

309/1991 Coll.
ACT
on 9 July 1991
on air protection against polluting substances
(the Act on Air)

Amendment: 218/1992 Coll.
Amendment: 218/1992 Coll.
Amendment: 148/1994 Coll.
Amendment: 256/1995 Coll.
Amendment: 222/1996 Coll.

Federal Assembly of the Czech and Slovak Federal Republic has passed the relevant Act:

PART ONE
GENERAL PROVISIONS

Article 1

The Subject of Regulation

The act defines rights and obligations of legal entities and natural persons concerning the protection of the extraneous air (hereafter "air") against the permeation of polluting substances due to human activity and methods for the restriction of causes and the limitation of consequences from pollution.

Article 2

Polluting Substances

For purposes of this act, polluting substances are solid, liquid, and gaseous substances that directly or after a chemical or physical change in the air or after a joint reaction with another substance unfavorably affect the air and therefore jeopardize or damage the health of people or other organisms, impair their environment, excessively harm it or damage property.

Article 3

Pollution Sources

(1) According to this act, sources of air pollution (hereafter "pollution sources") are

- a) technological units, warehouses and depots of fuel, raw materials and products, garbage dumps, quarries and other areas where there is a possibility of the heating, burning, or escape of polluting substances, and other constructions, properties, facilities, and activities that seriously pollute or can pollute the air. The pollution source is defined as the total of all facilities and activities within the framework of the functional and spatial unit,
- b) mobile devices with combustion or otherwise powered engines that pollute the air especially motor vehicles, rail road cars, watercrafts and airplanes (hereafter "mobile pollution sources"); the Ministry of Transportation, Communications, and Public Works of the Slovak Republic establishes the details through general obligatory legislation.

(2) Pollution sources mentioned in par. 1a are classified according to their heat output, the extent of the effect of the technological process on the air or according to the extent of pollution on

a) technological units that contain stationary devices for fuel combustion with a total heat output of 50 MW or more than 50 MW and other particularly substantial technological units (hereafter "large pollution sources"),

b) technological units that contain stationary devices for fuel combustion with a total heat output of 0.2 MW or more than 0.2 MW up to 50 MW, other substantial technological units including quarries and similar areas where there is a possibility of the heating, burning, or escape of polluting substances if they are not a part of the large pollution source (hereafter "medium pollution sources"),

c) technological units that contain stationary devices for fuel combustion with a total heat output up to 0.2 MW, other technological units that do not belong under the category of large and medium pollution sources, those areas where the work being performed can cause air pollution, depots of fuel, materials, products and garbage dumps if they are not a part of the large or medium pollution source, and other constructions, devices and activities that substantially pollute the air (hereafter "small pollution sources").

(3) In case of doubt the appropriate air protection authority shall decide on the definition of the pollution source or its classification.

.....
1) Article 5 of the Act on State Administration of Air Protection of the Slovak National Council No. 134/1992 Coll.

Article 4

(1) For purposes of this act

a) an operator of a pollution source is a law entity of physical person who has the right or an effective possibility to operate the source,

b) an investor of the pollution source is a law entity of physical person whose funds finance the construction of the source,

c) a project engineer of the pollution source is a law entity or physical person who has a license for designing according to special provisions 2) who designs the source,

d) a manufacturer is a law entity of physical person who manufactures devices, materials or products that pollute or can pollute the air,

e) an importer is a law entity or physical person who imports devices or products into the domestic market that pollute or can pollute the air.

(2) By its Decree, the Government of the Slovak Republic designates existing pollution sources and new pollution sources on the day when the relevant Decree goes into effect.

.....
2) Article 43 of the Act on Spatial Planning and Building Order (the Building Act) in accordance with the wording of the Act No. 103/1990 Coll. and the Act No. 262/1992 Coll.

The Order of the State Commission on Scientific, Technical and Investment Development No. 176/1990 Coll. on licenses for designing.

