creating the conditions for sustainable development and environmental protection as well as at preserving or improving the state of the environment.

#### **Article 389**

When asking the Council for an opinion, the minister responsible for the environment shall enclose the necessary materials.

#### **Article 390**

The Council shall consist of the chairman, two deputies of the chairman, secretary and members, with their number not exceeding 30, appointed by the minister responsible for the environment for a term of 5 years from among representatives of science, professional communities, environmental organisations as well as economic and commercial organisations.

### **Article 391**

1. The expense related to the activities of the Council shall be covered by the part of the state budget which is managed by the minister responsible for the environment.
2. The minister responsible for the environment shall ensure office services for the Council.

### **Article 392**

The members of the Council and experts invited to sessions who do not reside in the locality where the sessions are held and take part in them, shall be entitled to per diem allowances and the reimbursement of the costs of travel and accommodation on the principles set out in the regulations on the principles of establishing, and the amounts of, allowances for staff relating to domestic duty trips.

### **Article 393**

1. The minister responsible for the environment shall lay down, by way of a Regulation, the detailed manner of the functioning of the State Environmental Protection Council, with a view to ensuring the correct functioning of the Council.
2. The Regulation referred to in paragraph 1 shall lay down:
  - 1) the organisation of the Council,
  - 2) the procedure for the functioning of the Council.

## **Chapter 3**

### **The environmental impact assessment commissions**

### **Article 394**

The National Environmental Impact Assessment Commission and the Voivodship Environmental Impact Assessment Commissions shall be established.

### **Article 395**

1. The National Environmental Impact Assessment Commission, hereinafter referred to as the “National Commission”, shall be established as an opinion-making and advisory authority to assist the minister responsible for the environment in the scope of environmental impact assessments.
2. The chairman of the National Commission, the deputies of the chairman, secretary and members of the National Commission, with their number varying between 40 and 60,

shall be appointed and recalled by the minister responsible for the environment from among representatives of science, practice and environmental organisations.

3. The duties of the National Commission shall include in particular:
  - 1) expressing its opinion on the matters raised by the minister responsible for the environment in relation to his powers pursuant to Title I, Chapter VI, of the Act,
  - 2) monitoring the functioning of the system of environmental impact assessments and presenting its opinions and recommendations, including those relating to the development of methodology and training programmes in the scope of environmental impact assessments,
  - 3) expressing its opinions on draft legal regulations relating to the system of environmental impact assessments,
  - 4) co-operation with the commissions referred to in Article 396, paragraph 1.
4. On the Voivode's request, the minister responsible for the environment may ask the National Commission to express its opinion on the issues which fall within the competence of the Voivode in accordance with Title I, Part VI, of the Act.

#### **Article 396**

1. The Voivodship Environmental Impact Assessment Commissions, hereinafter referred to as the "Voivodship Commissions", shall be established as opinion-making and advisory authorities assisting the Voivodes in the scope of environmental impact assessments.
2. The chairman of the Voivodship Commission, the deputy of the chairman, secretary and members of the Commission, with their number varying between 20 and 40, shall be appointed and recalled by the Voivode, in agreement with the Voivodship Marshall, from among representatives of science, practice and environmental organisations.
3. The duties of the Voivodship Commissions shall include in particular:
  - 1) expressing their opinion on the matters raised by the Voivode in relation to his powers pursuant to Title I, Chapter VI, of the Act,
  - 2) expressing their opinions and recommendations relating to the development of training programmes in the scope of environmental impact assessments,
  - 3) co-operation with the National Commission and other Voivodship Commissions.
4. On the starost's request, the Voivode may ask the Voivodship Commission to express its opinion on the issues which fall within the competence of the Starost in accordance with Title I, Part VI, of the Act.
5. Two or more Voivodes may appoint a joint Voivodship Commission.

#### **Article 397**

1. The expenses related to the activities of the National Commission and the Voivodship Commissions shall be covered from the part of the state budget which is managed, respectively, by the minister responsible for the environment or the Voivode.
2. The minister responsible for the environment or the Voivode, respectively, shall ensure office services for the National Commission or the Voivodship Commission.

#### **Article 398**

The members of the National Commission and the Voivodship Commissions and experts invited to sessions who do not reside in the locality where the sessions are held and take part in them shall be entitled to per diem allowances and the reimbursement of the costs of travel and accommodation on the principles set out in the regulations on the principles of establishing, and the amounts of, allowances for staff relating to domestic duty trips.

#### **Article 399**

1. The minister responsible for the environment shall lay down, by way of a Regulation, the detailed manner of the functioning of the National Commission and the Voivodship Commissions.
2. The Regulation referred to in paragraph 1 shall lay down:
  - 1) the organisation of the Commissions,
  - 2) the procedure for the functioning of the Commissions.

### **Chapter 4**

#### **The funds for environmental protection and water management**

#### **Article 400**

1. The National Fund for Environmental Protection and Water Management, hereinafter referred to as the “National Fund”, the Voivodship Funds for Environmental Protection and Water Management, hereinafter referred to as the “Voivodship Funds”, the Powiat Funds for Environmental Protection and Water Management, hereinafter referred to as the “Powiat Funds” and the Gmina Funds for Environmental Protection and Water Management, hereinafter referred to as the “Gmina Funds”, shall operate on the principles

set out in the Act. For the purposes of this Act, the “Funds” shall mean the National Fund, the Voivodship Fund, the Powiat Fund and the Gmina Fund.

