

# **THE WATER ACT**

dated June 28<sup>th</sup>, 2001

**on Water and Amendments to Some Acts (The Water Act)**

Amendment: 76/2002 Coll., 320/2002 Coll.

Amendment: 274/2003 Coll.

Amendment: 20/2004 Coll.

The Parliament of the Czech Republic has passed the following Act:

PART ONE  
**ACT ON WATER (THE WATER ACT)**

CHAPTER I  
**INTRODUCTORY PROVISIONS**

Section 1  
**The Purpose and Subject of the Act**

1) The purpose of this Act is to protect surface water and groundwater, stipulate conditions for economic utilisation of water resources whilst preserving and improving the quality of surface water and groundwater, create conditions for reducing the adverse effects of floods and drought and ensure the safety of water management structures in accordance with European Community Law<sup>1)</sup>. The purpose of this Act is also to contribute to the protection of aquatic ecosystems and directly dependent terrestrial ecosystems.

2) The Act regulates legal relationships involving surface water and groundwater, the relationships of natural persons and legal entities with surface water and groundwater utilisation, as well as the relationships with plots of land and buildings directly connected with these waters, in the interests of ensuring sustainable water utilisation, the safety of water management structures and protection against floods and the impacts of drought.

Section 2  
**Definition of Terms**

1) Surface water is water naturally occurring on the Earth's surface; it does not lose this character when temporarily running through covered sections, natural underground cavities or overground pipes.

2) Groundwater is water naturally occurring below the Earth's surface in the saturation zone in direct contact with rock; water running through drainage systems and well water is also considered to be groundwater.

3) A water body is a significant and discrete accumulation of surface water or groundwater in a defined environment, and is characterised jointly by the nature of its formation and its hydrological features. Water bodies are grouped into surface water bodies and groundwater bodies.

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<sup>1)</sup> For example, Council Directive 75/440/EEC of 16 June 1975 concerning the quality required of surface water intended for the abstraction of drinking water in the Member States, Council Directive 76/160/EEC of 8 December 1975 concerning the quality of bathing water, Council Directive 76/464/EEC of 4 May 1976 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community and contingent Council directives, Council Directive 78/659/EEC of 18 July 1978 on the quality of fresh waters needing protection or improvement in order to support fish life, Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances, supplemented by Council Directives 90/656/EEC and 91/692/EEC, Council Directive 91/271/EEC of 21 May 1991 concerning urban wastewater treatment, Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources, Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control, Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy.

4) A surface water body is a discrete accumulation of surface water in a defined environment, for example in a lake, water reservoir or in a watercourse.

5) A heavily modified water body is a surface water body with essentially altered character as a result of human activity.

6) An artificial water body is a surface water body created by human activity.

7) A groundwater body is a discrete accumulation of groundwater in a given aquifer or aquifers; an aquifer is considered to be a rock stratum or group of strata with sufficient permeability to allow significant continuous accumulation of groundwater or its flow or abstraction.

8) A water resource is a water body of surface water or groundwater, which can be used to satisfy human needs, in particular for drinking water.

9) Use of surface water or groundwater means their damming through water management structures, their utilisation for energy generation, their use for shipping and rafting, their use for fish and water poultry breeding, their withdrawal, the discharge into such waters of waste water, and other activities or uses which may influence the characteristics, quantity, flow, occurrence or quality of these waters.

10) A river basin is an area from which all surface water flows through a network of watercourses to a defined location in a river (normally a confluence with another watercourse or the point of discharge into another water body). A river basin is delimited by a watershed boundary, i.e. a border representing the geomorphological interface between two neighbouring river basins. The river basin area also includes the area of surface water bodies within the river basin.

11) A hydrogeological region is an area with similar hydrogeological characteristics, types of aquifers and groundwater circulation.

### Section 3

#### **Rights to Water and Legal Character of Water**

1) Surface water and groundwater are not subject to ownership and do not constitute a part or appendage of the plot of land on which or under which they occur; rights to water are regulated by this Act.

2) Water withdrawn from surface water or groundwater bodies is no longer considered to be surface water or groundwater.

3) In case of doubt whether water is surface water or groundwater, the water authority makes the decision.

### Section 4

1) Waters that are reserved as raw materials by a special act<sup>1a)</sup>, natural curative resources and resources of naturally occurring mineral water which were furnished with a certificate pursuant to a special act<sup>2)</sup> are covered by this Act only if so expressly stated herein.

2) For the purpose of this Act, mine waters are surface water or, if applicable, groundwater and they are regulated by this Act unless specified otherwise by a special act<sup>1a)</sup>.

## CHAPTER II

### **THE USE OF WATER**

#### *Part I*

#### *Basic Obligations*

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<sup>1a)</sup> E.g. Act No. 44/1988 Coll. on the Protection and Utilization of Mineral Resources, as later amended.

<sup>2)</sup> Act No. 164/2001 Coll. on Natural Curative Resources, Sources of Naturally Occurring Mineral Water, Natural Curative Spas and Spa Facilities and Change to Some Related Acts (the Spa Act).

## Section 5

1) Any person using surface water or groundwater is obliged to protect these waters and to ensure their economical and efficient utilisation pursuant to the conditions of this Act, and is further obliged to prevent deterioration of the energy-generating potential of these waters and to protect the violation of other public interests protected by specific legal regulations<sup>3)</sup>.

2) Any person using surface water or groundwater for manufacturing purposes must, for the sake of compliance with obligations under par. 1, carry out such improvements of the technology of production as are necessary to ensure effective use of water resources, taking account of best available technology.

3) When constructing structures<sup>4)</sup> or reconstructing them or changing the purpose of their use, depending on the character and purpose of such constructions, the builders must also provide water supply, and drainage, treatment or other disposal of waste water pursuant to this Act. The building control authority must not issue a building permit or a decision permitting a structure already under construction or a decision permitting changes to a structure before its completion or a building inspection certificate or a decision permitting a change in the use of a building, unless the above conditions are met.

## *Part 2* *Use of Surface Water*

### Section 6 **General Use of Surface Water**

1) Any person may withdraw surface water or use it for other purposes for his/her own needs without permission or approval of the water authority, provided such withdrawal or use does not require special technical facilities.

2) No permission or approval of the water authorities is required for the retention of surface water by simple facilities on individual plots or structures or for a change of its natural flow for the purpose of protecting the properties against harmful effects of such water.

3) In general use of surface water, it is prohibited to endanger the quality or wholesomeness of water, to impair the natural environment and runoff regime, to damage the banks of water bodies, water management structures and facilities and fish breeding facilities and to violate the rights and legally protected interests of other persons.

4) The water authority may, without compensation, regulate, restrict or prohibit the general use of surface water, if it is in the public interest, in particular if such use is in breach of obligations pursuant to paragraph 3 or for the protection of the safety of human beings. The rights and powers of other administrative bodies to stipulate conditions for using such water for bathing<sup>5)</sup> is not affected by this Act.

### Section 7 **The Use of Surface Water for Shipping**

1) No permission or approval of the water authority is required for using surface water for shipping purposes and withdrawal of water needed for operation of vessels used for shipping.

2) Vessel operators must equip the vessel with the necessary equipment for waste water collection and retention if waste water can be generated through the use or operation of the vessel, they must operate such equipment properly and prevent the leakage of waste water and harmful substances from the vessel into surface water.

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<sup>3)</sup> E.g. Act No. 17/1992 Coll. on the Environment as amended by Act No. 123/1998 Coll., Act No. 114/1992 Coll. on Nature and Landscape Protection as later amended, Act No. 344/1992 Coll. on the Agricultural Land Fund Protection as later amended, Act No. 20/1966 Coll. on Care of the Health of the Population as later amended.

<sup>4)</sup> Act No. 50/1976 Coll. on Land Planning and Construction Order (the Building Act) as later amended.

<sup>5)</sup> Act No. 258/200 Coll. on the Protection of Human Health and Change to Several Related Acts as amended by Act No. 254/2001 Coll.

3) Administrators of ports and special vessels<sup>6)</sup> designed for transport of fuels and waste generated on vessels (hereinafter the "service ship") must ensure that the supply of fuel and operational substances and the removal of waste water or harmful substances from vessels is made in ports or through the service ships in a manner which prevents the pollution of surface water or groundwater.

4) The pumping of waste water or harmful substances from vessels and the supply of fuel or operational substances to vessels outside the port is prohibited if the volume of such material exceeds 50 litres in each individual case or unless such activities are performed by a service ship.

5) Shipping on surface water in a 1<sup>st</sup> degree protected zone of a water resource and on reservoirs specified by permission or decision of the water authority in accordance with Section 8 par. 1 letter a) point 4 or the prior regulations for fish breeding, using vessels with a combustion engine, is prohibited. Except for significant waterways<sup>7)</sup>, this shipping is prohibited on water reservoirs and watercourses stipulated in a decree issued by the Ministry of Transport and Communications in agreement with the Ministry of the Environment and in co-operation with the Ministry of Agriculture. Surface water may be used for shipping in a manner not endangering the interests of recreation, water quality and aquatic ecosystems, the safety of human beings and water management structures; the scope and conditions for the use of surface water for shipping shall be stipulated in a decree issued by the Ministry of Transport and Communications in agreement with the Ministry of the Environment and in co-operation with the Ministry of Agriculture.

6) The shipping ban pursuant to par. 5 does not apply to the vessels of the State Shipping Authority, the Fire Rescue Services of the Czech Republic, the Armed Forces of the Czech Republic, the Police Force of the Czech Republic and watercourse administrators if used for official business purposes, nor to vessels used in connection with construction, maintenance or operation of water management structures or other constructions on watercourses or land connected thereto, nor to vessels of persons executing duties pursuant to this Act, nor to vessels used to ensure emergency medical services and flood control.

7) The water authority, after consulting with the State Shipping Authority, will decide in individual cases on exceptions from the ban and limitations pursuant to par. 5 for sports purposes.

8) The State Shipping Authority and the Police Force of the Czech Republic control the compliance with the shipping ban of vessels with combustion engines on surface water under par. 5 as well as the use of surface water for shipping considering the stipulated scope and conditions of the use.

### *Part 3*

#### *Permission, Approval and Expert Opinions*

##### Sector 1

##### Permission

##### Section 8

#### **Permission for Use of Surface Water or Groundwater**

1) The permission for the use of surface water or groundwater (hereinafter "the permission for water use") is required for:

- a) surface water for use other than general in the following instances
  1. for water withdrawal
  2. for water impounding and accumulation
  3. for utilising the energy generating potential of the water
  4. for using water for breeding of fish, water poultry or other water animals for the purpose of business,
  5. for other use
- b) groundwater in the following instances
  1. for groundwater withdrawal
  2. for groundwater accumulation
  3. for withdrawal of groundwater for the purpose of decreasing its level
  4. for artificial replenishment of groundwater resources by using surface water

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<sup>6)</sup> Section 2, par. 1, letter a) point 8 of Decree No. 223/1995 Coll. on Suitability of Vessels for Operation on Inland Waterways.

<sup>7)</sup> Act No. 114/1995 Coll. on Domestic Shipping as amended by Act No. 358/1999 Coll.

5. for other use
- c) the discharge of waste water into surface water and groundwater,
- d) the withdrawal of surface water or groundwater and their subsequent return for the purpose of using heat energy,
- e) the withdrawal of polluted groundwater for the purpose of reducing its pollution and its subsequent discharge into this groundwater or into surface water

2) Permission for the use of water is issued to natural persons or legal entities based on their application. A natural person or legal entity holding a valid permission for water use pursuant to par. 1 or pursuant to the preceding regulations (hereinafter the "authorised person") is entitled to use water within the scope and for the purpose and duration stipulated in the valid permission.

3) Permission for water use is not required for:

- a) pumping tests in hydrogeological research or the yield tests of groundwater resources, lasting less than 14 days, provided that the water withdrawal over this period of time does not exceed 1 l/s,
- b) withdrawal of surface water and groundwater for detecting and assessing the status of those waters (Section 21),
- c) single withdrawal of surface water or groundwater in case of rescue work in accidents, fire or other natural disasters,
- d) use of surface water during exercise and action of the Fire Rescue Services of the Czech Republic and fire rescue units, the Police Force of the Czech Republic and Armed Forces of the Czech Republic; such use during the exercise must be consulted in advance with the water authority.

#### Section 9

1) Permission for water use is issued for a limited duration. The permission shall state the purpose, its scope, obligations and if applicable, conditions under which the permission is being issued. An expert statement by a qualified person<sup>8)</sup> is the basis for a permit for groundwater use unless the water authority decides otherwise in special cases.

2) Permission for waste water discharge may not be issued for a period exceeding 10 years, in case of waste waters containing especially dangerous substances or dangerous substances according to Attachment 1 a period exceeding 4 years.

3) In case of issuing a permit for the withdrawal of surface water or groundwater, which is subject to a fee (section 88 and 101), and which is for a period in excess of 1 year, the water authority will, at the same time, stipulate the permitted annual quantity of the withdrawal.

4) The period for which the permission for water use has been issued may be extended based on an application submitted by the authorised person, unless conditions on the basis of which the permission was issued changed.

5) The application for the extension of the water use permission duration must be submitted by the latest 6 months before the expiry of its original duration period. In such case the permission for water use does not expire until a decision on the application for extension is made.

6) Permission for the use of water energy must not be issued for a period of less than 25 years.

#### Section 10

1) An authorised person holding a permission for water use, except for permission under Section 8 par. 1 letter a) points 2 to 4, at a minimum volume of 6 000 m<sup>3</sup> in one calendar year or 500 m<sup>3</sup> of water in one calendar month, as well as an authorised person holding a permission for the use at the above volume of water which is natural curative resource, natural mineral water resource or which is a reserved raw material, shall be obliged to measure the quantity and quality of the used water and submit the results of such measurement to the respective river basin administrator (Section 48, par. 1).

2) An authorised person holding a permission for surface water impoundment or accumulation, provided that the permitted volume of water retained by the hydraulic structure in the watercourse or

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<sup>8)</sup> Act No. 62/1988 Coll. on Geological Work and the Czech Geological Office, as later amended.

accumulated by the hydraulic structure exceeds 1 000 000 m<sup>3</sup>, shall be obliged to measure the quantity of retained or accumulated water and submit data to the river basin administrator.

3) The manner and frequency of water quantity and quality measurements pursuant to par. 1 for individual water use types, the quantity measurements of accumulated or retained water pursuant to par. 2 and the scope, manner and frequency of the submission of the results of such measurements to river basin administrators shall be stipulated in a decree issued by the Ministry of Agriculture after consultation with the Ministry of the Environment and the Ministry of Health.

4) The water authority may stipulate further details of such measurements in the water use permission. In special cases the water authority may, on the basis of a proposal of the authorised person, stipulate the method and extent of measurement for a limited necessary period without applying the procedure for permission for the use of water.