Article 5

Pollution Limits

(1) The emission limit is the maximum permissible level of releasing the polluting substance into the air from the pollution source, devices, or other parts of the pollution source expressed as a mass concentration of the polluting substance within exhaust gases or a mass flow of the polluting substance per unit of time or a mass quantity of the polluting substance bearing a unit of production or output or the emission level or the air pollution level that such a source causes (smoke darkness). For mobile pollution sources it is possible to express the emission limit in terms of the quantity of the polluting substance bearing a unit of length or a defined test.

(2) The immission limit is the maximum permissible concentration of the polluting substance contained in the air.

(3) The deposition is the maximum permissible quantity of the polluting substance accumulated after the fall on a unit area of the earth's surface per unit of time.

(4) By a Decree, the Government of the Slovak Republic establishes the limits on pollution including their tightening in areas that demand special air protection (Article 15), general requirements for the operations of pollution sources, requirements and the time limit necessary to achieve them, the list of polluting substances for which the limits of pollution are being determined, the classification of pollution sources mentioned in Article 3 par. 1a and the requirements to secure the dispersion of emissions of pollutants. The list of polluting substances and the classification of pollution sources may be appended and the established limits tightened in such a manner that appending or tightening must be announced at least two years before the day designated as the day of their validity.

(5) The Ministry of Transportation, Communications and Public Works of the Slovak Republic shall establish the emission limits for mobile pollution sources mentioned in Article 3 par. 1b through general obligatory legislation after an agreement with the Ministry of the Environment of the Slovak Republic (hereafter "the ministry"). The Ministry of Transportation, Communications, and Public Works of the Slovak Republic issues the license to perform measurements of emissions from mobile pollution sources to legal entities and physical persons.

(6) The Ministry of Transportation, Communications, and Public Works of the Slovak Republic establishes methods for determining quantities of released polluting substances from mobile pollution sources and requirements for issuing licenses to law entities and natural persons for determining quantities of released polluting substances from these pollution sources through general obligatory legislation.

PART TWO OBLIGATIONS OF LEGAL ENTITIES AND NATURAL PERSONS

Article 6

General Obligations

(1) During the manufacturing, import, transport, and sale of devices, products and materials that pollute or can pollute the air during operation, usage or loading, every manufacturer, importer and seller is obliged to choose such a solution that secures air protection.

(2) Manufacturers and importers are obliged to manufacture and import for the domestic market only such mobile sources that fulfill the requirements for the operation and emission limits.

(3) Fuel producers, importers and sellers are obliged to produce, import, and sell fuel in accordance with the requirements for their quality, keep a record of operations and provide the air protection authority with the necessary information. The ministry shall establish the requirements for the fuel quality and for keeping the record of operations, the extent, type, and methods for providing data through general obligatory legislation.

(4) In devices for fuel combustion, no fuel have to be burned other than those specified by the manufacturer of devices or in some case entered on file of technical-operational parameters and of technical-organizational measures to secure the operation of pollution sources (Article 7 par. 2), or listed in the approval of the air protection authority according to Article 11 par. 1.

(5) During the construction of new devices that could be a source of air pollution or during the modernization of existing devices, the best available technology must be chosen while taking into account the reasonableness of expenses for their purchase and operation.