2. The National Fund and the Voivodship Funds shall have a legal personality and, in the meaning of the Public Finance Act, they shall be, respectively, the state earmarked fund and the Voivodship earmarked funds.
3. The National Fund and the Voivodship Funds shall manage their finance independently, covering from their resources and revenues the expenses to finance the tasks set out in the Act and their operating costs.

#### **Article 401**

1. The revenues of the Funds shall be the proceeds from the fees for the use of the environment and administrative fines collected pursuant to this Act and special regulations and the amounts gained under the decisions referred to in Article 362, paragraph 3.
2. The revenues of the National Fund shall also be the proceeds from the product charges collected under the regulations on economic operators’ obligations in the scope of managing certain types of waste and on the product and deposit charges.
3. The revenues of the National Fund shall also be the proceeds from the royalties and fines established pursuant to the provisions of the Act - Geological and Mining Law.
4. In equal parts, the revenues referred to in paragraph 3 shall be allocated exclusively to finance:
  - 1) the needs of geology in the scope of the identification of the geological structure of the country and in the scope of the management of mineral deposits and groundwater resources,
  - 2) the needs of mining in the scope of the measures to reduce the adverse impact on the environment as arising from mineral exploitation and the closing down of mining plants.
5. The revenues of the Funds may be voluntary contributions, legacies, donations, contributions of physical items and resources provided by foundations as well as the proceeds from projects organised for the benefit of environmental protection and water management.
6. The revenues of the National Fund and the Voivodship Funds may also be the proceeds from the issue of their own bonds and other revenues related to the operations of these Funds.
7. The National Fund and the Voivodship Funds may take credits and loans.

## **Article 402**

1. The Voivodship Board and the Voivodship Inspector for Environmental Protection shall hold separate bank accounts to collect and redistribute the proceeds referred to in Article 401, paragraph 1. As increased by the revenues from the interest on the bank accounts and decreased by the charges for the execution of the amounts receivable and the administration costs of the bank accounts, these proceeds shall be transferred to the bank accounts by the 15<sup>th</sup> day of the month following the month when they arrive at the bank accounts of the Voivodship Boards and the Voivodship Inspector for Environmental Protection.
2. Prior to the transfer of the proceeds from fines to the accounts of the National Fund and the Voivodship Funds as referred to in paragraph 1, the Voivodship Inspector for Environmental Protection shall detract 20% from them, to transfer the detracted amount to the Chief Inspector for Environmental Protection with the aim of using it for improving the functioning of the Inspectorate for Environmental Protection and for bonuses for its staff as referred to in separate regulations.
3. In the event of an untimely transfer of the proceeds referred to in paragraph 1, these proceeds shall be transferred along with the default interest as set out in the provisions of the Act - Tax Ordinance.
4. Subject to paragraph 5, the proceeds from the fees and fines shall be the revenues of the Gmina Fund to the extent of 20% and those of the Powiat Fund to the extent of 10%.
5. The total revenue coming from fees and fines for the removal of trees and shrubs constitutes the income of the fund of the Gmina from where the trees and shrubs have been removed.
6. To the extent of 50%, the proceeds from the fees and fines for the landfill and storage of waste shall be the revenues of the Gmina Fund of the Gmina and, to the extent of 10%, the revenues of the Powiat Fund of the Powiat in the areas whereof the waste is landfilled. Where the waste landfill is localised in the areas of more than one Gmina, or in the areas of more than one Powiat, the revenues shall be divided in proportion to the surface areas occupied by the landfill in the areas of these Gminas or Powiats.
7. Following the division referred to in paragraph 4 or paragraph 6, to the extent of 35%, the proceeds from fees and fines shall be the revenues of the National Fund and, to the extent of 65% , those of the Voivodship Fund.

### **Article 403**

1. The Gmina and Powiat Funds shall be earmarked funds in the meaning of the Public Finance Act.
2. The revenues of the Funds referred to in paragraph 1 shall be collected at a separate bank account.

### **Article 404**

1. The Gminas and Powiats where the revenues of the fund for environmental protection referred to in Article 401, paragraph 1, exceed the value of ten times the mean annual per capita revenues in the previous year, as calculated, respectively, for Gminas and Powiats, shall transfer these surplus revenues to the relevant Voivodship Fund.
2. By way of a public notice in the Journal of the Government of the Republic of Poland "Monitor Polski", the minister responsible for the environment shall publish the mean annual revenues of Gmina and Powiat Funds referred to in Article 401, paragraph 1, as gained the previous year, by the end of the first half of the next year.
3. Gminas and Powiats shall make the payments referred to in paragraph 1 to the account of the relevant Voivodship Fund by 15 August of the year following the year where the surplus occurs; interest shall be calculated on the amounts unpaid in time, in the amount set out for default tax payments.

### **Article 405**

The resources of the Funds shall also be allocated to finance environmental protection and water management with the aim of implementing the principle of sustainable development.