## Section 11

1) The rights and obligations ensuing from a permit for water use issued for a purpose connected with the ownership of land or buildings are transferred to the next acquirer, if this land or building continues to serve the purpose for which the permission was granted. This is also the case for their users for the period of use of this land or construction work to an extent corresponding to the extent of user rights to them arising from the reciprocal relationship between the owner and the given user. Any following acquirers of such land or building, or their users must notify the water authority of the transfer of the land or building with which the permission was connected within two months of the date of the transfer, or the creation of rights to their use.

2) The permission for water use does not establish legal rights to third person's land and buildings and does not constitute legal obligation for the water authority, watercourse administrator or owner of the water management structure to reimburse the authorised persons in case that they have been hindered from the use of water in the maximum permitted quantity and with certain characteristics.

3) Unless stipulated otherwise by the water authority, the authorised person is entitled to allow third persons to execute his/her water use permission.

4) If the permitted water use is unavoidably required in the public interest and the authorised person fails to use his/her permission fully or partially, the water authority may oblige such authorised person to allow his/her water management structure or equipment to be used for the permitted water use by another natural person or legal entity selected by the water authority for a necessary period or a period during which a decision regarding the dispossession of or limitation of proprietary rights to the water management structure or equipment is made, for a reasonable consideration.

## Section 12

### **Changes and Cancellation of Permission for Water Use**

1) A water authority may of its own accord, or on the basis of a proposal, change or cancel the permission for water use, if:

- a) there is a change of the circumstances which were decisive for the granting of permission for water use, for example, with a change in the stipulated minimum residual flow (Section 36) or with a change in the stipulated minimum level of groundwater (Section 37),
- b) in exercising the permission for water use, obligations stipulated by this Act or pursuant to this Act are grossly or repeatedly violated or rights of other persons are violated,
- c) the authorised person does not use the permission for water use for a period exceeding two years without a serious reason,
- d) the authorised person requests its cancellation in writing,
- e) the scope of permission for water use exceeds the authorised person's needs in long-term,
- f) there is a change in legal regulations stipulating the acceptable water pollution indicators and their values (Section 38, par. 5).
- g) the person authorised to release waste water into surface or groundwater was encumbered with the

- liability to ensure his connection to the sewerage system in accordance with special legal regulations,<sup>8a)</sup>
- h) if it is necessary for fulfilment of
1. an action program (Section 33 par. 2),
  2. programs for reduction of pollution of surface waters (Section 34 par. 2 and Section 35 par. 1),
  3. a program for reduction of pollution of surface waters by dangerous substances or especially dangerous substances (Section 38 par. 5),
  4. a plan for improving the quality of raw water in accordance with special legal regulations,<sup>8b)</sup>
  5. a river basin plan (Section 25 par. 6).
- 2) Technical criteria and the method for preparation of expert documents for the decision of the water authority in accordance with par. 1 letter f) and h) are stipulated by the Ministry of the Environment in agreement with the Ministry of Agriculture by decree.

### Section 13

#### **Invalidation of the Permission for Water Use**

Permission for water use becomes invalid:

- a) when the period for which the permission was granted has expired
- b) if a water management structure (Section 55), enabling the permitted use of water is abolished provided that within one year of the date on which the water management structure became unusable the water authority does not determine a period within and conditions under which the water management structure shall be put into original conditions; in this case, the permission expires after this period has fruitlessly elapsed;
- c) if the legal entity becomes extinct or the natural person to whom the permission was granted dies, provided the rights and obligations ensuing from the permission were not passed on to their legal successors according to Section 11, par. 1.

### Section 14

#### **Permission for Certain Activities**

1) Permission for certain activities is required for:

- a) the planting of trees and shrubs in flood plain areas in a scope affecting the runoff regime,
- b) the extraction of sand, gravel and mud, with the exception of curative mud, boulders, etc. (hereinafter "fluvial material") from the plots on which a watercourse is located,
- c) geological activities affecting plots of land in flood plain areas (Section 66) or affecting the protected zones of water resources,
- d) filling-in of dead watercourse arms,
- e) returning a watercourse to its original channel (Section 45).

2) Permission for activities stipulated in par. 1, letters a) and b) is not required, provided these activities are carried out by the watercourse administrator (Section 48) in connection with his river management activities or owner of the water management structures in connection with maintenance of the water reservoir. In addition, permission under par. 1, letter a) is not required if such activities are carried out by a forest owner for the purpose of vegetation renewal and for activities imposed upon him/her by Act 289/1995 Coll. on Forests and Amendments to Some Acts (The Forest Act), as later amended.

3) When permitting fluvial material extraction, the water authority shall stipulate the conditions for such extraction including restoration and re-cultivating measures, if applicable.

4) A person or entity authorised for extraction pursuant to par. 1, letter b) is obliged, upon the termination of fluvial material extraction, to survey and draw technical documentation of the actual state of the extraction site and submit this documentation to the water authority and watercourse administrator.

5) The provisions of Sections 9 through 13 apply correspondingly to the issuance, cancellation, changes and invalidation of permission for certain activities.

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<sup>8a)</sup> Section 3 par. 8 of Act No. 274/2001 Coll. on Water supply and sewerage systems for public use and amendments to some acts (Act on Water supply and sewerage systems).

<sup>8b)</sup> Section 13 par. 4 of Act No. 274/2001 Coll.

## Section 15

### **Permission for a Water Management Structure Construction**

1) The permission of the water authority is required for the establishment, modification, as well as the change of use and removal of water management structures. If the water management structure is used for water use and if permission for water use is required, the permission for construction may be issued if the water use has been permitted by the latest with the issuance of the permission for the water management structure construction.

2) Maintenance which may negatively affect the environment or water management structure stability must be reported<sup>9)</sup> by the water management structure owner to the water authority. Renewal of water management structures destroyed by natural disasters or accidents is also subject to notification; in such cases the time limit for notification by the water authority that it has no objections against renewal is 15 days.

3) In the permission for a water management structure, the water authority will stipulate obligations and if relevant also conditions under which the permission is granted and the purpose for which the water management structure will be used; the stipulated conditions must be in compliance with this Act.

4) The water authority executes the powers of a special building control authority pursuant to a special act<sup>10)</sup>.

5) The water authority may invite the applicant for construction permit to submit draft operation rules or the calculation of a hydrograph of a special flood wave in case of water management structures impounding or accumulating surface water and structures using the energy generating potential.

6) When permitting water management structures, their modifications, change of use and abolishment, the protection of water and water-related ecosystems must be considered. Water management structures must not create barriers for migration of fish or aquatic fauna in either watercourse direction. This is not the case if

- a) it concerns fishponds or water reservoirs for fish breeding or construction work for damming mountain streams and gorges,
- b) it requires protection against flooding or other public interest, or
- c) migration of fish and aquatic animals in both directions of the watercourse cannot be secured due to technical unfeasibility or disproportionate costs.

7) If permission, issued according to Section 8 par. 1 or according to preceding water use regulations expires, the water authority shall decide the conditions for the further existence or demolition of the water management structure that enabled the use of water.

## Section 16

### **Permission for Discharge of Waste Water Containing Especially Dangerous Harmful Substances into Sewerage Systems**

1) Discharge of waste water into the sewerage system where there is suspicion that it may contain one or more especially dangerous substances (Section 39 par. 3) requires the permission of the water authority. When issuing permits the water authority is bound by standards and time limits for their achievement stipulated in the government decree issued under Section 38 par. 5.

2) If waste water is discharged into the sewerage system containing especially dangerous substances from one or more individual technologically limited production facilities, the permission under paragraph 1 is necessary for each production facility separately. If industrial waste waters containing especially dangerous substances is discharged into a sewerage system which is part of the production facility and that water is cleaned in a facility intended for cleaning or neutralisation of waste waters, the water authority can issue a permit for the point of discharge from this facility.

3) When issuing the permit the water authority shall proceed appropriately in accordance with the

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<sup>9)</sup> Section 57 of Act 50/1976 Coll. as amended by Act No. 83/1998 Coll.

<sup>10)</sup> Section 120 of Act 50/1976 Coll. as amended by Act No. 83/1998 Coll.

provisions of Sections 9 to 13 and Section 38 par. 5 to 7. Provisions of special legal regulations<sup>10a)10a)</sup> are unaffected by this.

4) The water authority encumbers the permit in accordance with par. 1 with the liability to establish a check point and method of measuring the volume of discharged waste water, the level of its pollution by especially dangerous substances and the manner in which the results of measurement are to be rendered. At the same time it takes account of the approved drainline.

5) If there is a facility installed for removal of especially dangerous substances from waste waters discharged into the sewerage system with adequate and verifiable effect, the water authority may stipulate in the permit the conditions for operating such a facility in place of the liability under par. 4.

## Sector 2 Approval

### Section 17

1) The approval of the water authority is required for construction works, facilities and/or activities which do not require permission under this Act, but which may influence water regime, i.e., for:

- a) structures and facilities on land on which channels of watercourses are located and on the adjacent land, in instances where such structures and facilities influence the water regime,
- b) building of long-distance pipelines and structures enabling the underground storage of substances in terrestrial cavities, and for storage facilities, dumps or tanks, if the operation of such structures and dumps can significantly affect the quality of surface water or groundwater,
- c) for structures, extraction of raw materials or earth work in flood plain areas, the provisions of Section 67 are not affected herewith,
- d) structures to a distance of 15 m from the landward base of a watercourse flood protection bank,
- e) structures located in the protected zone of a water resource.

2) If required by the nature of the activity subject to approval, the water authority may, in its decision granting approval, stipulate the duration and conditions under which the approval is granted.

3) The approval is binding for authorities that make decisions in the procedure on permission for structures, terrain modifications or extraction of raw materials in cases specified under par. 1.

4) Approval according to par. 1 is not required for activities, necessary for exercises or action of the Fire Rescue Services of the Czech Republic and fire rescue units, the Police Force of the Czech Republic and the Armed Forces of the Czech Republic; in such cases such units proceed in conformity with an agreement with the respective water authority.

## Sector 3 Expert Opinion

### Section 18

1) Any person who intends to locate, perform, alter or abolish a structure or facility and/or carry out other activities, if such plan may affect the water regime, energy generating potential, quality or quantity of surface water or groundwater, has the right, upon providing sufficient documentation for such a plan, to obtain an expert opinion from the water authority, as to whether such planned investment is possible from the point of view of interests protected under this Act and if so, under what conditions.

2) The water authority will also issue an expert opinion regarding the use of natural mineral water resources certified pursuant to a special act<sup>2)</sup>.

3) An expert opinion does not constitute a decision in administrative proceeding and does not replace a permission or approval to be issued by the water authority pursuant to this Act.

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<sup>10a)</sup> Act No. 274/2001 Coll., as amended.

*Part 4*  
*Water Management Records*

Section 19

**Records of Water Authority Decisions**

1) Water authorities are obliged to keep records of decisions issued by them pursuant to this Act.

2) In a decree, the Ministry of Agriculture, in co-operation with the Ministry of the Environment, will stipulate the scope and method of maintaining the records by water authorities, including the scope of information and method of its saving in the public administration information system<sup>11)</sup> and the method of information transfer from the existing water-management records and the summary water-management records<sup>12)</sup> into this information system.

3) Water authorities are liable to submit selected data from their records of decisions to the extent stipulated by the decree issued under par. 2 to the Public administration information system and submit the same to the Ministry of Agriculture no later than one calendar quarterly, always by the 15<sup>th</sup> day of the first month of the following calendar quarterly.

Section 20

**Information Recorded in the Real Estate Register**

1) Barrages, dams, weirs and constructions which are established for nautical purposes in watercourse channels or on their banks, constructions for use of hydraulic power and constructions of sludge beds, if they are joined to the ground by fixed foundations, are recorded in the land registry<sup>12a)</sup>. Details of the delimitation of these water management structures are stipulated by the Ministry of Agriculture in agreement with the Czech Office for Surveying, Mapping and Cadastre by decree.

2) Protected zones of water management structures (Section 58 par. 3) in accordance with par. 1 and protected zones of water resources (Section 30) are recorded in the land registry by using data on the ways of protecting properties<sup>13)</sup>.<sup>13)</sup>

3) The water authority is obliged to send to the respective Land Deed Office information required for recording territorial protection pursuant to par. 2 within 30 days of the date, when the decision defining such territorial protection became effective.

CHAPTER III

SURFACE WATER AND GROUNDWATER STATUS

Section 21

1) The monitoring and assessment of the status of surface water and groundwater provides support for the execution of public administration pursuant to this Act, for water planning and for providing information to the public. It is carried out based on river basins and hydrogeological zones.

2) The monitoring and assessment of the status of surface water and groundwater includes, in particular:

- a) monitoring the quantity and quality of surface water and groundwater including the impact of human activities on such water and examination of the status of water bodies and ecological potential of heavily modified and artificial water bodies,
- b) water balance management (Section 22 par. 1)

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<sup>11)</sup> Act No. 365/2000 Coll. on the Public Administration Information Systems and Change to Some Acts.

<sup>12)</sup> Decree No. 126/1976 Coll. On Water Management and Summary Water Management Records.

<sup>12a)</sup> Section 2 par. 1 letter f) of Act 344/1992 Coll. as amended by Act No. 89/1996 Coll.

<sup>13)</sup> Section 7 of Decree 190/1996 Coll., which implements Act No. 265/1992 Coll., on Records of ownership and other property rights to landed property, as amended by Act No. 210/1993 Coll. and Act No. 90/1996 Coll., and Czech National Council Act No. 344/1992 Coll., on the Land registry of the Czech Republic (Land Registry Act), as amended by Act No. 89/1996 Coll., as amended by Decree 113/2000 Coll.

- c) setting up, management and updating of records of
1. watercourses and their basins, hydrogeological zones and water reservoirs,
  2. water bodies including heavily modified water bodies and artificial water bodies,
  3. the quantity and quality of surface water and groundwater, the status of water bodies and ecological potential of heavily modified and artificial water bodies,
  4. abstractions of surface water and groundwater, discharge of waste water and mine water and accumulation of surface water in water reservoirs,
  5. river basin districts (Section 25)
  6. protected areas of natural water accumulation (Section 28)
  7. protected zones of water resources (Section 30)
  8. surface water and groundwater resources used or intended to be used as resources of drinking water,
  9. sensitive areas (Section 32)
  10. vulnerable zones (Section 33),
  11. areas of surface water used for bathing (Section 34)
  12. surface waters which are or are to become permanently suitable for the life and reproduction of indigenous species of fish and other aquatic fauna (Section 35),
  13. water management structures serving for land reclamation (Section 56)
  14. flood plain areas (Section 66)

The scope and manner of processing, storage and transfer of information in the records, including statistical and cartographic data, into the public administration information systems (Section 22, par. 3 and 4) shall be stipulated in a decree issued by the Ministry of Agriculture in co-operation with the Ministry of the Environment.