Article 7

Obligations of Operators of Large and Medium Pollution Sources

(1) Operators of large and medium pollution sources are obliged to

- a) put into operation and operate pollution sources in accordance with the valid documentation and in accordance with requirements established by the air protection authorities according to Article 2 par. 1,
- b) observe the established emission limits (Article 5 par. 4 and Article 14 par. 3),
- c) take measures for correction imposed by the air protection authority (Article 12 par. 1),
- d) keep a record of operations on pollution sources and determine the quantity of released polluting substance in a manner established by the ministry through general obligatory legislation,
- e) provide the proper organs for air protection with the data required by the legal regulation and other data necessary for the detection of air quality status,
- f) remove dangerous conditions that jeopardize the air quality due to operations of pollution sources without delay and take necessary measures ahead of time to prevent emergencies,
- g) draft regulations for the operation of pollution sources for purposes of the emissions regulation under circumstances mentioned in Article 16 and comply with the approved regulations if a situation occurs as in Article 16 par. 2,
- h) in case of a serious and immediate danger of the decline in the air quality, stop without delay or restrict the operation of the pollution source, its parts or other activity that causes the danger or the decline in the air quality, without delay inform the air protection authority 3a) and the state county physician 3b) and take measures for correction imposed by the air protection authority (Article 12 par. 1); at the same time to inform the public in a suitable manner,
- i) secure technical equipment to monitor the emissions and in the case of large pollution sources also to monitor immissions of substances that pollute the air if the ministry establishes it through general obligatory legislation and operate them in accordance with the valid documentation and in accordance with requirements determined by the air protection authority according to Article 11 par. 1,
- j) enable workers from the air protection authority or persons authorized by this authority access to the pollution sources in order to determine the quality of polluting substances or to inspect the pollution source and its operation,
- k) inform the public about the air pollution from the pollution source and about measures taken to restrict the pollution,
- l) comply with established general requirements for the operation of pollution sources (5 par. 4),
- m) draft a program to decrease emissions from pollution sources, submit it by December 31, 1996 to the appropriate air protection authority 1) and carry out the program at the authority's request.

(2) Operators of large pollution sources are obliged to draft a file of technical-operational parameters and technical-organizational measures to secure air protection during the operations of pollution sources as an obligatory part of local operating regulations and that includes arrangements to limit the cause to clear consequences of emergency situations and submit their suggestions, as well as changes for the approval by the air protection authority.

(3) Provisions of Article 7 par. 1b and l do not apply to special cases of research-developmental technological units (Article 11 11 par. 6). For purposes of this act, the research-developmental and technological unit is such a technological unit in which its research-developmental nature follows from its purpose.

.....
3a) Article 3 and 5 of the Act of the Slovak National Council No. 134/1992 Coll.

3b) Article 74 of the Act No. 20/1996 Coll. on the Health Care of People in wording of the Act of the Slovak National Council no 295/1992 Coll.

Article 8

Obligations of Operators of Small Pollution Sources

(1) Operators of small pollution sources are obliged to

- a) put into operation and operate pollution sources in accordance with the requirements for the operation of these devices that were established by the manufacturers and in accordance with the requirements established by the air protection authority (Article 11),
- b) enable workers of the air protection authority or persons authorized by these authorities access to the pollution source in order to determine the quantity of polluting substances and inspect the pollution source and its operation and provide necessary documents so they can do so,
- c) take measures for correction imposed by the air protection authority (Article 12 par. 1)
- d) keep a record of operations on pollution sources and provide the appropriate air protection authority with data in which the extent shall be established by the ministry through general obligatory legislation,
- e) not exceed the established air pollution level (smoke darkness).

(2) Obligations in accordance with Article 1b and d apply to law persons and natural persons with a trade license.

Article 9

Obligations of Operators of Mobile Pollution Sources

(1) Operators of mobile pollution sources are obliged to operate and to maintain these sources in accordance with the requirements established by manufacturers of these devices and in compliance with the emission limits.

(2) In the established time limit without a challenge and at their own expense, operators of mobile pollution sources are required to have their mobile pollution sources inspected to determine whether they satisfy the established emission limits, the Ministry of Transportation, Communications, and Public Works of the Slovak Republic establishes the time limits and details through general obligatory legislation.

(3) In the areas that require special air protection, special modes may apply to operators of mobile pollution sources (Article 15). If such modes are applied, operators of mobile pollution sources are required to follow them.

Article 10

Air Protection Authorities

The air protection authorities is understood to be such authorities whose jurisdiction for performing the state inspection in this sector establishes a special Act. 3c)

.....
3c) The Act of the Slovak National Council No. 134/1992 Coll.