### **Article 406**

The resources of Gmina Funds shall be allocated to:

- 1) environmental education and the promotion of environmentally sound behaviour and the principle of sustainable development,
- 2) supporting the implementation of the tasks of the state environmental monitoring system,
- 3) supporting other control and measuring systems and examinations of the state of the environment as well as the systems measuring water and heat consumption,

- 4) implementing modernisation and investment tasks for the purposes of environmental protection and water management, including the flood protection installations or equipment as well as small water retention facilities,
- 5) establishing and maintaining green areas, plantations of trees and shrubs and parks,
- 6) implementing projects relating to waste management,
- 7) supporting measures to prevent pollution,
- 8) the preventive health care of children in the areas where the environmental quality standards are exceeded,
- 9) supporting the use of local renewable energy sources and assistance to the introduction of more environmentally sound energy carriers,
- 10) supporting environmentally sound modes of transport,
- 11) organic farming measures affecting directly the state of soil, air and waters, in particular in order to support farms producing by environmental methods in the special protected areas under the Nature Conservation Act,
- 12) other tasks set out by the Gmina Council for the purposes of environmental protection and water management, in accordance with the principle of sustainable development, including the environmental protection programmes.

#### **Article 407**

The resources of the Powiat Funds shall be allocated to supporting the activities referred to in Article 406, subparagraphs 1-11, and to:

- 1) implementing projects to protect the land surface,
- 2) other tasks set out by the Powiat Council for the purposes of environmental protection and water management, in accordance with the principle of sustainable development, including the environmental protection programmes.

#### **Article 408**

The activities referred to in Articles 406 and 407 may be financed by grants.

#### **Article 409**

The resources of Voivodship Funds shall be allocated to supporting the activities referred to in Article 406, paragraphs 1-11, and Article 407, subparagraph 1, and to co-financing:

- 1) activities for nature conservation and tasks relating to the increase in the forest cover rate in the country,

- 2) activities to prevent and respond to major accidents and their effects,
- 3) research and dissemination of its results as well as technical developments in the scope of environmental protection and water management,
- 4) developing and implementing new techniques and technologies, in particular to reduce emissions and water consumption as well as to ensure efficient fuel use,
- 5) preventing, or rectifying the effects of, the pollution of the environment, where the entity responsible for the pollution cannot be identified,
- 6) the system to control the payment of fees for the use of the environment as established by this Act, in particular the creation of databases on the users of the environment obliged to pay the fees,
- 7) developing the water resource management plans and establishing the water register,
- 8) other tasks for the purposes of environmental protection and water management, in accordance with the principle of sustainable development, as set out in the work plans of the Voivodship Funds, including the implementation of the environmental protection programmes.

#### **Article 410**

1. The resources of the National Fund shall be allocated to supporting the activities referred to in Article 406, subparagraphs 1-11, Article 407, subparagraph 1, and Article 409, subparagraphs 1-6, and to:
  - 1) developing the industry manufacturing the control and measurement devices and systems used for the purposes of environmental protection and water management,
  - 2) developing the specialised capacity for the purposes of the implementation of projects for environmental protection and water management,
  - 3) developing the network of measuring stations, laboratories and information processing centres used to examine the state of the environment,
  - 4) implementing comprehensive research, development and implementation programmes for the purposes of environmental protection and water management as well as programmes of environmental education,
  - 5) supporting the implementation of the Voivodship environmental protection programmes and the environmental protection programmes covering more than one Voivodship,

- 6) implementing other tasks for the purposes of environmental protection and water management, in accordance with the principle of sustainable development, as set out in the work plan of the National Fund.
2. On consent of the minister responsible for the environment, the resources of the National Fund may be allocated to supporting projects and investments referred to in paragraph 1 abroad.

#### **Article 411**

1. The activities referred to in Articles 409 and 410 shall be financed by:
  - 1) granting loans with interest,
  - 2) subsidies to the interest on preferential credits and loans,
  - 3) allocating grants,
  - 4) bringing in shares to companies operating in the country,
  - 5) purchasing bonds, stock and shares of companies operating in the country,
  - 6) awards for activities for the purposes of environmental protection and water management not falling within the scope of the duties of the staff of the government administration and the regional/local governments.
2. The allocation of the resources to finance the needs of geology shall require the opinion of the minister responsible for the environment and the allocation of the resources to finance the needs of mining shall require the opinion of the minister responsible for the environment and the President of the Higher Mining Office.
3. The loans referred to in paragraph 1, subparagraph 1, may be partly written off on the condition of the timely implementation of the tasks and the achievement of the intended effects.
4. The National Fund and the Voivodship Funds may hold foreign-currency accounts.
5. The National fund may provide collateral instruments for the repayment of credits and for the return of the resources allocated by the governments of other countries and international organisations for the purposes of the implementation of the tasks of environmental protection and water management, in accordance with the Act of 8 May 1997 on the Collateral Instruments and Guarantees Provided by the State Treasury and Certain Legal Persons (Official Journal No. 79, Item 484, No. 80, Item 511; 2000, No. 48, Item 550, No. 60, Item 693, No. 86, Item 958); in providing the collateral instrument, the National Fund shall take a commission.