3) Delimitation of water bodies, definition and values of indicators and the assessment system of the status of water bodies and ecological potential of heavily modified and artificial water bodies (Section 23a), process of determining programs for examining and assessing the status of waters in each river basin district (Section 25 par. 2), their content and the manner of their compilation, used methods and the frequency of monitoring and other matters of their implementation in accordance with the requirements of special legal regulations of the European Community<sup>13a)</sup>,<sup>13a)</sup> shall be stipulated in a decree issued by the Ministry of the Environment in co-operation with the Ministry of Agriculture.

4) The monitoring and assessment of the status of surface water and groundwater and the operation of the public administration information systems are carried out by river basin administrators and other professional institutions, authorised, established or founded for this purpose by the Ministry of Agriculture or the Ministry of the Environment (hereinafter the "authorised professional institutions"). River basin administrators and authorised professional institutions are obliged to follow the instructions of their founder or incorporator in respect of these activities.

5) For the purposes of monitoring and assessing the status of surface water and groundwater, the river basin administrators and authorised professional institutions are entitled to require information from persons using surface water or groundwater, as well as from administrative authorities or regional self-administration authorities with jurisdiction over the issuance of permissions for water use or maintaining information systems pursuant to special legal regulations<sup>14)</sup><sup>14)</sup>; such entities are obliged to deliver this information to river basin administrators and the authorised professional institutions free of charge or river basin administrators and authorised professional institutions may ascertain this data from them free of charge and with their support. This does not affect the provisions of special legal regulations protecting confidential information.

6) On request river basin administrators and authorised professional institutions shall provide the information on the status of surface water and groundwater to administrative authorities free of charge; they also provide free of charge information regarding the use of surface water and groundwater in the protected zones of natural curative resources and natural mineral water resources, to the Ministry of Health.

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<sup>13a)</sup> Art. 8 and Annex V to Directive 2000/60/EC.

<sup>14)</sup> E.g. Act No. 344/1992 Coll. as later amended, Act No. 164/2001 Coll.

7) The provisions of Section 114, par. 1 and 2 apply correspondingly to the entry of authorised personnel of river basin administrators and authorised professional institutions on a third person's land and in a third person's buildings.

## Section 22

1) The water balance assessment consists of the hydrological balance and water-management balance. The hydrological balance identifies changes in the level of inflow and outflow of water and changes in the level of water storage in a river basin, area or water body within a given time interval. The water-management balance compares the requirements for surface water and groundwater abstraction and waste water discharge with the available water resources taking into account water quantity and quality and its ecological status. The components of the water balance and the method of its preparation shall be stipulated in a decree issued by the Ministry of Agriculture in co-operation with the Ministry of the Environment.

2) For the purpose of the water balance, the consumers of surface water and groundwater, and those using natural curative resources or natural mineral water resources and water which is among reserved raw materials, and further, those discharging waste or mine water into surface water or groundwater at a quantity exceeding 6 000 m<sup>3</sup> in one calendar year or 500 m<sup>3</sup> in one calendar month, or those by whom the permitted volume of water retained in a watercourse or water accumulated by a water management structure exceeds 1 000 000 m<sup>3</sup>, are obliged to report to their respective river basin administrator annual information of such withdrawals and discharges (in particular their quantity and quality) and further information on impounding or accumulation in a manner and within the scope stipulated in a decree issued by the Ministry of Agriculture in co-operation with the Ministry of the Environment and the Ministry of Health.

3) The Ministry of Agriculture maintains a public administration information system pursuant to Section 21, par. 2, letter c) for recording of the following:

- a) watercourses and their basins, hydrogeological zones and water reservoirs,
- b) abstractions of surface water and groundwater, discharge of waste water and mine water and accumulation of surface water in water reservoirs,
- c) river basin districts,
- d) surface water and groundwater resources used or intended to be used as resources of drinking water,
- e) water management structures serving for land reclamation (Section 56)

4) The Ministry of the Environment maintains a public administration information system pursuant to Section 21, par. 2, letter c) for recording of the following:

- a) water bodies including heavily modified water bodies and artificial water bodies,
- b) the quantity and quality of surface water and groundwater, the status of water bodies and ecological potential of heavily modified and artificial water bodies,
- c) protected areas of natural water accumulation,
- d) protected zones of water resources,
- e) sensitive areas,
- f) vulnerable zones,
- g) areas of surface water used for bathing,
- h) flood plain areas.

5) In administering the information systems pursuant to paragraphs 3 and 4, the Ministry of Agriculture and the Ministry of the Environment proceed in accordance with special legal regulations<sup>15)</sup>. This information system serves in particular for the purposes under Section 21 par. 1, Sections 23 to 26, Section 54 and Section 108 par. 2 letter v).

## CHAPTER IV PLANNING IN WATER MANAGEMENT

### Section 23

1) Water management planning is a systematic conceptual activity that shall be undertaken by the State.

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<sup>15)</sup> Act No. 365/2000 Coll.

The system of water management planning consists of the Plan of Main River Basins of the Czech Republic, river basin district plans, and the programs of measures. The purpose of water management planning is to define and mutually harmonise public interests related to:

- a) protection of water as a component of the environment,
- b) protection against flooding and other damaging effects of water,
- c) long-term sustainable use of water resources and economic management of waters to fulfil requirements for water services, in particular for the purposes of drinking water supply.

2) The Plan of the Main River Basins of the Czech Republic and the river basin district plans, including relevant programmes of measures, are fundamental to the execution of the state administration, in particular for regional land use planning, regional decision-making and granting of construction permits.

#### Section 23a

#### **Aims of protection of water as a component of the environment**

1) The aims of protection of water as a component of the environment<sup>15a)</sup> (hereinafter “aims of water protection“) are

- a) for surface water
  1. prevention degradation of the status of all water bodies,
  2. ensuring protection, improvement of the status and renewal of all water bodies and achievement of their good status, with the exception of the water bodies laid down in point 3,
  3. ensuring protection, improvement of the status of all artificial or heavily modified water bodies and achievement of their good ecological potential and good chemical status,
  4. reduction of their pollution by dangerous substances and cessation or gradual reduction of emissions, discharges and releases of the especially dangerous substances laid down in Attachment 1 to this Act into these waters,
- b) for groundwater
  1. prevention or limitation of release of dangerous, especially dangerous and other harmful substances into these waters and prevention of a degradation in the status of the bodies of such water,
  2. ensuring protection, improvement of the status and renewal of all water bodies and ensuring a balance between consumption of groundwater and its replenishment with the aim of achieving a good status for these waters,
  3. averting any kind of serious and permanent increase in the concentration of dangerous, especially dangerous and other harmful substances resulting from human activities, with the aim of effective reduction of the pollution of these waters,
- c) also in respect of the areas designated in Section 28 par. 1, Section 30 par. 1, Section 32 par. 2, Section 33 par. 1, Section 34 par. 1 and Section 35 par. 1 and in specially protected areas in accordance with special legal regulations<sup>31)</sup>, achievement of the aims stipulated for surface water under letter a) and for groundwater under letter b), unless divergent requirements are stipulated for water in these areas in accordance with special legal regulations.

2) It is necessary to achieve the aims given in par. 1 letter a) points 2 and 3, letter b) point 2 and letter c) by 22<sup>nd</sup> December 2015.

3) If a given water body is subject to more than one of the aims of water protection given in par. 1, the strictest aim will always be implemented.

4) The river basin district plans (Section 25) can include special aims of water protection for selected water bodies, based on extension of the time limits given in par. 2 or on the stipulation of less strict requirements. Special aims of water protection must be designated for selected bodies of surface water or groundwater in a manner which does not threaten the aims of water protection for other bodies of surface water or groundwater.

5) The time limits laid down in par. 2 can be extended only in cases where timely achievement of aims of water protection is not possible due to technical unfeasibility, disproportional costs or natural conditions and if further degradation of the status of the selected water bodies is ruled out.

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<sup>15a)</sup> Art. 4 of Directive 2000/60/EC of the European Parliament and Council.

6) Time limits extended in accordance with par. 5 must not exceed the length of two seasons for updating the river basin district plans (Section 25 par. 6).

7) Less strict requirements under par. 4 cannot be stipulated for the aims of water protection laid down in paragraph 1 letter a) points 1 and 4, paragraph 1 letter b) points 1 and 3 and par. 1 letter c). In other cases less strict requirements can be stipulated only when the aims of water protection cannot be achieved due to technical unfeasibility, disproportional costs, natural conditions or other public interests.

8) Special aims of water protection shall be introduced in the river basin district plans (Section 25) along with a specification of the reasons for their determination. An overview of fulfilment of these aims is presented in updated river basin district plans (Section 25 par. 6).

#### Section 24

### **Plan of the Main River Basins of the Czech Republic**

1) The Plan of Main River Basins of the Czech Republic is a strategic water planning document which lays down framework objectives for the management of surface water and groundwater, for the protection and improvement of the status of surface water and groundwater and aquatic ecosystems, based on the aims of water protection under Section 23a par. 1 for long-term sustainable use of these waters, for protection against the adverse effects of these waters and for the improvement of aquatic environments and for the protection of the ecological stability of the landscape. The Plan of the Main River Basins of the Czech Republic includes framework programs of measures for assertion of public interests which are mandatory for drawing up the river basin district plans, including the resources and methods of their financing. The Plan of the Main River Basins of the Czech Republic must be in accordance with international agreements to which the Czech Republic is bound.

2) The Plan of the Main River Basins of the Czech Republic shall be drawn up by the Ministry of Agriculture in co-operation with the Ministry of Environment, affected central administration authorities and district authorities for the three main river basins of the Czech Republic, namely the Elbe River basin (North Sea drainage area), Morava River basin, including additional tributary river basins of the Danube (Black Sea drainage area) and the Odra River basin (Baltic Sea drainage area), which are the national parts of the international river basins districts of the Elbe, Danube and Odra. The Plan of the Main River Basins of the Czech Republic is subject to a consideration of the effects on the environment in accordance with special legal regulations<sup>16)</sup>, and is published already in draft and accessible for comments by the public, including water users.

3) The contents of the Plan of the Main River Basins of the Czech Republic, the method of its preparation and the procedure for its negotiation and publication will be stipulated in a decree issued by the Ministry of Agriculture in co-operation with the Ministry of the Environment.

4) The government shall be responsible for approving the Plan of the Main River Basins of the Czech Republic. The mandatory part of the Plan of the Main River Basins of the Czech Republic shall be stipulated by the government in a decree.

5) The Plan of the Main River Basins of the Czech Republic, including the framework programs of measures, shall be reviewed and updated every 6 years at latest from the date of its first approval.

#### Section 25

### **River Basin District Plans**

1) River basin district plans shall stipulate specific objectives for the given river basin districts based on the framework programs of measures of the Plan of Main River Basins of the Czech Republic, the needs and status of surface water and groundwater, the requirements for the use of water in the given area, including programs of measures required to achieve those objectives.

2) River basin district plans are drawn up by river basin administrators<sup>17)</sup> according to their jurisdiction in co-operation with relevant regional authorities and central water authorities for the 8 river basin districts,

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<sup>16)</sup> Act No. 100/2001 Coll. on the Assessment of Environmental Effects and Change to Some Related Acts (the Environmental Effects Assessment Act).

<sup>17)</sup> Act 305/2000 Coll. on River Basins.

namely the river basin district of the Upper and Central Elbe, the river basin district of the Upper Vltava, the river basin district of the Berounka, the river basin district of the Lower Vltava, the river basin district of the Ohře and Lower Elbe, the river basin district of the Odra, the river basin district of the Morava and the river basin district of the Dyje. The river basin district plans are drawn up in three phases:

- a) preparatory work, which must include
  1. a timetable and work program for drawing up the river basin district plan, which must be published and made accessible to water users and the public for comments at least 3 years before the start of the period affected by the plan,
  2. an analysis of general and water management characteristics of the river basin district, assessment of the affects of human activities on the status of surface water and groundwater, an economic analysis of the use of water, and on the basis of the former, a preliminary overview of the significant problems of use of water found in the river basin district, including the specification of heavily modified water bodies and proposals of special aims of water protection, at least 2 years before the start of the period affected by the plan,
- b) preparation of a draft river basin district plan, which must be published and made accessible to water users and the public for comments at least 1 year before the start of the period affected by the plan,
- c) preparation of a final draft of the river basin district plan.

The drawing up of each phase of the river basin district plans shall be consulted with the other river basin administrators, regional authorities pertinent to individual main river basins of the Czech Republic, administrative authorities for regional planning and the Czech Environmental Inspectorate. The river basin district plans are subject to the assessment of environmental effects pursuant to special legal regulations<sup>16)</sup>.

3) The Ministry of Agriculture shall stipulate by decree the individual river basin districts under paragraph 2, delimited by river basins and associated hydrogeological zones, and the relationship of individual river basin districts to administrative districts of regions and municipalities with extended jurisdiction, to the main river basins of the Czech Republic and international river basin districts of the Elbe, Odra and Danube.

4) The contents of the river basin district plan, the procedure for its preparation and development, details of its phases, the negotiation procedures and the method of publication will be stipulated in a decree of the Ministry of Agriculture in co-operation with the Ministry of the Environment and the Ministry of the Interior.

5) The phases of drawing up the river basin district plan laid down in par. 2, letters a) and b) are approved, after expression of positive approval by central water authorities (Section 108) and the central authority for regional planning, by the regional authority according to its territorial scope. The final draft river basin district plan is approved by the region according to its territorial scope. The mandatory part of the river basin district plan for the administrative ward of the region is issued by the regional council by decree.

6) River basin district plans shall be reviewed and updated every 6 years from the date of their approval in accordance with the procedure in the previous paragraphs.

## Section 26

### **Programs of Measures**

1) Programs of measures are the main tool for achieving the aims given in the Plan of the Main River Basins of the Czech Republic and river basin district plans. Programs of measures stipulate a timetable for their implementation and strategy of their financing. Measures adopted to achieve the aims of water protection in programs of measures must be implemented within 3 years from approval of the Plan of the Main River Basins of the Czech Republic or river basin district plans.

2) Programs of measures for achieving the aims of water protection must include principle measures and, where necessary, supplementary measures. The definition of the scope of principle and supplementary measures and procedures for their implementation, including specification of stricter aims of water protection and additional measures shall be stipulated by the Ministry of Agriculture in a decree issued in co-operation with the Ministry of Environment.