Article 11

The Approval of the Air Protection Authority

(1) An approval of an authority of the state air protection administration (hereafter "air protection authority") which contains requirements for air protection is required for

- a) the location and permission for the construction of large and medium pollution sources including their changes and for initiating their operation,
- b) activities to which the building code does not apply and which pollute or can pollute the air and are recorded on the list that is published in the Official Journal of the ministry,
- c) the mounting of technical equipment to monitor emissions and immissions of substances that pollute the air according to Article 7 par. 1i if the approval for it is not issued according to letter a and g,
- d) proposals and changes in technical standards where the application concerns air protection and the authorization of exceptions from their binding if the special Act 4) admits the issuance of the exception,
- e) proposals of spatial planning documentation,
- f) the permission of constructions of small pollution sources,

- g) changes in the use of fuels and raw materials, and changes in the use of the technological devices of large, medium, and small pollution sources,
- h) the manufacturing and import of devices, materials, and products that pollute or can pollute the air and recorded on the list that is published in the Official Journal of the ministry,
- i) the issuance and changes in the file of technical-operational parameters and technical-organizational measures according to Article 7 par. 2,
- j) the operation of research-developmental and technological units that belong under the category of larger and medium pollution sources if the approval for them is not issued according to letter a and g.

(2) Operators, investors, projects engineers, manufacturers, or importers (hereafter "applicants") submit applications for approval according to Article 1 (hereafter "applications") according to the nature of the matter to the appropriate air protection authority. Applications must contain the justification of the most advantageous solution with respect to air protection (Article 6 par. 5). In case of applications of operators of large pollution sources for the permission for the location of the construction or for the change in the use of technological devices, an evaluation of the impact on the immission situation in the vicinity near the site of the pollution source is required. Upon the call of the air protection authority, the applicant is obliged to attach an expert opinion to the application according to par. 1.

(3) According to par. 2, expertises are issued by persons who have expert qualifications verified by the ministry. The applicant for the verification covers the expenses related to the verification of expert qualifications. The ministry establishes the requirements for the verification of the expert qualification through general obligatory legislation.

(4) Legal entities and natural persons who perform activities by the day when the record of activities was published according to Article 1b and h for which the permission is required according to these provisions are required to apply at the appropriate air protection authority for an issuance of the permission by a period of six months from the day when the records were published.

(5) If the pollution source releases a polluting substance according to Article 2 that does not have an established emission limit (Article 5 par. 4), the air protection authority establishes the conditions for the air protection according to item 1 after negotiations with the state county physician 3b) while taking into account the adverse effects of the given polluting substance and technical possibility to restrict its emissions.

(6) In special cases of research- developmental and technological units (Article 7 par. 3) in accordance with item 1 let. j) the air protection authority determines special conditions and the time limit in which the operation of these sources is permitted.

.....
4) Act No. 142/1991 Coll. on the Czecho-Slovak technical standards in wording of the Act No. 632/1992 Coll.

Jurisdiction and Obligations of the Air Protection Authority

Article 12

(1) The air protection authority imposes measures for correction upon an operator of large, medium, or small pollution source who does not comply with obligations stated by this Act and by other general obligatory legislation that adjusts obligations of air protection.

(2) The air protection authority orders a restriction on or a suspension of the operation of the pollution source provided that the operator of the large or medium pollution source

a) does not fulfill obligations in case of severe or immediate danger or damage to the air quality according to Article 7 par. 1h except for the obligation to inform the air protection authority, the state county physician, or the public,

b) exceeds the emission limit and does not take measures for correction imposed by the air protection authority according to Article 1 or according to Article 7 par. 1b and c,

c) repeatedly violates obligations for which violation a penalty has already been imposed upon him according to Article 8 par. 10

(3) The air protection authority orders a restriction on or a suspension of the operation of the pollution source after the declaration of the warning and regulation measures according to Article 16 par. 2.

Article 13

The air protection authorities are required to timely disclose and complete information about the air quality and about the proportion of individual sources on air pollution. They are always required to inform the public in the case of a smog emergency (Article 16).

The Pollution Level

Article 14

The Permissible Air Pollution Level

(1) Emission, immission, and deposition limits for individual polluting substances determine the permissible air pollution level.

(2) Emission limits and general requirements for the operation pollution sources must correspond with the best available technologies while taking into account the reasonableness of expenditures for their acquisition and operation (Article 6 par. 5).