6. The National Fund may take over the liabilities of the minister responsible for the environment where the allocation of resources by the governments of other countries and international organisations, in accordance with the provisions of international agreements, is conditional on the provision by the minister responsible for the environment of a guarantee for the return of the amounts paid out wholly or in part, for the reasons laid down in these agreements.
7. Applications for loans or grants the unit value whereof exceeds EUR 10,000,000 for technical means serving only to reduce the adverse impact on the environment, in particular wastewater treatment plants, electric precipitators or waste landfills, shall contain a justification including analysis of the possible alternative organisational, technical or technological solutions aimed at eliminating or reducing the pollutants arising or introducing cleaner production.
8. The National Fund and the Voivodship Funds shall provide grants and loans on the basis of civil-law contracts.
9. The form of civil-law contract shall not be used in transferring resources for awards for activities for the purposes of environmental protection and water management not falling within the scope of the duties of the staff of the government administration and the regional/local governments as referred to in paragraph 1, subparagraph 6, where the donors are the National Fund or the Voivodship Funds.
10. The National Fund and the Voivodship Funds may provide banks with financial resources for their allocation as credits, loans or grants to the programmes and projects indicated by the Funds in the scope of the tasks of environmental protection and water management, the needs of geology and as subsidies to co-finance the interest on the preferential bank credits and loans given for these purposes.
11. The foreign-assistance resources entrusted to the National Fund and the Voivodship Funds shall be used to co-finance projects in the scope of environmental protection and water management, in accordance with the agreements under which these resources have been provided and in conformity with the procedures in effect in these Funds.

## **Article 412**

1. The Supervisory Board and the Management Board shall be the authorities of the National Fund.
2. The office of the National Fund shall provide administrative services for the Supervisory Board and the Management Board.

3. The provisions of paragraphs 1 and 2 shall apply, respectively, to the Voivodship Funds.

### **Article 413**

1. The Supervisory Board of the National Fund shall consist of 13 to 15 persons and the Supervisory Boards of the Voivodship Funds shall consist of 9 to 10 persons.
2. The composition and structure of the Supervisory Board of the National Fund shall be established, by way of an executive order, by the minister responsible for the environment, ensuring the participation in the composition of the Board of representatives of the local/regional government party in the Joint Commission of the National Government and Local/Regional Governments and a representative of environmental organisations as elected from among the candidates proposed by these organisations and enjoying the support of the largest number of these organisations.
3. Where the local/regional government party in the Joint Commission of the National Government and Local/Regional Governments or environmental organisations fail to propose their representatives, the minister responsible for the environment may delegate his representatives in their place.
4. The minister responsible for the environment shall appoint and recall the members of the Supervisory Board of the National Fund.
5. The Supervisory Boards of the Voivodship Funds shall consist of:
  - 1) a representative of the Voivode,
  - 2) a representative of the relevant Commission for Environmental Protection of the Voivodship Assembly,
  - 3) the head of the Voivodship Commission for Nature Conservation,
  - 4) a representative of the National Fund as designated by the Supervisory Board of this Fund,
  - 5) one or two experts on environmental protection and water management as designated by the Voivodship Assembly,
  - 6) two representatives designated by the Voivodship Assembly,
  - 7) a representative of environmental organisations as elected from among the candidates proposed by organisations which carry out their activities and have their structures in the area of a given Voivodship and enjoying the support of the largest number of these organisations,
  - 8) a representative of chambers of commerce as proposed by these chambers of commerce.

6. Taking into account the positions of the organisational units referred to in paragraph 5, the Voivodship Board shall appoint and recall the members of the Supervisory Board of the Voivodship Fund.
7. The resolution of the Voivodship Board as referred to in paragraph 6 shall be subject to the supervision of the Voivode, in the meaning of the provisions of the Voivodship Government Act of 5 June 1998 (Official Journal No. 91, Item 576, No. 155, Item 1014, No. 160, Item 1060, No. 162, Item 1126; 2000, No. 12, Item 136, No. 26, Item 306, No. 48, Items 550 and 552, No. 62, Item 718, No. 88, Item 985, No. 91, Item 1009, No. 95, Item 1041).
8. The Voivode, the Deputy Voivode and the members of the Voivode Board must not hold the position of a member of the Supervisory Board of the Voivodship Fund.

#### **Article 414**

1. The tasks of the Supervisory Board of the National Fund and the Supervisory Boards of the Voivodship Funds shall include, respectively:
  - 1) the establishment of the criteria for the selection of projects to be financed with the resources of the National Fund and the Voivodship Funds,
  - 2) the adoption of the draft annual financial plans,
  - 3) the establishment of the principles of granting and writing off loans as well as allocating grants and subsidies to the interest on preferential credits and loans,
  - 4) the approval of the proposals of the Management Boards relating to the issue of their own bonds and the purchase of the bonds, stock and shares of companies, the taking of credits and loans and the bringing in of shares into companies,
  - 5) the approval of applications for loans and grants the unit value whereof exceeds:
    - a) in the case of a loan or grant from the National Fund, values equivalent, respectively, to the amount of EUR 1,000,000 or the amount of EUR 500,000,
    - b) in the case of a loan or grant from the Voivodship Fund, a values equivalent to 0.5% of the revenues of this Fund the previous year,
  - 6) the approval of the annual reports of the Management Boards on their activities and the annual financial statements of the National Fund and the Voivodship Funds,
  - 7) the establishment of the principles of the remuneration of the members of the Management Board and the staff of the office of the National Fund as well as the

members of the Management Boards and the staff of the offices of the Voivodship Funds,