3) If results of monitoring and assessment of the status of surface water and groundwater under Section 21 or other data indicate that the aims of water protection stipulated for a given water body under Section § 23a par. 3 to 6 are unlikely to be achieved

- a) the causes of possible non-fulfilment must be examined,
- b) the corresponding permission to use water governed by Section 12 par. 1 letter h) point 5 must be reviewed,
- c) programs for monitoring and assessment of the status of surface water and groundwater must be reviewed and modified,
- d) additional measures for achieving these aims of water protection must be adopted, including setting of stricter values for selected indicators or stipulating additional indicators, as appropriate.

In cases where the causes are the result of the local natural conditions or acts of God which are exceptional and could not be reasonably foreseen, particularly in cases of extreme flooding and long periods of drought, additional measures need not be implemented under the appropriate application of Section 23a par. 4 to 8.

4) Implementation of measures under par. 2 must not lead to an increase of the pollution of coastal waters and seas or to an increase in the pollution of surface waters. This requirement is not asserted where it would result in a general rise in pollution of the environment.

5) The Ministry of Agriculture, in co-operation with the Ministry of the Environment and the regional authorities will submit to the government every three years a summary report on the fulfilment of programmes of measures, the status of surface water and groundwater and on water management in individual river basin districts.

## CHAPTER V

### PROTECTION OF THE WATER REGIME AND WATER RESOURCES

#### *Part 1*

#### *Protection of The Water Regime*

#### Section 27

Landowners are obliged, unless a special legal regulation<sup>18)</sup> determines otherwise, to ensure proper care of their land in order to prevent deterioration of the water regime. Under these conditions, they must particularly prevent deterioration of the runoff regime, prevent the washing away of soil and take care to improve the retention capacity of the landscape.

#### Section 28

#### **Protected Areas of Natural Water Accumulation**

1) Areas, which, as a result of their natural conditions form significant natural water accumulation, are declared "protected areas of natural water accumulation" by decrees of the government.

2) The following is forbidden within the scope as stipulated by the government decree in the protected areas of natural water accumulation:

- a) reduce the size of forest land,
- b) drain forest land
- c) drain agricultural land
- d) extract peat-moss,
- e) extract raw materials in open pits or perform other earthwork which would lead to uncovering the groundwater saturation zone,
- f) extract and process radioactive materials,
- g) deposit radioactive waste.

3) The Ministry of the Environment may, with the prior consent of the government, grant an exception

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<sup>18)</sup> E.g. Act No. 334/1992 Coll. on the Protection of the Agricultural Land Fund as later amended, Act No. 289/1995 Coll. on Forests and Change and Amendment to Some Other Acts (the Forest Act), as later amended.

from the bans stipulated under par. 2.

4) If a landowner suffers damages as a result of the ban under par. 2, letters a) through c), he/she is entitled to compensation for such damage.

## *Part 2* *Groundwater*

### Section 29

1) Groundwater resources are primarily reserved to ensure drinking water supply for the public and for purposes in which the use of drinking water is required by a special legal regulation<sup>5)</sup>. The water authority may allow the use of groundwater for other purposes only if it is not to the detriment of the above need's satisfaction.

2) Any person who in the course of his/her operation<sup>19)</sup> causes loss of groundwater or significantly reduces the possibility of water withdrawal from a groundwater resource, or worsens the quality of water in this resource, is obliged to provide compensation for the damage incurred to the person authorised to withdraw groundwater from this water resource and further to carry out measures, as required depending on local conditions, aimed at renewing the original conditions. Compensation is understood as obtaining a supplementary water resource. If this is not possible or practicable, such person is obliged to provide a single reimbursement commensurate with the reduction in the value of real estate used in connection with the authorisation. Disputes for damage settlement or the amount of damages shall be decided in court. This does not affect general regulations on compensation for damages.

3) A landowner who, during activities other than geological works<sup>20)</sup>, discovers the occurrence of groundwater in unusual quantity (e.g. in a quantity that would require a change in the technology of the building foundation or refraining from construction at this particular building site, etc.) or discovers the occurrence of confined groundwater (Artesian water) is obliged to report this fact to the respective water authority for the purpose of determination of the groundwater resource yield.

## *Part 3* *Protection of Water Resources*

### Section 30

#### **Protected Zones of Water Resources**

1) To ensure protection of the yield, quality and wholesomeness of groundwater and surface water resources used or usable for drinking water supply with an average withdrawal of more than 10 000 m<sup>3</sup> per year, the water authority shall determine protected zones. If required, by serious circumstances, the water authority may determine protected zones for water resources with capacity lower than stipulated in the first sentence. The water authority may, for serious reasons, change or cancel its decision on the determination of a protected zone. The determination of protected zones always constitutes public interest.

2) Protected zones classified into protected zones of the 1<sup>st</sup> degree, serving to protect water resources in the immediate vicinity of the accumulation or withdrawal facility, and protected zones of the 2<sup>nd</sup> degree, serving to protect the water resource in areas stipulated by the water authority in a manner preventing its yield, quality or wholesomeness against risks.

3) The water authority determines a protected zone of the 1<sup>st</sup> degree as a coherent area:

- a) for water supply reservoirs and other reservoirs designed exclusively for drinking water supply, the zone is determined for at least the entire surface of the reservoir at its maximum level,
- b) for reservoirs used for drinking water supply other than those stipulated under letter a), with borders defined as a minimum of 100 meters on the water surface from the withdrawal facility,
- c) for watercourses
  1. with a weir, at a bank where the abstraction is located, at a minimum of 200 meters upstream from

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<sup>19)</sup> Section 420a of Act No. 40/1964 Coll., the Commercial Code as amended by Act No. 509/1991 Coll.

<sup>20)</sup> Act No. 62/1998 Coll. as later amended.

the point of abstraction and 100 meters downstream or to the edge of the impounding structure in a width of 15 meters; inside a watercourse it includes a minimum of one half of its width at the point of abstraction.

2. without a weir, at a bank where the abstraction is located, at a minimum of 200 meters upstream from the point of abstraction and 50 meters downstream in a width of 15 meters; inside a watercourse it includes a minimum of one third of its width at the point of abstraction,
- d) for groundwater resources, borders are defined as a minimum of 10 meters from the point of abstraction,
- e) in other cases on an individual basis.
- 4) The water authority may, in justified cases, determine a protected zone of the 1<sup>st</sup> degree in a scope which is smaller than stipulated under par. 3, letters a) through d).

5) Protected zone of the 2<sup>nd</sup> degree shall be determined outside the protected zone of the 1<sup>st</sup> degree; it may consist of one coherent territory or several separated territories within a river basin or hydrogeological zone. If so required, the water authority may determine protected zones of the 2<sup>nd</sup> degree gradually, by individual areas.

6) The water authority will determine protected zones based on a proposal or on its own initiative. If persons entitled to withdraw water from a water resource or persons applying for permission for such withdrawal, and in case of water supply reservoirs those persons who own water management structures designed for water impounding in these reservoirs or builders constructing such water management structures, do not submit a proposal for the determination of protected zones, the water authority may impose upon them the obligation to submit such proposal together with the respective documentation. Water supply reservoirs according to the preceding sentence are those to be listed under par. 11.

7) Should the reason for protection cease to exist, the water authority will decide on the abolition of the protected zone either based on a proposal or on its own initiative.

8) In its decision on the establishment or change of a protected zone of water resource, the water authority, upon consultation with the respective state administration bodies, will stipulate activities impairing or endangering the yield, quality or wholesomeness of the water resource which must not be carried out in such zone, technical measures that must be carried out in the protected zone and, if need be, limitations, for a specified period of time, imposed on the use of land and buildings located in this zone .

9) The owners of land and buildings located in the protected zones of water resources are entitled to a compensation for a proven limitation of the use of such real estate. This compensation must be paid, if requested by the real estate owner, by the owner of water management structures designed for water impounding in case of water supply reservoirs, and in other cases by persons authorised to withdraw water from a water resource (Section 8); should there be several of them, it will be divided proportionally, according to the quantity of water that they are authorised to withdraw. If the parties fail to reach an agreement on compensation payment, the decision on a single one-off compensation will be made by the court.

10) Expenses connected with technical measures imposed by the water authority in protected zones of water resources in order to protect the yield, quality and wholesomeness of water, shall be borne by those who are authorised to withdraw water from these water resources or who apply for such authorisation, and in case of water supply reservoirs by the owners or builders of water management structures designed for water impounding.

11) In a decree, the Ministry of the Environment will stipulate a list of water supply reservoirs and principles for the determination and change of protected zones of water resources.

## Section 31

In a government order, the government will stipulate the indicators and values of admissible pollution for surface water resources used or expected to be used as a resource of drinking water.

## Section 32 Sensitive Areas

- 1) Sensitive areas are the following surface water bodies:

- a) in which undesirable status of water quality occurs or may occur in the near future as a result of high nutrient concentration,
- b) which are used or expected to be used as a resource of drinking water in which nitrate concentration exceeds 50 mg/l or
- c) which require a higher degree of waste water treatment in order to accommodate interests protected by this Act.

2) The government will determine sensitive areas in a government order. The determination of sensitive areas is subject to a review in regular intervals not exceeding 4 years.

3) In an order, the government will stipulate the admissible pollution indicators and their values, for sensitive areas as well as for the discharge of waste water into surface water affecting the quality of water in sensitive areas.

### Section 33 **Vulnerable Zones**

- 1) Vulnerable zones are areas of occurrence
  - a) of surface water or groundwater, used or designated, in particular, as a resource of drinking water, in which the nitrate concentration exceeds the value of 50 mg/l or which may reach this value or
  - b) of surface water in which the water quality is or may be undesirably impaired due to high nitrate concentration from agricultural sources.

2) The government shall specify by decree vulnerable zones and regulate the use and storage of fertilisers and manure, crop rotation and implementation of erosion-control measures (hereinafter only the “action program“). The action program and specification of vulnerable zones is subject to review and possible amendment at regular intervals not exceeding 4 years. Reviews are carried out on the basis of an assessment of the effectiveness of measures from the adopted action program.

### Section 34 **Surface Water Used for Bathing**

1) In a decree, the Ministry of Health, in co-operation with the Ministry of the Environment, will determine surface waters used for bathing for their suitable quality where bathing is practised by a large number of people. Bathing in such waters is allowed as long as the water quality corresponds with requirements stipulated in a special legal regulation<sup>21)</sup>.

2) Indicators and values of permissible pollution of water for the purposes of the permitting the discharge of waste water in surface waters, laid down in par. 1, and the program of reducing the pollution of these waters to achieve values of permissible pollution shall be stipulated by the government by decree.

3) Should surface water determined in a decree pursuant to par. 1 cease to meet the quality requirements stipulated for bathing water in a special legal regulation<sup>21)</sup>, or in a government decree under paragraph 2, the water authority will order or adopt appropriate measures to remedy such situation upon discussion with public health protection authorities and the river basin administrator.

### Section 35 **Fish Life Support**

1) Surface waters which are already or are to become permanently suitable for the life and reproduction of indigenous species of fish and other aquatic fauna, divided into salmonid and cyprinid waters, indicators and values of permissible pollution of water, the manner of monitoring and assessing the status of surface water and groundwater and the program of reducing the pollution of these waters to achieve values of permissible pollution shall be stipulated by the government by decree.

2) In water supply and other water reservoirs or at sections of watercourses, the water authority may impose on the owners, watercourse administrators and the users of fishery zone, the method of fish management that must be applied.

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<sup>21)</sup> Act No. 258/2000 Coll. as amended by Act 254/2001 Coll.

3) It is forbidden to release fish and other aquatic fauna of other than indigenous species, of genetically improper or unverified populations of natural species into watercourses and water reservoirs without an approval of the respective water authority.

*Part 4*  
*Water Quantity Protection*

Section 36  
**Minimum Residual Flow**

1) Minimum residual flow is such flow of surface water, which still allows for general surface water use and for ecological functions of the watercourse.

2) The water authority will stipulate the minimum residual flow when issuing permission for water use, which may result in reduction of the watercourse flow. The water authority will base its decision on the river basin management plans and the methodological instruction issued by the Ministry of the Environment and will also consider the existing status of surface water and groundwater, in particular the results of the water balance in the given river basin.

3) The water authority may impose upon the owners of water management structures the obligation to install a calibre or water-mark at their respective water management structure for the purpose of controlling the compliance with the minimum residual flow including the obligation to measure the minimum residual flow regularly and to report the results to the respective river basin administrator.

Section 37  
**Minimum Level of Groundwater**

1) The minimum level of groundwater is level which still allows for sustainable use of water resources and which will not endanger the ecological stability of the associated water body ecosystems.

2) The water authority, in its permission for water use, will stipulate the minimum level of groundwater, in cases where such use may result into a substantial decrease in the groundwater level. For the determination thereof, the water authority will use the river basin management plans and the methodological instruction issued by the Ministry of the Environment, and will also consider the existing status of surface water and groundwater, particularly the results of the water balance within the given hydrogeological region.

3) The water authority is entitled to impose on the authorised person pursuant to par. 2, the obligation to submit for approval draft rules for groundwater withdrawal or the obligation to measure the groundwater level regularly, including the method of such measurement and the obligation to report the results of the measurements to the respective river basin administrator.

*Part 5*  
*Protection of Water Quality*

Section 38  
**Waste Water**

1) Waste water is considered to be water used in domestic dwellings, industrial plants, agricultural, health and other buildings or facilities and in means of transport, if the quality of such water has changed after being used (composition and temperature), as well as other water flowing from such buildings or facilities that may threaten the quality of surface water or groundwater. Waste water also includes percolation water from sludge bed, with the exception of water which is reused for the special purposes of an organisation and water which drains into mine waters; furthermore, waste water includes percolation from landfills.

2) Water from drainage systems on drained agricultural land, water used on ships and cooling water while such use only results in increased temperature and unused mineral water from a natural curative source or source of natural mineral water are not considered as waste water under this Act.

3) Whosoever discharges waste water into surface water or groundwater must ensure its treatment in

compliance with the conditions stipulated in the discharge permit. When stipulating these conditions, the water authority shall be bound to consider the available technologies in the area of waste water treatment. Whosoever discharges waste water into surface water or groundwater must, in compliance with the water authority decision, measure the volume of discharged water and the degree of its pollution and deliver the results of such measurements to the water authority that issued the decision and to the respective river basin administrator and the authorised professional institution. In such decision, the water authority shall determine the location and method of measuring the volume and pollution of discharged waste water including the frequency of the submission of results of measurements.

4) Direct discharge of waste water into surface water and groundwater is not permitted. Discharging waste water not containing dangerous or especially dangerous substances (Section 39 par.3) into soil layers from which it could infiltrate into groundwater can be permitted in exceptional cases, and only from individual family houses and individual family recreation facilities based on assessment of their impact on the groundwater quality.