(3) Emission limits of existing pollution sources (Article 19a) are issued from the lowest attainable emissions for given technical devices while complying with the requirements established for their operation. The air protection authority determines these limits by June 30, 1993; in case of detection of an existing pollution source (Article 19a) within three months from the day when the process to determine the emission limit started. At the same time they determine after how long the value of the emission limit established for new pollution sources (Article 19a letter b) must be reached. This time limit must be determined while taking into account used technologies and must end by December 31, 1998 at the latest. Special Act 4a) states the details.

(4) For purposes of smog warning and regulation systems, for the period of unfavorable meteorological conditions and excessive air pollution, the ministry establishes special immission limits through general obligatory legislation.

.....
4a) Article 12 the Act of the Slovak National Council No. 134/1992 Coll.

Article 15

Special Air Protection

Special provisions define areas that require special air protection and adjust the measures for the correction of the air pollution. In accordance with these provisions, smog warning and regulation systems for protection against very polluted air (hereafter "smog regulatory system") can be established in the appropriate areas.

Article 16

Smog Emergency

(1) Smog emergency means extraordinarily polluted air when the pollution level exceeds the special immission limit (Article 14 par. 4).

(2) In case of a smog emergency, the air protection authority immediately announces warning and regulation provisions for a restriction of emissions from pollution sources that participate in air pollution in a significant way. These provisions are in effect during the entire period of the smog emergency.

(3) Methods for informing the public in case of the smog emergency (par. 1) establishes special Act. 3c)

.....
3c) Act of the Slovak National Council No. 134/1992 Coll.

PART THREE
FEES AND PENALTIES
FOR AIR POLLUTION

Article 17

Fees

(1) Operators of pollution sources are obliged to pay fees for the air pollution according to the quantity and type of released polluting substances. Fee amounts, their calculation, and methods of payments are established by a special Act. 4b)

(2) The obligation to pay fees does not apply to physical persons who operate small pollution sources with a heat output up to 50 kW unless such a source is regularly used to perform a trade activity.

.....
4b) The Act of the Slovak National Council No. 311/1992 Coll. on Fees for the Air Pollution.

Article 18

Penalties to Legal entities and Natural persons
With a Trade License

(1) The air protection authority may impose a penalty in the amount of SK 100,000 to SK 10,000,000 upon

a) an operator of a large pollution source, if he does not comply with the measures for a restriction on or suspension of the operation of the pollution source that follow from approved regulatory rules of the smog regulatory system according to Article 7 par. 1g or if he does not stop or restrict the operation of the pollution source in a case of serious or immediate danger or decline in the air quality according to Article 7 par. 1h,

b) a manufacturer, importer, or seller of fuels if he violates obligations to manufacture, import, or sell fuels in accordance with the requirements for the quality established in Article 6 par. 3.

(2) The air protection authority may impose a penalty in the amount of SK 10,000 to SK 5,000,000 upon

a) an operator of large pollution source if he violates obligations established in Article 6 item 4, Article 7 par. 1a, b, c, f, i, l,

b) a manufacturer and importer of devices, materials, and products that pollute or can pollute the air if he performs the activity according to Article 11 par. 1h without the permission of the air protection authority.

(3) The air protection authority may impose a penalty in the amount of SK 10,000 to SK 1,000,000 upon a manufacturer and importer of mobile pollution sources for the violation of obligations established in Article 6 par. 2.

(4) The air protection authority may impose a penalty in the amount of SK 5,000 to SK 1,000,000 upon

a) an operator of a large pollution source if he violates obligations established in Article 7 par. 1d, e, j, k, and the obligation to inform that is established in Article 7 par. 1h

b) a manufacturer, importer, and seller of fuels if he violates obligations to keep records of operations and to provide data that are established in Article 6 par. 3.

(5) The air protection authority may impose a penalty in the amount of SK 50,000 to SK 5,000,000 upon operators of a medium pollution source if he does not comply with measures for a restriction on or suspension of the operation of the pollution source that follow from approved regulatory rules of the smog regulatory system according to Article 7 par. 1g or if in case of a severe or immediate danger or a decline in the air quality he does not stop or restrict the operation of the pollution source according to Article 7 par. 1h.