- 8) the control of the activity of the Management Board of the National Fund as well as the Management Boards of the Voivodship Funds,
  - 9) the submission, by 30 April of each calendar year, of reports on:
    - a) the activity of the National Fund, to the minister responsible for the environment,
    - b) the activity of the Voivodship Funds, to the competent Voivodship Boards,
  - 10) the confirmation of the choice of the entity competent to examine the financial statement.
2. In addition to those set out in paragraph 1, the tasks of the Supervisory Board of the National Fund shall also include:
- 1) the submission for approval of the action strategy of the National Fund to the minister responsible for the environment,
  - 2) every four years, the adoption of the action strategy of the National Fund by 30 November of the year preceding the year covered by this strategy, on the basis of the National Environmental Policy,
  - 3) the adoption of a work plan and the approval of the priority lists of programmes of the National Fund by 31 January of each year, on the basis of the National Environmental Policy and the lists of priority projects submitted by the Voivodship Funds,
3. In addition to those set out in paragraph 1, the tasks of the Supervisory Boards of the Voivodship Fund shall also include:
- 1) the adoption of the action plans of the Voivodship Funds by 30 November of each year for the next year, on the basis of the National Environmental Policy and the Voivodship environmental protection programmes,
  - 2) the approval of the lists of priority projects of the Voivodship Funds by 30 June of each year for the next year.
4. By way of a Regulation, the minister responsible for the environment shall lay down the remuneration of the members of the Supervisory Board of the National Fund for their participation in the work of the Board, in accordance with the regulations concerning the remuneration of the members of the supervisory boards of the companies of the State Treasury, while, by way of an executive order, the competent Voivodship Board shall lay down the remuneration of the members of the Supervisory Boards of the Voivodship Funds.

5. The members of the Supervisory Board of the National Fund and the Supervisory Boards of the Voivodship Funds who do not reside in the locality where the sessions are held and take part in them shall be entitled to the reimbursement of the costs of travel and accommodation on the principles set out in the regulations on the principles of establishing, and the amounts of, allowances for staff relating to domestic duty trips.

#### **Article 415**

1. The Management Board shall consist of the President and the Vice-Presidents, appointed and recalled:
  - 1) at the National Fund, by the minister responsible for the environment, on submission of the Supervisory Board of the National Fund,
  - 2) at the Voivodship Funds, by the Voivodship Board, on submission of the Supervisory Board of the Voivodship Fund,
2. The position of a member of the Management Board of the National Fund and the Voivodship Funds must not be combined with employment in the government administration or regional/local governments, nor with membership in the supervisory boards of companies where the State Treasury has its shares.
3. The President of the Management Board shall represent the National Fund in external relations, executing all the acts in law in the scope of the property rights and liabilities of the National Fund, subject to paragraph 7; this principle shall also apply, respectively, to the Presidents of the Management Boards of the Voivodship Funds.
4. The President of the National Fund and, respectively, the Presidents of the Voivodship Funds shall employ the staff of the National Fund and, respectively, the Voivodship Funds. In respect of the staff to hold management positions, the President shall obtain the opinion of the Management Board.
5. The tasks of the Management Board of the National Fund and the Management Boards of the Voivodship Funds shall include, respectively:
  - 1) the development of the draft action plans of the National Fund and the Voivodship Funds, including the draft annual lists of priority projects of the National Fund,
  - 2) the development of the draft annual financial plans,
  - 3) the selection of the projects to be financed with the resources of the National Fund and the Voivodship Funds,

- 4) the management of the resources of the National Fund and the Voivodship Funds, without prejudice to the powers of the Supervisory Board of the National Fund and the Supervisory Boards of the Voivodship Funds,
  - 5) the control of the use of loans and grants allocated from the resources of the National Fund and the Voivodship Funds,
  - 6) the preparation of analyses and assessments of the environmental efficiency of the activities of the National Fund and the Voivodship Funds,
  - 7) the submission of reports on the activities of the National Fund and the Voivodship Funds to the Supervisory Board of the National Fund and the Supervisory Boards of the Voivodship Funds.
6. In addition to those referred to in paragraph 5, the tasks of the Management Board of the National Fund shall also include the development of the draft action strategies of the National Fund and the seeking of the opinion of the minister responsible for regional development on the provisions of the strategies.
  7. In addition to the President, two persons acting together shall be authorised to execute acts in law in the scope of the property rights and obligations of the National Fund and the Voivodship Funds, from among:
    - 1) the other members of the Management Board,
    - 2) the plenipotentiaries appointed by the President of the Management Board, acting within the scope of their empowerment.
  8. The execution of an act in law in the scope of the property rights and obligations of the National Fund and the Voivodship Funds by the persons referred to in paragraph 7 otherwise than in the procedure set out in Article 414, paragraph 1, subparagraph 5, shall not invalidate this act in law in respect of third parties.
  9. The President shall direct the work of the office of the National Fund and, respectively, the Voivodship Funds.

#### **Article 416**

1. The statute of the National Fund shall lay down the detailed principles, organisation and procedure of its work.
2. In agreement with the minister responsible for public finance, by way of a Regulation, the minister responsible for the environment shall confer the statute referred to in paragraph 1, taking into account the correct use of the Funds to implement the principles of sustainable development.

3. The detailed principles, organisation and procedure of the Voivodship Fund shall be laid down by its statute conferred by the Voivodship Board on agreement with the minister responsible for the environment.