5) When permitting the discharge of waste water into surface water, the water authority shall stipulate the maximum permissible values of waste water quantity and its pollution. It will be bound by the indicators expressing water status in the watercourse, indicators and values of permissible surface water pollution, indices and permissible values of waste water pollution and conditions for permitting waste water discharge stipulated by the government in an order. To limit pollution of surface waters by dangerous and especially dangerous substances (Section 39 par. 3) the government can, at the proposal of the Ministry of Environment, adopt a Program for reduction of pollution of surface waters by dangerous and especially dangerous substances.

6) When permitting the discharge of waste water into surface water or groundwater, the water authority shall consider the need to reach or maintain a suitable status of surface water or groundwater and of ecosystems which depend on water, evaluate the possibilities of limiting pollution at source as well as limiting emissions into the environment as a whole and the waste water recycling options.

7) If required by urgent water protection interests, the water authority may stipulate more rigid values for the waste water pollution indicators than stipulated by the government in its order pursuant to par. 5 or, if applicable, stipulate additional indicators and their permissible values. This similarly applies to pollution indicators and their values as stipulated by the government pursuant to Sections 31 and 35.

8) When permitting the discharge of waste water from industrial buildings and facilities, the water authority may require that waste water from individual production cycles or cooling water be treated separately from other waste water.

9) Based on an application of the water polluter, in exceptional cases and for the necessarily required period only, the water authority may permit the discharge of waste water with higher values of waste water pollution indicators than stipulated by the government in its order pursuant to par. 5 or Section 31, in particular in cases when a waste water treatment plant is being introduced into operation, during its pilot operation, during necessary repairs or amendments of equipment for waste water treatment, in cases of an accident occurring on such equipment and in cases when waste or special water will be discharged into surface water in a controlled manner, while at the same time additional conditions eliminating the possibility of surface water quality deterioration are stipulated.

## Section 39

### **Harmful Substances**

1) Harmful substances are substances other than waste or mine water which may endanger the quality of surface water or groundwater (hereinafter "harmful substances"). Whoever works with harmful substances must take adequate precautions to prevent their entry into surface water or groundwater and to prevent them from endangering the environment.

2) In cases when large quantities of harmful substances are being used in any operation or in cases when the use of harmful substances poses an elevated danger for surface water or groundwater, the person using the harmful substances must take the following measures:

- a) produce a plan of measures for emergency situations (hereinafter "the emergency plan"); the emergency plan is subject to approval by the respective water authority; in cases when an accident may affect the

watercourse, the person using harmful substances will discuss the emergency plan with the respective watercourse administrator and give him/her one copy thereof, prior to its submission for approval,

b) keep records on measures taken and archive such records for a period of five years

3) The list of dangerous harmful substances (hereinafter "dangerous substances") is contained in Attachment No. 1 of this Act; this list also includes especially dangerous harmful substances (hereinafter "especially dangerous substances").

4) Whoever uses especially dangerous substances or dangerous substances or handles larger quantities of harmful substances or where such handling poses an elevated danger, must take adequate measures to prevent their entry into surface water or groundwater or sewerage systems which are not part of the production facility technological equipment. In particular, he/she is obliged to:

a) locate facilities for using, accumulating, storing, processing or transporting harmful substances in a manner preventing undesirable emission of such substances into the soil or their undesirable mixing with waste or precipitation water,

b) use only such equipment and apply only such handling methods which are appropriate for the sake of water quality protection,

c) check warehouses and stores at least once in every 6 months, and at least once in every 5 years, unless the time limit specified by a technical standard or the manufacturer is shorter, test the fitness of pipes and tanks designed for storing harmful substances as well as vehicles used for their transport and carry out timely repairs thereof; warehouses must be secured against leaks of harmful substances into groundwater,

d) construct and operate an appropriate control system for the detection of emission of harmful substances,

e) ensure that newly constructed structures be secured against undesirable leaks of these substances during fire-fighting.

5) The measures stipulated under par. 4 shall correspondingly apply to the used packaging of harmful substances.

6) Whoever uses especially dangerous substances must keep records on the type of substances processed or used, their quantity, the contents of their active components, their characteristics, particularly in relation to surface water and groundwater and provide this information, if requested, to the water authority and the Fire Rescue Services of the Czech Republic.

7) The water authority may permit exceptions in respect of the use of harmful substances under par. 1, except for oil or oil-derived substances, for necessarily required scope, for a limited period, and provided they will be used for

a) improvement and maintenance of the watercourse,

b) feeding fish,

c) health reasons,

d) treatment of surface water or groundwater for certain types of use, e.g. coagulating inorganic nutrients directly in the watercourse,

e) removing undesirable flora or fauna from the watercourse or

f) as tracking substances for the purposes of measurement.

g) in the scope of approved treatment technologies.

8) In a decree, the Ministry of the Environment will stipulate the particulars of the emergency plan and the rules for the use of harmful substances.

9) The washing of motor vehicles and other mechanical equipment in watercourses or in places where there could be a degradation of quality of surface water or groundwater, is prohibited.

## Section 40

### Accidents

1) Accident is an exceptional serious deterioration or exceptional serious threat to the quality of surface water or groundwater.

2) Serious deterioration or exceptionally serious threat to the quality of surface water or groundwater by oil or oil-derived substances, especially dangerous substances or radiation emitting substances and radioactive waste or deterioration or threat to the quality of surface water or groundwater in protected areas

of natural water accumulation or in a protected zones of water resources are always considered to be accidents.

3) Technical disorders and break-downs of equipment used for accumulating, storing, transporting and disposing of substances stipulated under par. 2, are also considered as accidents, in cases where this is designed to prevent such emissions.

#### Section 41

##### **Obligations in Case of Accident**

1) Whoever causes the accident (hereinafter "accident originator") is obliged to take immediate measures to eliminate the causes and consequences of the accident. He/she must follow the emergency plan and, if pertinent, the instructions of the water authority and the Czech Environmental Inspectorate.

2) Whoever causes or detects an accident, must immediately notify the Fire Rescue Services of the Czech Republic or the fire protection units or the Police Force of the Czech Republic or, if pertinent, the river basin administrator.

3) The Fire Rescue Services of the Czech Republic, the Police Force of the Czech Republic and river basin administrator are obliged to immediately inform the respective water authority and the Czech Environmental Inspectorate of the accident reported. If the accident occurred in the protected areas of natural curative resources and resources of natural mineral water, the Czech Environmental Inspectorate will also inform the Ministry of Health. The water authority shall govern the work aimed at amelioration of the accident.

4) If an accident of exceptional extent occurs and which may seriously threaten the lives or health of people or cause considerable damage to property, the provisions on flood protection shall apply correspondingly to protection against the harmful consequences of the accident.

5) The accident originator is obliged, if requested by authorities stipulated under par. 3, to co-operate with such authorities in taking measures to eliminate the causes and consequences of the accident.

6) Persons who participate in measures to ameliorate the accident are obliged to provide the Czech Environmental Inspectorate and the Fire Rescue Services of the Czech Republic with the required information, if requested.

7) In a decree, the Ministry of the Environment shall stipulate the method and scope of accident reporting, its amelioration and elimination of its harmful effects.

#### Section 42

##### **Remedial Measures**

1) For elimination of the consequences of unauthorised discharge of waste water, unauthorised operations involving harmful substances or accidents (hereinafter "the impacted state"), the water authority or the Czech Environmental Inspectorate shall impose on those who violate the obligations specified for the protection of the quality of surface water or groundwater (hereinafter "the originator") the obligation to take measures necessary to remedy the impacted state (hereinafter "the remedial measures") or also measures to ensure the compensatory withdrawal of water, if required by the character of the problem. Costs of the implementation of the remedial measures shall be borne by the person on whom remedial measures have been imposed. Should the person on whom remedial measures have been imposed fail to perform such measures and danger may be involved in delay, the water authority or the Czech Environmental Inspectorate shall ensure the measures at the originator's account. Whoever caused the impacted state is considered as the impacted state's originator. Should an accident occur as a result of an action by the Fire Rescue Services of the Czech Republic or fire protection units, they will not be considered as accident originators provided they applied reasonable means for the action.

2) The water authority or the Czech Environmental Inspectorate shall impose remedial measures, as required, on the acquirer of property, acquired in a manner specified in a special act<sup>22)</sup>, who is not the impacted state's originator but to whose so-acquired property the impacted state relates. The water authority

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<sup>22)</sup> Act No. 92/1991 Coll. on the Conditions of the Transfer of State Property to Third Persons, as later amended.

or the Czech Environmental Inspectorate shall proceed in this manner provided the property acquirer acquired such property while being aware of the ecological burden and provided a special contract was signed addressing the issue or provided he/she was granted a discount from the purchase price due to the impacted state which is the subject matter of the remedial measures. The water authority or the Czech Environmental Inspectorate shall proceed in this manner even if the originator of the impacted state still exists.

3) Obligations resulting from the remedial measures imposed upon the originator of the impacted state under par. 1 or property acquirer pursuant to par. 2 are transferred to their legal successors.

4) If remedial measures pursuant to par. 1 through 3 cannot be imposed and if there is a risk of serious threat or pollution of surface water or groundwater, the respective water authority from its own initiative or if requested by the Czech Environmental Inspectorate shall ensure that the required remedial measures be carried out. For this purpose it is entitled to impose carrying out of remedial measures upon a legal entity or natural person doing business pursuant to special legal regulations<sup>23)</sup>, who has the required technical and professional capabilities to carry out remedial measures. Only such person is party to the proceeding on the imposition of measures; appeals against this decision do not suspend the requirement to carry out the imposed measures. For this purpose, the regional authority shall establish a special account within its budget which will be supplemented annually to maintain the balance of CZK 10 000 000.

5) Owners of property to which the impacted state is related or whose property must be used to remove the impacted state other than those upon whom remedial measures have been imposed, are obliged to allow the remedial measures imposed or ordered by the water authority to be carried out. For this purpose, they must allow access to their land and buildings to persons and vehicles and suffer limitations in normal use of their respective land and buildings.

6) Special regulations<sup>24)</sup> apply to access by persons or vehicles in buildings and facilities belonging to the Armed Forces of the Czech Republic, the Police Force of the Czech Republic, the Intelligence Service and the Prison Service of the Czech Republic.

7) Should remedial measures affect land and buildings of third persons, the ownership rights of the respective real estate properties must be honoured as much as possible; unless danger is involved in a delay, entry by persons or vehicles and the intended limitations on normal use of real estate properties must be announced in advance. After the termination of remedial measures, persons upon whom the performance of remedial measures had been imposed, are obliged to return the land and buildings in their original condition at their own account, unless another agreement has been reached with the owners; should remedial measures be carried out based on a decision of the water authority pursuant to paragraph 4, these costs will be borne by the respective district authority.

8) Compensation for property damage or limitations incurred to the owners during the performance of remedial measures on their land and buildings, shall be paid by those on whom remedial measures had been imposed. In cases specified under par. 4, the respective water authority is responsible for this compensation. The compensation claim must be made with the person on whom remedial measures had been imposed or with the respective water authority within 6 months of the day when it arose, otherwise it expires. This provision does not affect the right to claim damages.

## CHAPTER VI

### WATERCOURSES

#### Section 43

#### Watercourses

1) Watercourses are surface waters running by gravity in their channel either permanently or for the prevailing part of the year including water artificially impounded in such channels. They include water in

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<sup>23)</sup> No. 455/1991 Coll. on Small Businesses (the Small Business Act) as later amended.

<sup>24)</sup> E.g. Act No. 222/1999 Coll. on Ensuring the Defense of the Czech Republic.

dead-end branches and sections temporarily running below the earth surface in natural cavities or in covered sections.

2) The water authority shall decide in case of doubt as to whether a body is a watercourse or not. It may also decide that surface waters other than those specified in par. 1 constitute a watercourse.

3) The provisions of a special act<sup>25)</sup> on torrent regulation are herewith not affected.

#### Section 44

##### **Watercourse Channels**

1) If a watercourse flows on land registered in the real estate register as water area, such land constitutes the channel of the watercourse. If a watercourse flows on land not registered as water area in the real estate register, the watercourse channel is the part of the land involving the bottom and the banks as far as the bank line, which is determined by the level of water normally flowing in the channel without spilling onto the adjacent territory.

2) The water authority having the respective territorial jurisdiction shall decide in cases of disputes concerning the watercourse channel boundaries.

#### Section 45

##### **Watercourse Channel Changes**

1) If a watercourse changes its natural channel as a result of natural forces during flood and a new watercourse comes into existence, the owners of land, watercourse administrator and persons authorised for water use who are affected by the new situation, may jointly or individually apply to the water authority for the permission to return the watercourse in its original channel at their own account. The State may contribute for the watercourse channel renewal after flood (Section 102) to applicants who obtain such permission.

2) If the original condition is not renewed, the State will buy the plot of the original or new watercourse channel, if offered for sale by the owner of the respective land plot. This does not apply to plots owned by municipalities.

3) Should the original condition not be renewed due to the fact that the water authority has not issued the permission for renewal in public interest, the owners of the affected land shall be entitled for compensation of damages pursuant to par. 2, while others authorised for water use and affected by this decision are entitled to reasonable compensation.

4) The right to claim renewal and damages expires after three years of the year in which the change occurred.

#### Section 46

##### **Protection of Watercourses and their Channels**

1) It is forbidden to change the direction, the longitudinal slope and the cross-section of the watercourse channel, damage its banks, excavate soil, sand or raw materials from watercourse channels, deposit objects in watercourses which might endanger fluent water flow, human health or safety and deposit such objects in areas from which they may be washed into the water.

2) The provisions of the preceding paragraph do not relate to cases when specified activities are carried out pursuant to this Act.

#### Section 47

##### **Administration of Watercourses**

1) Watercourses are subject to administration. They are classified into significant watercourses and minor watercourses. In a decree, the Ministry of Agriculture, in co-operation with the Ministry of the Environment, shall stipulate a list of significant watercourses.

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<sup>25)</sup> Section 35 of Act No. 289/1995 Coll. as later amended.