(6) The air protection authority may impose a penalty in the amount of SK 5,000 to SK 1,000,000 upon an operator of a medium pollution source if he violates obligations established in Article 6 par. 4 and in Article 7 par. 1a, b, c, f, i, l.

(7) The air protection authority may impose a penalty in the amount of SK 1,000 to SK 200,000 upon an operator of a medium pollution source if he violates obligations established in Article 7 par. 1d, e, j, k and the obligation to inform that is established in Article 7 par. 1h

(8) The air protection authority may impose a penalty in the amount of SK 1,000 to SK 100,000 upon an operator of a small pollution source if he violates obligations established in Article 6 item, in Article 8 par. 1a, c, e or if he performs activities according to Article 11 par. 1b without the permission of the air protection authority.

(9) The air protection authority may impose a penalty in the amount of SK 500 to SK 10,000 upon an operator of a small pollution source if he violates obligations established in Article 8 par. 1b, d.

(10) If in the time limit until the expiration of one year from the day when the decision to impose the penalty has gone into effect, a repeated violation of obligations occurs for which the penalty was imposed according to Article 1 through 9 and the operator did not comply in the time limit with the measures for correction established by the air protection authority according to this Act, the air protection authority shall impose a penalty up to double the amount established in Article 1 through 9 and can order the suspension of the operation of the pollution source or a restriction on its operation.

(11) The penalty may be imposed within one year of the day when the air protection authority detected the violation of obligations, however at the latest within three years from the day when the excess of the emission limit or the violation of obligations occurred. When deterring the amount of the penalty, the air protection authority takes into account the quantity and content of the emitted air pollution and the severity of the violation of obligations.

PART FOUR COMMON, TEMPORARY, AND FINAL PROVISIONS

Article 19

The extent of information that operators of pollution sources are required to submit to the Statistical Institute of the Slovak Republic shall be established by a special provision.

Article 19a

Until the existing pollution sources and new pollution sources are designated according to Article 4 par. 2,

a) an existing pollution source is a source that was put into operation before September 30, 1991 or a source on which a building permit or other similar permission 4c) was issued by this deadline and that was put into operation before December 31, 1994,

b) a new pollution source is a source on which a building permit or other similar permission was issued after October 1, 1991 or a source that was put into operation after December 31, 1994 not taking into account the day of the issuance of the building or similar permission.

.....
4c) For example the Act of the Slovak National Council No. 51/1988 Coll. on Mining Activities, explosives and on the State Mining Administration in wording of the Act of the Slovak National Council No. 499/1991 Coll. and the Act of the National Council of the Slovak Republic No. 154/1995 Coll.

Article 20

Abrogated on 7/1/1994.

Article 21

The air protection concerning the operation of nuclear devices establishes a special Act. 5)

.....
5) For example the Act No. 28/1984 Coll. on the State Supervision of the Nuclear Safety of Nuclear Plants.

Article 22

Unless the matter that is subject to the air protection authorities approval, according to this Act is a part of an administrative action led by another administrative authority, provisions about the administrative action 6) apply to the issuance of the approval except the approval that is issued according Article 11 par. 1d and e.

.....
6) The Act No. 71/1967 Coll. on the Administrative Proceedings (Administrative Proceedings).

Article 23

The Act No. 35/1967 Coll. on Measures Against Air Pollution in wording of the Act of the Czech National Council No. 146/1971 Coll. and the Act of the Slovak National Council No. 159/1971 Coll. is abrogated.

Article 24

This Act shall enter into force on 1 October 1991.

The Act No. 218/1992 entered into force on 1 June 1992, except the provision Article 5 item 7 that shall come into force on October 1, 1992.

The Act No. 256/1995 Coll. entered into force on 1 December 1995.

The Act No. 222/1996 Coll. entered into force on 24 July 1996.

Havel, sign manual.

Dubček, sign manual.

Čalfa, sign manual.