#### **Article 417**

1. In agreement with the minister responsible for public finance, by way of a Regulation, the minister responsible for the environment shall lay down the detailed principles of the financial management of the National Fund and the Voivodship Funds.
2. The Regulation referred to in paragraph 1 shall lay down:
  - 1) the fundamentals of the financial management,
  - 2) the content of the annual financial plans,
  - 3) the dates for drawing up the annual financial plans.
3. The Regulation referred to in paragraph 1 may lay down:
  - 1) the types of costs classified as the operating costs,
  - 2) the manner of establishing the financial result,
  - 3) the manner of increasing and decreasing the statutory and reserve funds,
  - 4) the possibility of creating other types of funds,
  - 5) the requirements for financial reporting.

#### **Article 418**

The principles of the accounting of the National Fund shall be laid down by separate regulations.

#### **Article 419**

1. The minister responsible for the environment shall exercise supervision over the activity of the National Fund.
2. Within 7 days of their adoption, resolutions of the Supervisory Board of the National Fund shall be communicated to the minister responsible for the environment.
3. Where a resolution of the Supervisory Board of the National Fund is in contradiction with the law, it shall be invalid; a resolution, wholly and in part, shall be declared invalid, by way of a decision, by the supervision authority within 14 days from the date of its receipt of the resolution.
4. In initiating the procedure to declare a resolution invalid, the supervision authority may suspend its execution.

5. In the cases where a resolution is declared invalid, the provisions of the Administrative Procedure Code and the Act on the High Administrative Court of 11 May 1995 (Official Journal No. 74, Item 368, No. 104, Item 515; 1997, No. 75, Item 471, No. 106, Item 679, No. 114, Item 739, No. 144, Item 971; 1998, No. 162, Item 1126; 1999, No. 75, Item 853; 2000, No. 2, Item 5, No. 48, Item 552, No. 60, Item 704, No. 91, Item 1008) shall apply, respectively.
6. The provisions of paragraphs 2-4 shall apply, respectively, to the Voivodship Funds, where the Voivode shall be the supervision authority.
7. After the date referred to in paragraph 3, the supervision authority shall not be able to declare on its own that a resolution of the Supervisory Board of the National Fund or the Voivodship Fund is invalid; the supervision authority may appeal from the decision to the administrative court.
8. In the case referred to in paragraph 7 it is in the competence of the administrative court to issue a decision to suspend the execution of the resolution.

#### **Article 420**

By 15 January, the Powiat Board or the Gmina Board shall submit to the Powiat Council or the Gmina Council for approval a draft plan of revenues and outlays for a given year, respectively, for the Powiat and Gmina Funds.

#### **Article 421**

1. By 31 July at the latest, the minister responsible for the environment shall submit to the Council of Ministers information on the activities of the National Fund and the Voivodship Funds for the previous year.
2. By 31 May at the latest, the Voivodship Boards shall submit to the minister responsible for the environment and the Voivodship Assembly information on the activities of the Voivodship Funds for the previous year.
3. Every year the Management Board of the National Fund shall inform of the activities of the National Fund, by way of a public notice in the Official Journal of the Republic of Poland "Monitor Polski B".
4. Every year the Management Boards of the Voivodship Funds shall inform of the activities of these Funds in the Official Journals of the Voivodships.
5. The Starosts, the heads of the Gmina administration and the mayors of the town or the city shall, by way of public notice, announce the approved list of the revenues and expenditures of the Powiat and Gmina Funds, respectively.

**Title VIII**  
**Compliance programmes**

**Part I**

**General provisions**

**Article 422**

1. The compliance programme shall be a detailed physical and financial timetable for the implementation of tasks related to environmental protection by the installation operator, to be negotiated out on a case-by-case basis.
2. The aim of the compliance programme shall be to allow for the most expedient possible achievement of compliance with the existing requirements of environmental protection by installations which are unable for technological or economic reasons to meet these requirements at the dates provided for in general legislation and where it is in the public interest to maintain the operation of such installations.

**Article 423**

1. The adoption of a compliance programme may be sought by the operator of an existing installation identified as a project which is likely to have a significant effect on the environment, as referred to in Article 51, paragraph 1, subparagraph 1, which is subject to the obligation to obtain an integrated permit and which belongs to the groups as indicated pursuant to Article 425.
2. Existing installations shall mean those set in operation prior to the date of the entry into force of this Act.
3. The installation operator may apply for the adoption of a compliance programme, provided that:
  - 1) the operator implements measures to ensure that the installation meets the requirements resulting from the best available technique and that the environmental damage caused by the operation of the installation is remedied,
  - 2) the operation of the installation which the operator manages does not cause any extensive deterioration of the state of the environment, in particular provided that it does not pose danger to human life or health.

#### **Article 424**

1. The adoption of the content of a compliance programme shall be preceded by a negotiation procedure conducted under the conditions laid down in Part II.
2. The programme must not last longer than 6 years from the date when the decision approving the programme becomes final and the proposed date of its conclusion cannot be later than 31 December 2010.
3. The negotiation procedure must not be conducted or initiated after 31 December 2009.

#### **Article 425**

1. In agreement with the minister responsible for the economy, the minister responsible for the environment shall, by way of a Regulation, lay down the types of installations whose operators may apply for the adoption of a compliance programme, taking into account the organisational and technical feasibility of the adoption of compliance programmes.
2. The Regulation referred to in paragraph 1 shall lay down the types of installations by the type and scale of activities conducted in installations.