- 2) Watercourses administration is understood to include the following obligations
- a) to monitor the condition of watercourse channels and adjacent land in terms of the watercourse functions
  - b) to care for watercourse channels, in particular to maintain the channels in conditions which ensure sufficient water flow and depth in draining water from the area and which are as close as possible to natural conditions, to maintain bank side vegetation on the watercourse banks or on adjacent land in a manner preventing such vegetation from becoming an obstacle to water flow in flood situations or, if pertinent, plant bank side vegetation on the watercourse banks or on adjacent land taking account of the objective of achieving a species structure as close as possible to the original conditions, unless such obligations have been imposed upon the owners of land containing watercourse channels,
  - c) to operate and maintain in good condition those water management structures in watercourse channels that are necessary for ensuring the watercourse functions<sup>26)</sup>, or serve predominantly to the watercourse, and which are owned by watercourse administrators or used by them based on another legal cause,
  - d) to prepare and ensure improvements to watercourse channels if they serve for ensuring the watercourse functions,
  - e) to create conditions allowing for justified water use related to watercourses; in extreme situations on watercourse, as far as it is allowed by hydrological conditions and the condition of the watercourse,
  - f) to inform the respective water authority of serious defects detected in watercourse and its channel caused by natural or other impacts; at the same time, to propose remedial measures, renew natural watercourse channels, in particular in specially protected areas<sup>27)</sup> and in territorial systems of ecological stability<sup>28)</sup>,
  - g) to co-operate in ameliorating accidents on watercourses

3) In a decree, the Ministry of Agriculture will stipulate the method of carrying out activities pursuant to par. 2.

4) Apart from the watercourse administration obligations pursuant to par. 2, the administration of significant watercourses also includes the following further obligations:

- a) to operate and maintain in good condition water management structures on significant watercourses, facilitating justified use of surface water, owned by the administrators of significant watercourses or used by them based on another legal cause,
- b) to maintain the navigability of significant water ways in use and to trace out and mark the shipping track on waterways<sup>7)</sup>
- c) to maintain in good condition and to operate third-party water management structures on watercourses if so decided by the water authority (Section 59, par. 3),
- d) to govern and influence management of water in a system of water reservoirs in compliance with overall rules of operation,
- e) to initiate suggestions for production, amendments and co-ordination of the rules of operation of water management structures owned by third parties
- f) to co-operate in amelioration of accidents within the river basin if they may endanger water quality in significant watercourses,
- g) if requested by the Ministry of Agriculture, to submit to the Ministry for approval draft overall rules of operation which co-ordinate operational rules of individual water management structures forming a system of water reservoirs and to suggest to water authorities changes in permissions for water use, if affected by the approved rules of operation; the water authority is obliged to issue decision on such suggestions,
- h) to co-operate with the administrators of minor watercourses in solving tasks relating to watercourses within the river basin area.

## Section 48

### Watercourse Administrators

1) The administration of significant watercourses is ensured by legal entities established pursuant to a special act<sup>17)</sup> (hereinafter “river basin administrators”); for the purposes of this Act they are considered as

<sup>26)</sup> E.g. Section 3 and 4 of Act No. 114/1992 Coll. as later amended.

<sup>27)</sup> Section 14 of Act No. 114/1992 Coll. as later amended.

<sup>28)</sup> Section 4 of Act No. 114/1992 Coll. as later amended.

administrators of watercourses.

2) Municipalities through the territory of which minor watercourses flow or natural persons or legal entities, or organisational components of the state using minor watercourses or to whose activity the minor watercourses are related are entitled to carry out the administration of small watercourses when appointed to do so by the Ministry of Agriculture. The Ministry of Agriculture shall decide on the appointment of the administrator of a minor watercourse on the basis of an application; this shall not be the case for the appointment of the administrator of a minor watercourse, which is an organisational component of the state.

3) On the territory of military domains<sup>29)</sup> the administration of minor watercourses shall be secured by the Ministry of Defence. On the territory of national parks the administration of minor watercourses shall be secured by the National Park Administrators<sup>30)</sup>; for the purposes of this Act the Ministry of Defence and National Park Administrators are considered as administrators of watercourses.

4) On small watercourses for which no administrator was appointed, the administration is undertaken by the administrator of the watercourse to which the minor watercourse is a tributary until the time when the administrator is appointed pursuant to par. 2. This shall be the case even when there is an integrated section of a minor watercourse with an appointed administrator, which is part of a minor watercourse to which an administrator has not been appointed.

5) In a decree, the Ministry of Agriculture will stipulate the contents of the application pursuant to par. 2 and its details required for decision.

6) The river basin administrator shall execute supervision of the administration of small watercourses. Should the administrator of a small watercourse fail to fulfil his/her obligations according to this Act, the Ministry of Agriculture will terminate his/her appointment as an administrator of a small watercourse at the request of the river basin administrator.

7) The Rules of Administration do not apply to the determination or termination of the appointment of a small watercourse administrator.

#### Section 49

#### **The Rights in Watercourse Administration**

1) Watercourse administrators are authorised:

- a) in the execution of their administration to enter another person's land and buildings to the necessary extent, provided no permission is required according to special regulations,
- b) in the interest of the care of the watercourse channel and in co-operation with land owners, to remove or plant new trees and bushes on the land adjoining the watercourse,
- c) to request the submission of approval or permission of the water authorities concerning the watercourse and to determine whether such permissions are honoured,
- d) to give orders for the operation of the water management structures to their users in compliance with the overall rules for the operation of a system of water reservoirs on a watercourse, if required in exceptional situation.

Special regulations regarding the protection of nature and landscape<sup>31)</sup> are not affected by the execution of the above authorisation.

2) In the execution of their administration of watercourse, if necessarily required and upon prior consultation with land owners, the watercourse administrators may use land adjacent to the watercourse channel, as follows:

- a) in case of watercourses which are significant waterways, to a maximum width of 10 meters from the bank line
- b) in case of significant watercourses other than stipulated under letter a) to a maximum width of 8 meters from the bank line,
- c) in case of minor watercourses to a maximum width of 6 meters from the bank line.

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<sup>29)</sup> Act No. 222/1999 Coll. as amended by Act 254/2001 Coll.

<sup>30)</sup> Act No. 114/1992 Coll. as later amended.

<sup>31)</sup> E.g. Act No. 114/1992 Coll. as later amended.

3) The water authority may, if necessarily required and for a necessary period of time only, determine that a larger width of land adjacent to a watercourse than specified in par. 2 may be used.

4) If the watercourse administrator causes any damage while exercising his/her authorities pursuant to par. 1 or 2, he/she shall be responsible for its compensation. General rules are applied for damage compensation.

#### Section 50

##### **Obligations of Owners of Land on which Watercourse Channels are Located**

Owners of land on which watercourse channels are located must

- a) suffer on their land the placement of bank side vegetation as well as general use of water in the watercourse,
- b) maintain the watercourse banks in condition required to ensure harmless water flow, remove obstacles and foreign objects from the watercourse, except for sediments, provided such activities do not require special costs, special professional competence or use of special techniques,
- c) suffer on their land water management structures located within the watercourse channel and constructed before the effective date of this Act,
- d) report to the watercourse administrator apparent defects of the watercourse channel,
- e) suffer on their land without compensation the placement of equipment for monitoring the status of surface water and groundwater and ecological functions of the watercourse, e.g. navigation marks etc.,
- f) enable the water authority, the Czech Environmental Inspectorate and the watercourse administrator to exercise their duties,
- g) allow other people to pass along the watercourse running on their land; after consulting with the respective watercourse administrator, the water authority may allow exception from this obligation; this does not apply to plots in a presently built-up area of municipality and for fenced plots.

#### Section 51

##### **Obligations of Owners of Land Adjacent to Watercourse Channels**

1) Owners of land adjacent to watercourse channels must

- a) enable the watercourse administrator to exercise their duties,
- b) suffer on their land without compensation the placement of equipment for monitoring the status of surface water and groundwater and ecological functions of the watercourse, e.g. navigation marks etc.,
- c) allow passage to other people, after prior consulting with them, through their property; this does not apply to plots in a presently built-up area of municipalities and for fenced plots.

2) The water authority may forbid the owners of land lots adjacent to watercourses to fell trees and bushes, which stabilise the watercourse channel.

3) If the land owner suffers a damage as a result of execution of these rights he/she is entitled to its compensation.

#### Section 52

##### **Obligations of Owners of Structures and Facilities Situated in Watercourse Channels or Adjacent Thereto**

1) Owners of structures and facilities situated in the watercourse channels or adjacent to it must remove objects caught or stuck on such structures and facilities and treat them pursuant to a special act<sup>32)</sup>.

2) Owners of structures which are not water management structures or facilities situated in a watercourse channel or adjacent to it must in public interest maintain their static safety and carry out general maintenance so that they do not threaten the continuous surface water flow and so that they are safeguarded against damage caused by water and ice-drift. Should a continuous water flow be interrupted due to neglected care for such structures or facilities, their owners must at their own account remedy the situation and fully renew continuous water flow; otherwise the water authority is entitled to ensure remedy at the owner's account; this does not affect the liability for damage caused by neglecting due care for a structure or facility situated in a watercourse channel or adjacent to it.

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<sup>32)</sup> Act No. 185/2001 Coll. on Waste and Change to Some Other Acts.

## Section 53

### **Doubt as to the Extent of Obligations and Rights**

In case of doubt as to the extent of obligations or rights of river basin administrators or watercourse administrators, the Ministry of Agriculture shall decide the issue. It will also do so in case of doubt as to the extent of obligations of owners of land of the watercourse channel, owners of land adjacent to watercourse and owners of structures and facilities situated in the watercourse or adjacent to it. Should such doubt occur in a water administration proceeding in which the person whose rights or obligations are in doubt is a party, the water authority governing such proceeding shall decide the issue.

## CHAPTER VII

### **RIVER BASIN ADMINISTRATION**

## Section 54

1) River basin administration means the administration of significant watercourses (Section 47, par. 4), some activities connected with monitoring and assessment of the status of surface water and groundwater in the given river basin (Section 21) and other activities carried out by river basin administrators pursuant to this Act.

2) River basins are administered by river basin administrators.

3) River basin administrators provide technical, economic and other information available to them to the water authority, if requested, for their use.

4) Within the scope of their activity, river basin administrators initiate and submit proposals and opinions to water authorities and other administrative authorities from the point of view of the interests of the given corresponding water management plans and other interests regulated by law, in particular in the matters of the protection of hydrologic conditions, protection of waters, economic use of water resources, minimum residual flow of watercourses, minimum groundwater level and in cases of temporary shortage of water. Furthermore they provide the standpoints of river basin administrators for the issue of permits to use water [Section 8 par. 1 letter a) to c)], for the issue of permits for certain other activities [Section 14 par. 1 letter a) to c)], for the issue of building permits for water management structures (Section 15), for granting of agreement (Section 17) and for issue of a statement (Section 18), in which they assess the compliance of the aims to locate, build, change or remove structures and facilities, or perform other activities with the abovementioned interests, if such aims could affect the water conditions, energy potential, or quality and quantity of surface water or groundwater.

5) River basin administrators work together with the administrators of minor watercourses and authorised professional institutions on the solution of tasks regarding the entire river basin district.

## CHAPTER VIII

### **WATER MANAGEMENT STRUCTURES**

## Section 55

### **Water Management Structures**

1) Water management structures are structures used for impounding and retention of water, artificial regulation of surface water flow regime, protection and use of water, water utilisation, protection against harmful effects of water, improvement of water regime or for other purposes intended by this Act, in particular:

- a) dams, dykes, water reservoirs, weirs and pools,
- b) structures which regulate, change or establish watercourse channels,
- c) water-supply systems and waterwork buildings including water treatment plants, sewers and sewerage facilities including waste water treatment plants and structures for waste water treatment before it is discharged into the sewerage system,

- d) flood protection structures,
- e) structures for land reclamation and land irrigation and drainage,
- f) structures established in the channels of watercourses or on their banks for navigational purposes,
- g) structures intended for using the water energy and its energy generating potential,
- h) sludge bed structures,
- i) structures used for the monitoring of surface water and groundwater status,
- j) wells,
- k) structures intended for regulating torrents and ravines, unless a special act<sup>25)</sup> specifies otherwise,
- l) other structures required for water use subject to permission in accordance with Section 8.

2) Simple facilities outside the watercourse channels located on individual plots and structures intended for the retention of water and the protection of individual plots and structures against the harmful impacts of surface water or groundwater, as well as simple facilities outside watercourses used for waste water accumulation (septic tanks) and water supply and sewerage connections, are not considered to be water management structures according to this Act, unless specified otherwise by special regulations<sup>33)</sup>. Research hydro-geological boreholes and other facilities constituting part of geological works are not considered to be water management structures either<sup>20)</sup>.

3) In case of doubt whether a water management structure is involved or not, the water authority with the respective territorial jurisdiction shall decide the issue.

#### Section 56 **Structures for Land Reclamation**

1) For the purpose of this Act, the following structures are considered to be structures for land reclamation

- a) for land irrigation and drainage,
- b) for land protection against water erosion.

2) For the purpose of this Act, structures for drainage of agricultural land are divided into main drainage facilities and subsidiary drainage facilities, while a subsidiary drainage facility means lateral and main drains, drainage wells and outlets in sub-surface drainage systems, and drainage ditches and connected structures in surface drainage systems.

3) In a decree, the Ministry of Agriculture will specify the detailed list of structures for land reclamation and parts thereof including the method and scope of care for them.

4) Owner of land on which a structure for land reclamation or part thereof is situated while such structure is connected with several land lots or was established in public interest and was built before the effective date of this Act, is obliged to

- a) suffer the structure for land reclamation or its part on his/her property,
- b) use the land in a manner not negatively affecting the function of the structure for land reclamation or its part,
- c) report to the owner of the structure for land reclamation or to the water authority, obvious dysfunction of the structure or its part,
- d) suffer that his/her land is used to the necessary scope for the maintenance of the structure for land reclamation or its part.

5) In case of doubt regarding the scope of obligations of the owner of land on which the structure for land reclamation or its part is located, the owner of land adjacent to land on which the structure for land reclamation or its part is located or, if relevant, the obligation of the administrator of the connected watercourse, the water authority shall decide the issue to ensure the function of the structure for land reclamation.

6) The state, through its organisational units, which will be established for this purpose by the Ministry of Agriculture, shall administer structures for the reclamation of land owned by the state, unless the Ministry of Agriculture reaches an agreement on administering these structures with legal entities using such

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<sup>33)</sup> E.g. Decree No. 144/1978 Coll. on the Public Water Supply Systems and the Public Sewerage Systems as amended by Decree No. 185/1988 Coll.

structures or to the activity of which such structures are related.

#### Section 57

### **Use of Water Management Structures by Third Persons**

Should the immediate benefit from a water management structure go to an authorised person (Section 8) other than the owner of such water management structure, this person is obliged to share the costs of maintenance of the structure. If agreement is not reached regarding the amount and method of compensation of costs between the owner of the water management structure and the authorised person, the court will decide the issue. This does not apply, provided the owner of the water management structure is the administrator of the watercourse and the person authorised for water use in this water management structure pursuant to Section 8 is obliged to pay a fee for the administration of watercourses and river basin administration pursuant to Section 101 and if the person authorised for water use pursuant to Section 8 uses the water solely for the purpose of utilising its energy generating potential for electricity production in facilities up to a 10 MW output.

#### Section 58

### **Protection of Water Management Structures**

- 1) It is prohibited to damage water management structures and their functions.
- 2) In particular, the following is prohibited:
  - a) to plant wood species on levees, to drive upon them with vehicles except for maintenance purposes except for places intended for these purposes,
  - b) to damage staff gauges, water meters, water gauges, water marks, flood marks and other facilities serving for the fulfilment of tasks stipulated by this Act.
- 3) Based on a proposal of the owner of the water management structure and in the interest of its protection, the water authority may specify protected zones along this water management structure and prohibit or limit the location and construction of some structures or activities therein, in accordance with the character of the water management structure. The owners of land and buildings in the protected zone are entitled to compensation for any damage suffered by them as a result of the above ban or limitation from the owner of the water management structure. If agreement is not reached between the owner of the land and buildings inside the protected zone and the owner of the water management structure regarding the amount of compensation, the court will decide the issue.

#### Section 59

### **The Obligations of Owners of Water Management Structures**

- 1) The owner of a water management structure is obliged to:
  - a) observe the conditions and obligations under which the water management structure has been permitted, particularly the approved rules of operation and service, and submit to the water authority proposals for any modifications of these rules for approval, so that they conform to the overall operational rules for the entire system of water management structures; the Ministry of Agriculture shall stipulate the details of the rules of operation and service in a decree,
  - b) maintain the water management structure in proper condition so as to avoid endangering the safety of people, property and other protected interests,
  - c) ensure at his own expense technical and safety supervision of the water management structure, provided the structure is subject to such supervision,
  - d) carry out at his own expense, the measures imposed by the water authority to remedy the defects found in the water management structure, particularly those imposed in the course of water management supervision,
  - e) obey the instructions of the watercourse administrator in case of extreme situations on the respective watercourse,
  - f) remove objects and masses caught or stuck on the water management structures and treat them in accordance with a special regulation<sup>32)</sup>,
  - g) place water gauge, water mark or staff gauge on the water management structure and ensure special modification of spillway or outlet structure in accordance with the decision of the water authority,

- h) place navigation signs on the water management structure
- i) in case of water management structure intended for impounding water in the watercourse, maintain, at his own expense, the river channel and banks in the backwater area in a proper condition, care for fluent water flow, in particular remove silt and obstacles, and, if technically possible and economically acceptable, create conditions for the migration of aquatic fauna, unless structures are involved,
- j) remove self-seeded wood species from dams used for flood protection, for water impounding or water accumulation; a special act<sup>30)</sup> does not apply to these obligations except for cases when memorial trees or especially protected plant species are involved. Before their removal, unless danger may be caused by delay, the owner of the water management structure must inform the nature protection body about his intention.

2) The water authority may through a decision, impose the obligation to prepare and submit for approval the rules of operation or rules of service of the water management structure.

3) If required in public interest and if the obliged person does not fulfil his/her obligations properly and does not remedy the situation within a specified deadline, the water authority may decide that another person will take-over the operation or maintenance of the water management structure for a necessary period. The authorised person shall operate and maintain the structure at the expense of the obliged person; if such person does not exist, the state will carry the cost.

4) The state will participate in the removal of obstacles for migration of aquatic fauna in the watercourse caused by water management structures built prior to the effective date of this Act.

#### Section 60 Access to Land

1) The owners of land plots adjacent to a water management structure must, upon prior consultation with them, allow access to those ensuring the operation or those carrying out the maintenance of the water management structure, for the purpose of such operation and maintenance, within the scope as necessary.

2) Should the land owner suffer a damage as a result of such access, he/she is entitled to compensation.

#### Section 61 Technical and Safety Supervision of Water Management Structures

1) Technical and safety supervision of water management structures (hereinafter "the technical and safety supervision") is understood as detecting the technical and safety condition of water management structures for impounding or retaining water in respect of their security and stability and possible causes of defects. It is carried out in particular in the form of the water management structure monitoring and inspections, measuring their deformations, monitoring water leakage and evaluating the results of all observations and measurements in relation to the beforehand-stipulated limit or critical values. Technical and safety supervision includes drafting of measures for the elimination of detected defaults.

2) For the technical and safety supervision purposes, water management structures are divided into categories I to IV, depending on the risk to human lives, possible property damage in the adjacent territories and losses resulting from the limitation of functions and benefits in public interest.

3) In a decree, the Ministry of Agriculture will stipulate the water management structures subject to technical and safety supervision, the criteria for individual water management structure categories, the scope and frequency of technical and safety inspections for individual water management structure categories and for individual stages of their preparation, construction, overhaul or operation.

4) Whoever requests a permission for a new water management structure intended for water impounding or retention or for a change of one that has already been completed, must, together with the application for permission, also submit expert opinion regarding the need for or, if pertinent, draft conditions for carrying out the technical and safety supervision at this water management structure, prepared by the person stipulated under par. 9.

5) The water authority shall decide about the obligation to ensure technical and safety supervision of a water management structure and its scope or, if pertinent, the conditions for its performance, and on the classification of the water management structure into categories I to IV, considering the expert opinion

pursuant to the preceding paragraph, as a rule during the stage of construction permit or change permit issuance. In cases of water management structures whose impact pursuant to paragraph 2 exceeds the territorial jurisdiction of the water authority, the regional authority may reserve the right to issue such decision; in cases when the impact under par. 2 exceeds the jurisdiction of regional authority, the Ministry of Agriculture may reserve the right to issue such decision.

6) The water authority may decide on a change of the water management structure category, the scope of the technical and safety supervision or conditions for its execution, if conditions under which the previous decision was issued change significantly.

7) The water authority will submit the information on the classification of a water management structure into categories I to III or a change thereto, to the Ministry of Agriculture.

8) The Ministry of Agriculture will keep a summary record of the classification of water management structures into categories I to III.

9) Only professionally capable persons authorised for this purpose by the Ministry of Agriculture may carry out technical and safety supervision over water management structures of categories I to III and prepare expert opinion for the classification of water management structures of categories I to IV with respect to technical and safety supervision. If such a person is the owner of a water management structure of category I or II it must not carry out the technical and safety supervision of the structure itself.

10) The authorisation to carry out technical and safety supervision can only be granted to a person having the appropriate technical education, staff and equipment that fulfils the conditions for the qualified performance of technical and safety supervision.

## Section 62

### **The Obligations of Owners and Builders of Water Management Structures During the Technical and Safety Supervision**

1) The owner or builder of a water management structure is obliged to ensure the technical and safety supervision at his own account, within the scope stipulated by the Ministry of Agriculture's Decree pursuant to Section 61, par. 3. The water authority may decide on additional obligations stipulated for the performance of such supervision.

2) The owner or builder of a water management structure classified into categories I and II is obliged to ensure technical and safety supervision through an authorised and professionally capable person and to participate in its performance within the scope stipulated in a decree of the Ministry of Agriculture.

3) The owner or builder of a water management structure classified into categories III and IV may perform the technical and safety supervision on his/her own.

4) When performing technical and safety supervision, the owner/builder of a water management structure classified into categories I to IV must:

- a) select a natural person responsible for the performance of the technical and safety supervision and notify the respective water authority of such person's name, surname, address and, if relevant, place of work and phone number; for water management structures of category I and II, this information must also be delivered to the authorised and professionally capable legal entity (Section 61, par. 9) responsible for carrying out technical and safety supervision of the given structure,
- b) invite the respective water authority for the inspection of water management structure of category I at least annually, of category II at least once in every two years, of category III at least once in every four years and of category IV once in every ten years,
- c) deliver reports on the results of the technical and safety supervision within deadlines according to letter b) or, in the case of occurrence of abnormal situations affecting the safety of the respective water management structure, to the respective water authority; for structures classified into categories I and II, ensure their submission through the authorised professionally capable legal entity.

## CHAPTER IX

### PROTECTION AGAINST FLOODS

#### *Part 1*

#### *Protection Against Floods*

#### Section 63

1) Protection against floods is understood as measures aimed at avoiding and preventing losses of human lives and damages to material property of population and society, as well as to the environment, performed, in particular through systematic preventive measures, increasing the retention capacity of the river basins and affecting the evolution of floods.

2) Protection against flood is ensured in compliance with flood protection plans and, in case of declaring a critical situation, the emergency plans<sup>34)</sup>.

3) To ensure the protection against floods, everyone must allow entrance by persons or vehicles to their land and buildings to those who manage, co-ordinate and execute security and rescue work, everyone must provide at the request of the flood protection authorities physical and material assistance for the protection of human lives and property against floods and must obey the orders of the flood protection authorities.

4) Should the owner of the land and buildings incur any damage during such activities he/she is entitled to compensation.

#### Section 64

#### **Floods**

1) For the purpose of this Act, flood shall be a temporary marked increase in the water level in a watercourse or other surface water body, causing water to flood the surrounding land outside the watercourse channel, and being possible causing factor of a damage; flood shall also be a condition under which water can cause damage by the fact that it cannot temporarily flow away in a natural manner or the outflow of water is insufficient or the area is flooded by a concentrated outflow of precipitation. Flood can be caused by natural factors, particularly by snow melting, rain or movement of ice (natural flood) or other factors, in particular by failure of a water management structure which may lead to its collapse or by taking emergency measures in critical situations (special flood).

2) Flooding begins with the notification of the second or third degree of flooding activity (Section 70) and ends with the revocation of the third degree of flooding activity, unless the second degree of flooding activity is announced at the time of revocation of the third degree of flooding activity. In this case flooding ends with the revocation of the second degree of flooding activity. Flooding is also the situation given in par. 1, during which the second or third degree of flooding activity is not declared, but the situation or flow of water in the given profile or rainfall has reached prevailing levels for one of those levels of flooding activity according to the flood protection plan of the given territorial unit. In case of doubt whether a certain area was flooded at a certain time, provided it fulfils some of these conditions, the water authority makes the decision.

3) The following situations are considered as situations posing flood danger

- a) specified limit of the water level or flow in a watercourse is reached and the increase tends to continue,
- b) heavy rain falling for long period of time, forecasted occurrence of intensive precipitation or snow melting, dangerous movement of ice or occurrence of dangerous ice jams and blockages,
- c) emergency situation of a water management structure posing a danger that the structure may become damaged.

#### *Part 2*

#### Section 65

#### **Flood Protection Measures**

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<sup>34)</sup> Act No. 240/2000 Coll. on Emergency Management and Change to Some Acts (the Emergency Management Act).

- 1) Preventive measures and measures in situations posing flood danger are
- a) determination of flood plain areas
  - b) specification of limits for flood protection activity degrees
  - c) flood protection plans
  - d) flood protection inspections
  - e) organisation of flood forecasting and reporting services,
  - f) organisational and technical preparation
  - g) creation of flood reserve stock
  - h) clearing of flood plain areas
  - i) training of persons participating in flood protection activities,
  - j) activities of the flood forecasting service,
  - k) activities of the flood reporting service
  - l) warning in cases of danger of floods,
  - m) establishment and activities of the watching service,
  - n) flood recording and documentation.

- 2) Measures taken during flood are
- a) regulation of flow regime,
  - b) flood protection activities,
  - c) flood rescue activities,
  - d) activities aimed at ensuring substitute functions and services in territories affected by floods.

3) Flood documentation and assessment including the assessment of damage caused by flood, causal factors adversely affecting the flood, efficiency of adopted measures and proposals for amendment to flood protection measures constitute an integral part of flood protection measures.

4) Construction, maintenance and repairs of structures and other installations serving for flood protection, as well as investments evoked by floods are not flood protection measures as specified by Section 65 of this Act.

## Section 66 **Flood Plain Areas**

1) Flood plain areas are administratively determined areas exposed to flooding in case of natural flood. The water authority is obliged to stipulate their extent based on a proposal submitted by the watercourse administrator. The water authority may oblige the watercourse administrator to prepare and submit such proposal in compliance with the plans of the main river basins and river basin district plans.

2) In built-up municipal areas and areas designated for built-up areas in the regional land use plans, or in other areas as required, the water authority, based on a proposal by the watercourse administrator, will determine the flood plain area active zone in accordance with danger caused by flood flow.

3) In a decree, the Ministry of the Environment will stipulate the method and scope of drafting and determining the flood plain areas.

4) The water authority that had determined the flood plain area will submit the maps and documentation of such areas to the respective building control authorities and the Ministry of the Environment.

5) If flood plain areas have not been determined, the water authorities and building control authorities may base their activities on the documentation available from the river basin and watercourse administrators which determine the probable boundaries of the area endangered by floods.

6) The Ministry of the Environment, based on documentation prepared by the watercourse administrators, will ensure that records on the flood plain areas determined in the territory of the Czech Republic be kept and recorded in the public administration's information system.

7) The determination of flood plain areas is not governed by the Rules of Administration.

## Section 67

### **Restrictions in Flood Plain Areas**

1) Locating, permitting and building structures inside the active zone of the flood plain area is prohibited except for water management structures aimed at regulating the watercourse, flood flow routing, performing flood protection measures or measures which are otherwise related to the watercourse or improve the flow regime, structures for water retention, waste water and rain water disposal and also necessary transport and technical infrastructure structures, organising the setting up of hop fields, if they are set up in the flood plain areas demarcated pursuant to Act 97/1996 Coll., on Protection of Hops, as amended, on condition that measures to minimise the effect on flood flows will be simultaneously put into effect.

2) The following is also forbidden in the active zone

- a) extracting raw materials and soil in a manner deteriorating the surface water flow and carrying out terrain modifications deteriorating the surface water flow,
- b) storing materials, substances and objects that could be washed away,
- c) erecting fences, hedges and similar obstacles,
- d) establishing campgrounds and other temporary accommodation facilities.

3) The water authority may stipulate restrictive conditions for the flood plain areas outside the active zone. This applies also if an active zone has not been determined.

## Section 68

### **Areas Determined for Flooding**

1) In order to mitigate the impacts of flood, the water authority may, as a preventative measure inside the flood plain area, based on the river basin district plan and in place of other measures for the protection against flood, determine areas for flooding.

2) In a decision on the determination of an area for flooding, the water authority, after consultation with the respective state administration bodies, will impose restrictions on the use of land and buildings inside such area.

3) The owners shall be entitled to a compensation for the restriction on the use of land and buildings. If need be, in public interest, the water authority may file an application for the dispossession of the respective land and buildings or, if pertinent, it may suggest to the building control authority that construction be banned in the respective area.

## Section 69

### **Territories Exposed to a Special Flood Danger**

Territories exposed to a special flood danger are territories, which may be inundated in case of a special flood occurrence. If the expected extent of the area exposed to a special flood danger in critical situations significantly exceeds the flood plain area, this extent shall be determined in an emergency plan. A special act applies to its preparation.<sup>34)</sup>

## Section 70

### **Degrees of Flood Protection Activities**

1) For the purpose of this Act, degrees of the flood protection activities are understood as levels of flood danger related to specified limits, which are normally water levels or water flows in reporting river sites or limits or critical values of other observed variables as stipulated in the respective flood protection plan.