### **Part II**

#### **The adoption of the content of a compliance programme**

1. The compliance programme shall be adopted on application from the operator of an installation.
2. The application shall be submitted to the Voivode.
3. The application for the adoption of a compliance programme shall contain:
  - 1) evidence demonstrating the existence of circumstances hitherto preventing or very significantly impeding the implementation of tasks related to environmental protection,
  - 2) an indication of the requirements of the best available technique which the installation fails to meet,
  - 3) an indication of the past or current environmental damage caused by the operation of the installation, in particular the damage caused by non-compliance with environmental quality standards,
  - 4) a description of the measures implemented over the 3 last years prior to the submission of the application and the measures now under way,

- 5) a reliable plan for financing the successive stages of projects proposed in the compliance programme,
  - 6) the calculation of the expected amounts of fees for the use of the environment which the operator should incur in the implementation period of the compliance programme, where the operator seeks postponement of their payment.
4. With the application, the operator of the installation shall enclose:
    - 1) a draft compliance programme,
    - 2) an environmental audit meeting the requirements provided for in Article 238,
    - 3) the application for an integrated permit, accounting for the provisions to be included in the compliance programme.
  5. By way of an interim decision, the Voivode may request that the applicant should complement the environmental audit by a specific date, if necessary, specifying the methods of survey and study.
  6. Subject to paragraph 7, the application for an integrated permit shall meet the requirements provided for such permits by this Act.
  7. The information referred to in Article 208, paragraph 2, subparagraph 1, shall specify the date when the installation will meet the requirements of best available technique as envisaged by the compliance programme.

#### **Article 427**

1. A draft compliance programme shall contain:
  - 1) an indication and description of all the projects the implementation whereof will ensure that the requirements resulting from the best available technique are met and that the damage caused by the operation of the installation is remedied,
  - 2) the timetable for the implementation of specific projects in the course of the programme, indicating its stages,
  - 3) the expected implementation costs of individual stages,
  - 4) the proposed emission levels at the individual stages of project implementation,
  - 5) the proposed extent whereby the date of the payment of fees for the use of the environment would be postponed in the course of the implementation of the programme,
  - 6) the proposed possible fines for failure to implement the individual stages of the project.

2. The stages of the project shall cover a specific scope of tasks to be implemented over successive periods not longer than 6 months.
3. The fines for failure to implement the individual stages of the project shall not be less than the expected costs of a given stage.
4. The extent whereby the date of the payment of fees for the use of the environment may be postponed shall not exceed 70% of their expected amounts.

#### **Article 428**

1. The negotiation procedure on the content of the compliance programme shall be initiated by a decision of the Voivode.
2. Where the applicant fails to meet the conditions provided for in this Act, the refusal to initiate the negotiation procedure shall have the form of a decision.

#### **Article 429**

Subject to Article 424, paragraph 2, and Article 427, paragraphs 2-4, the following may be subject to negotiation:

- 1) the dates of implementation of the individual projects,
- 2) the emission levels in the course of the implementation of the compliance programme,
- 3) the date and the percentage extent whereby the payment of the fees for the use of the environment would be postponed,
- 4) the amounts of fines.

#### **Article 430**

1. The negotiations on the content of the compliance programme shall be conducted between the operator of the installation and the negotiation commission, hereinafter called the Commission.
2. The costs of the negotiation procedure shall be incurred by the operator of the installation who applies for the adoption of the compliance programme; the amounts due shall be paid to the account of the relevant Voivode.
3. In agreement with the minister responsible for finance, the minister responsible for the environment shall, by way of a Regulation, lay down the bulk amount of the costs of the negotiation procedure.
4. The Regulation referred to in paragraph 3 shall lay down:
  - 1) the amount of the base payment,

- 2) the coefficients to differentiate the amount of the charges depending on the type of the installation subject to the procedure.
5. The coverage of the costs referred to in paragraph 2 shall not exempt from the payment of the charge referred to in Article 210, paragraph 1.

#### **Article 431**

In negotiating on the content of the compliance programme, the Commission shall consider in particular:

- 1) the need to ensure that as soon as possible the installation meets the requirements resulting from the best available technique and the environmental damage caused by the operation of the installation is remedied,
- 2) the current state of the environment in the area where the installation is operated,
- 3) the possible effects of allowing temporary deviations from the emission limit values applicable generally,
- 4) the programmes of activities adopted in the field of the environment under this Act, in particular those referred to in Article 17, Article 91, paragraph 1, and Article 119, paragraph 1,
- 5) the need to facilitate the implementation of projects, in particular by postponing the due dates of the payment of the fees for the use of the environment, exclusively, however, to the extent indispensable for their quick implementation,
- 6) the economic and financial condition of the applicant and the real feasibility of proposed projects,
- 7) the aim of enabling the user of the environment to operate in the course of the implementation of the programme.

#### **Article 432**

1. The negotiations shall be conducted at a session where to the provisions of the Administrative Procedure Code relating to an administrative trial shall apply, respectively. The negotiations shall be conducted by the chairman of the Commission.
3. In the course of the negotiations, the position of the Commission shall be established by voting, by an ordinary majority of votes.
4. Where ayes and nays are the same, the chairman's vote shall decide.

### **Article 433**

The negotiations cannot last longer than 2 months from the date for which the first negotiation session is set.

### **Article 434**

In case of failure to reach by the date referred to in Article 433, an agreement between the Commission and the operator of the installation on the content of the compliance programme, the chairman shall return the case to the Voivode, who will refuse, by way of a decision, to adopt the compliance programme.

### **Article 435**

1. The conclusion of an agreement on the content of the compliance programme shall be established by a record signed by the participants in the negotiations.
2. Without delay, the chairman shall forward to the Voivode the agreed compliance programme and the record referred to in paragraph 1.
3. After the Voivode has received the compliance programme and the record, the Voivode shall, by way of a decision, approve the compliance programme and grant an integrated permit under the conditions specified in the compliance programme.
4. The compliance programme shall be an integral part of the decision concerning the integrated permit.
5. In addition, in the decision to grant an integrated permit, the Voivode shall:
  - 1) oblige the operator of the installation to implement the compliance programme,
  - 2) shall indicate the obligation to incur the penalties provided for in the programme should its provisions not be implemented,
  - 3) rule to postpone the date of payment of the fees for the use of the environment as a percentage agreed in the compliance programme for the duration of the implementation of the compliance programme.
6. By way of a decision, the Voivode shall refuse to grant an integrated permit, where the Voivode finds that:
  - 1) despite the implementation of the agreed compliance programme, the installation will not meet the requirements resulting from the best available technique,
  - 2) the agreed programme fails to meet the requirements referred to in Article 424, paragraph 2, and Article 427, paragraphs 2-4.

### **Article 436**

1. Subject to paragraph 2, the permit granted after a negotiation procedure has been conducted on a compliance programme being implemented may be modified, following a negotiation procedure, where:
  - 1) the operator of the installation has proposed a measure which is more beneficial from the point of view of environmental protection,
  - 2) the need to modify the permit results from amendments to the legislation regulating the issues covered by the programme.
2. The modification of the conditions of the permit must not cause an extension of the dates set for the implementation of the individual projects covered by the compliance programme.

### **Part III**

### **The Negotiation Commission**

### **Article 437**

1. Having issued the decision referred to in Article 428, paragraph 1, the Voivode shall establish a Commission to conduct negotiations on the content of the compliance programme.
2. The Commission shall consist of single representatives delegated by the Voivode, the Voivodship Inspector for Environmental Protection, the Voivodship Marshall, the head of the Gmina administration, the mayor of the town or the city, subject to paragraph 3, having professional knowledge in the field of environmental protection.
3. Where the installation is located in the areas of several Gminas, a person delegated by the Starost shall replace the person delegated by the head of the Gmina administration, the mayor of the town or the city in the Commission.
4. The person delegated by the Voivode shall chair the Commission.
5. The members of the Commission shall receive bulk remuneration for participation in its work.
6. In agreement with the minister responsible for public finance, by way of a Regulation, the minister responsible for the environment shall lay down the bulk amount of the remuneration of the members of the Negotiation Commission.

7. The Regulation referred to in paragraph 6 shall lay down the amount of the remuneration of the Chairman and the other members of the Commission for participation in one session.
8. The Voivode shall provide technical services for the work of the Commission.
9. The expenses related to the activities of the Commission shall be covered from the part of the state budget which is managed by the Voivode.

#### **Article 438**

1. In the course of the negotiations, the members of the Commission must not be bound by any orders of their superiors.
2. The provisions of the Administrative Procedure Code relating to the exclusion of an employee shall apply to the members of the Commission.
3. The Commission shall be entitled to request from the administration authorities information which may be of crucial significance for the case being considered.

#### **Part IV**

#### **The legal effects of the initiation of the negotiation procedure and the adoption of the compliance programme**

#### **Article 439**

Where the negotiation procedure is initiated, the procedure for the making of the decisions referred to in Article 362, paragraph 1, Article 365, paragraph 1, and Article 367, paragraph 1, shall be suspended until the final decision has been issued, ending the procedure for the granting of an integrated permit.

#### **Article 440**

1. The provisions of Articles 319-321 shall apply to the fees the payment date for which has been postponed under the procedure referred to in Article 435, paragraph 5, subparagraph 3.
2. Decisions to reduce, annul or raise the fees shall be taken by the Voivodship Marshall.

#### **Article 441**

1. Where the Voivode finds failure to implement a specific stage of the compliance programme, by way of a decision, the Voivode shall impose the obligation to pay a fine as

established in the compliance programme to the Gmina Fund for Environmental Protection and Water Management which is relevant given the location of the installation covered by the compliance programme.

2. The provisions of Part III of the Tax Act shall apply to the obligation to pay the fine referred to in paragraph 1, with the Voivode exercising the powers of tax authorities.
3. Where the installation covered by the compliance programme is located in the area of more than one Gmina, the decision referred to in paragraph 1 shall lay down the amounts of payments to the individual Gmina Funds for Environmental Protection and Water Management, taking into account the proportions wherein the site including the installation covered by the programme is located in the areas of the individual Gminas.
4. Where it is found that a specific stage has not been implemented, despite the lapse of 6 months from the date provided for in the programme, subject to paragraph 5, the Voivode shall issue a decision to invalidate the integrated permit granted as a result of the negotiation procedure.
5. The invalidation of the integrated permit granted as a result of the negotiation procedure shall exempt from the obligation to pay the fines for failure to implement those stages that end after the date when the permit is invalidated.

## **Title IX**

### **Final provision**

#### **Article 442**

This Act shall enter into force on the date and conditions laid down in a separate Act.

PRESIDENT OF THE REPUBLIC OF POLAND