2) The extent of flood protection measures to be taken is governed by flood danger or flood evolution which shall be expressed by the following three degrees of the flood protection activities:

- a) degree one (state of alert) begins in case of natural flood danger and ends when the causing factors of such danger disappear; it requires that increased attention be paid to the watercourse or some other source of the flood danger, the activities of the flood warning and watching services are commenced; at water management structures, this degree begins when the limit values of observed variables or safety

parameters of the structure are reached or when unusual facts which could lead to special flood danger are being detected;

- b) degree two (state of danger) shall be declared when the danger of a natural flood becomes reality; it shall also be declared when the limit values of the observed variables or safety parameters of a water management structure are being exceeded; the flood protection authorities and other participants involved in the flood protection are being activated as well as relevant technical means, and measures for flood mitigation as specified in the flood protection plan are being implemented.
- c) degree three (state of emergency) shall be declared in danger of the occurrence of high damage and in situations when lives and property in the flood plain areas are endangered; it shall also be declared, simultaneously with initiation of emergency measures, when critical values of the observed variables or safety parameters of a water management structure are being reached; protection and, if required, rescue activities and evacuation shall be organised.

3) Degrees two and three of the flood protection activities shall be declared and terminated by the flood protection authorities for areas relevant to their territorial responsibility. The degrees are declared on the basis the fact that a limit as specified for water level or flow in the flood protection plan has been reached or its reaching is forecasted, relevant information is reported by the flood forecasting or warning service, it is recommended by the administrator of the watercourse, it is notified by the owner of a water management structure or on the basis of other facts indicating degree of the flood danger. The flood protection authority shall communicate the declaration and termination of the flood protection activity to institutions pursuant to the flood protection plan and to the higher flood protection authority.

4) The limits of water stages for declaring the second and third degree of the flood protection activities shall be specified in the flood protection plans.

#### Section 71

#### **Flood Protection Plans**

1) For the purpose of this Act, the flood protection plans are documents containing the method of ensuring timely and reliable information on flood development, possibilities of influencing the runoff regime, organisation and preparation of safety work; they further contain the methods of ensuring a timely activation of flood protection authorities, ensuring the warning and watching service and protection of structures, preparation and organisation of rescue work and ensuring the basic functions disrupted by the flood in the facilities and the territory, and also the stipulated limits for degrees of flood protection activity.

2) The flood protection plans include

- a) factual part, which shall include information necessary for flood protection of a structure, municipality, river basin or other territorial unit, and it will specify the limits for declaring degrees of flood protection activities,
- b) organisational part, which shall contain names and addresses of participants involved in the flood protection, relevant communication links, assignments of the individual participants, and organisation of the warning and watching service,
- c) graphical part, which shall usually contain maps or plans showing mainly flood plain areas, evacuation routes and meeting sites, reporting river sites and information sites.

3) The flood protection plans of territorial units are

- a) municipal flood protection plans, which shall be prepared by authorities of those municipalities whose territories are exposed to flood danger,
- b) flood protection plans for the administrative wards of the municipalities with extended jurisdiction, which shall be prepared by the municipalities with extended jurisdiction,
- c) flood protection plans for the administrative wards of the regions, which shall be prepared by the respective district authorities in their delegated jurisdiction in co-operation with the river basin administrators,
- d) Flood protection Plan of the Czech Republic, which shall be prepared by the Ministry of the Environment.

4) Flood protection plans for immovable assets and land exposed to floods due to being situated in flood plain areas or capable of deteriorating the flood evolution shall be prepared by their owners for their needs and for co-operation with the municipal flood protection authority. In case of doubt regarding the

scope of this duty, the water authority shall issue a decision based on a proposal submitted by the owners.

5) The water authority can impose the liability to draw up a flood protection plan on owners of land which is located in flood plain areas, if necessary with respect to the use of the land.

6) The flood protection plans of territorial units (par. 3) shall annually be examined by their developers, normally in the period prior to the spring snow melting, and the examination shall be documented. Developers of other flood protection plans (par. 4) shall make relevant examination if the conditions under which the plans were developed substantially changed. If the examination reveals a need for an amendment of the plan, the developer shall do this without delay.

7) The factual and graphical part of the flood protection plan and changes thereto shall be submitted by the developer to superior water authority for approval of conformity with the flood protection plan at higher level. For flood protection plans of land plots and buildings, the conformity shall be approved by municipal flood protection authority. The approval of the conformity shall render the factual and graphical parts of the flood protection plan to be binding. The developers shall permanently update the organisational part of the flood protection plan and shall provide it to the pertinent flood protection authorities and other participants involved in the flood protection to be available for their use. The approval of conformity is not regulated by the Rules of Administration.

## Section 72

### **Flood Protection Inspections**

1) Flood protection inspections examine the existence of defects on watercourses, water management structures and the flood plain areas or structures and facilities situated within such areas, which may increase the danger of flood or its harmful impacts.

2) Flood protection inspections shall be organised and carried out by the flood protection authorities pursuant to the flood protection plans at least once in a year.

3) Flood protection authorities may, based on a flood protection inspection, appeal to the owners of land, structures and facilities located in flood plain areas to remove objects and facilities which could cause deterioration of the flow regime or make an obstruction in the river channel downstream. Should the above owners fail to obey such an appeal within the specified deadline, this obligation shall be imposed on them by a decision.

## Section 73

### **Flood Forecasting and Warning Service**

1) The flood forecasting service shall provide information to the flood protection authorities or other participants involved in the flood protection about possible occurrence of flood and further dangerous development, about hydrometeorological conditions indicating the occurrence and evolution of floods, especially about precipitation, and water levels and flows at selected river sites. This service shall be provided by the Czech Hydrometeorological Institute in co-operation with the administrator of the watercourse.

2) The flood warning service shall ensure information for the flood protection authorities for the purposes of warning the population at localities where flood is expected to occur and at localities located downstream, it shall provide information to the flood protection authorities and participants involved in the flood protection about the flood situation and shall submit reports and information necessary for evaluation of the flood danger and for organisation of the flood protection measures. The flood warning service is organised by the flood protection authorities of municipalities and municipalities with extended jurisdiction and other participants involved in the flood protection. In order to ensure the flood warning service, the municipal flood protection authorities shall organise the relevant watching service.

3) The owners of water management structures impounding water shall give notice of a special flood danger [Section 64 par. 2, letter c)] to the respective flood protection authorities and the Fire Rescue Services of the Czech Republic and if danger is involved in delay, they shall warn directly natural persons and legal entities immediately exposed to the danger.

4) Persons ensuring telecommunication services are obliged to ensure priority communication of information by forecasting and warning services.

#### Section 74

##### **Flood Rescue Activities**

1) Flood rescue activities involve technical and organisational measures carried out during the flood in areas in immediate danger or already flooded aimed at rescuing lives and property, in particular, the protection and evacuation of population from such territories, caring for them for the necessary period of time, rescuing property and its re-location outside the endangered territory.

2) The flood protection authorities ensure rescue activities in cases when human lives, public life or economic interests, such as transport, supply, communications, and health care are at risk.

#### Section 75

##### **Flood Security Activities**

1) Flood security activities shall involve particularly technical measures carried out in case of flood danger and during flood with the purpose of mitigating the evolution of flood and its harmful impacts.

2) Flood security activities shall involve particularly:

- a) removal of obstructions that impede continuous flow of water in watercourses and at sites where structures (culverts, bridges) are located,
- b) breaking up of ice masses and jams in watercourses,
- c) protection of channels and banks against damage by flood water flow and restoration of damaged banks,
- d) measures for protection of protective dykes against being overflowed or broken,
- e) measures for protection of impounding dams and water management structures against being overflowed or broken,
- f) emergency restoration of broken dykes,
- g) construction of flood protection structures,
- h) measures against backwater impacts, especially into sewerage systems,
- i) measures limiting water pollution.
- j) measures ensuring stabilisation against landslides.

3) Flood security activities shall be carried out by the administrators of watercourses and the owners of pertinent structures and, where relevant, other persons in accordance with the flood protection plans or based on the instructions of the flood protection authorities. Flood security activities, which can affect the flow regime or flood evolution, must be co-ordinated for the whole watercourse or whole river basin in co-operation with pertinent river basin administrator. Flood security activities which can endanger safety of water management structures falling into category I or II shall be consulted with a person authorised to carry out the technical safety supervision (Section 61, par. 9), unless danger could be involved in a delay.

#### Section 76

##### **Flood Documentation and Assessment**

1) The purpose of the documentation is to produce an objective and documented record of the flood evolution, measures implemented for the protection against the flood, factors causing and affecting the flood damages and other circumstances associated with the flood. The documentation includes particularly records in a flood book, permanent recording of water stages and approximate values of velocities and flows, permanent recording of information on the operation of water management structures affecting evolution of the flood, marks showing the highest water levels, surveys and maps of the flooded areas, monitoring water quality and possible sources of pollution, photographs and film records targeted field works and explorations.

2) Municipal and district flood protection authorities of municipalities and municipalities with extended jurisdiction and participants involved obligatorily in the flood protection pursuant to law, shall prepare a report on the flood in those cases when flood protection activities were declared, flood was a causing factor of a damage or flood protection and rescue activities were organised. The flood protection authorities shall carry out a flood assessment that shall include an analysis of the causal factors and the flood evolution,

description and evaluation of the effectiveness of the implemented measures, description of the factual extent and expert estimate of the magnitude of flood damages, and a proposal for measures to be taken for eliminating the flood consequences. The report shall be compiled within one month after the end of the flood, and, if more extensive documentation study is necessary to be carried out, supplementary assessment shall be conducted within 6 months after the end of the flood.

3) Records holding information on the assessed floods shall be kept by river basin administrators, while relevant hydrological information is archived by the Czech Hydrometeorological Institute.

4) The report on the flood shall be submitted to a higher-level flood protection authority for its use.

### *Part 3 Flood Protection Authorities*

#### Section 77

1) The governance of the flood protection activities is ensured by the flood protection authorities. The governance of the flood protection activities includes the preparation for floods, management, organisation and supervision of all respective activities during the flood and during the period immediately following the flood, including the management, organisation and supervision of the activities of other participants of the protection against flood. In their activity, the flood protection authorities follow the flood protection plans.

2) In the periods between floods, the flood protection authorities are as follows:

- a) municipal authorities, and in Prague capital, boroughs
- b) municipal authorities of municipalities with extended jurisdiction, and in the Prague capital, boroughs stipulated in the Statute of the Prague Capital
- c) regional authorities,
- d) the Ministry of the Environment; the Ministry of the Interior is responsible for ensuring the preparation of rescue activities<sup>34)</sup>.

3) During floods, the flood protection authorities are as follows:

- a) municipal flood protection commissions, and in Prague capital, flood protection commissions of the parts of the city,
- b) flood protection commissions of municipalities with the extended jurisdiction, and in the Prague capital, borough flood protection commissions stipulated in the Statute of the Prague Capital,
- c) regional flood protection commissions,
- d) the Central Flood Protection Commission.

4) During a flood, the flood protection authorities may adopt measures and issue orders to ensure the management of protection against flood, in justified cases in excess of the valid flood protection plans. In such case they must immediately notify the respective entities. Such orders do not constitute a decision pursuant to the Rules of Administration.

5) The flood protection authorities or other persons instructed by them are entitled to enter third persons land and buildings within the necessary scope during a flood for the purpose of executing rescue and security activities.

6) State administration bodies and other bodies must assist the flood protection authorities, if requested, in ensuring the protection against floods.

7) A flood protection authority at a lower level may request that a flood protection authority of a higher level take over the management of protection against floods if it is not in the position to ensure such protection by its own means.

8) A flood protection authority which takes over the management of flood protection is obliged to notify the respective lower-level flood protection authority about the date and time of the take over, the scope of co-operation and the termination of the management of the protection against flood and to record such facts in the flood book. The lower-level flood protection authority will remain active; it will perform measures pursuant to its flood protection plan within its territorial jurisdiction, in co-ordination with the higher-level flood protection authority or according to its instructions.

9) If an emergency situation is declared pursuant to a special act<sup>34)</sup>, the management of protection against flood is taken over by the body with the respective jurisdiction according to this Act.

## Section 78

### **Municipal Flood Protection Authorities**

1) To ensure the flood protection measures, the municipal council may establish a flood protection commission, if there is flood danger within its territorial district; otherwise this activity is carried out by the municipal council. The municipality Mayor becomes the chairman of the flood protection commission. He/she will appoint the remaining flood protection commission members from municipal representatives and legal and natural persons able to carry out measures or assist in protection against flood.

2) The municipal flood protection authorities are subordinate to the flood protection authority of municipalities with the extended jurisdiction.

3) Within the scope of ensuring the flood protection measures, the municipal flood protection authorities shall within their territorial jurisdiction

- a) perform authorisation of conformity between factual and graphical parts of the flood protection plans of the owners (users) of land plots and buildings, if these are located in flood plain areas or could deteriorate flood evolution (Section 71 par. 4), and the flood protection plan of the municipality,
- b) produce the flood protection plan of the municipality and submit it to the river basin administrator for an expert view, and in case of small watercourses, to the administrator of the watercourse,
- c) carry out flood protection inspections,
- d) provide staff and material for carrying out rescue activities and for ensuring substitute functions in the territory,
- e) examine the levels of the preparation of the flood protection participants pursuant to the flood protection plans,
- f) organise and ensure activities of the flood warning and watching service, and ensure warning to legal and natural persons in the municipality territorial district by using a unified warning system,
- g) provide information to the authorities in neighbouring municipalities and to the flood protection authority of municipalities with extended jurisdiction on the flood danger and the flood evolution,
- h) declare and terminate degrees of flood protection activities in areas under their territorial responsibility,
- i) organise, govern, co-ordinate and impose the implementation of flood protection measures pursuant to the flood protection plans, and, if needed, ask other authorities and legal and natural persons for staff and material assistance,
- j) organise evacuation and home-coming, temporary accommodation and meals for evacuated persons, and further rescue activities,
- k) ensure necessary hygiene and health care during the flood, organise substitute supplies, transportation and other functions which have been affected by the flood,
- l) carry out after-flood inspections, determine the extent and level of the flood damages, assess effectiveness of the implemented measures and submit a report on the flood to the flood protection authority of the municipality with the extended jurisdiction,
- m) keep records in the flood book.

## Section 79

### **Flood Protection Authorities of municipalities with the extended jurisdiction**

1) The mayor of a municipality with extended jurisdiction shall establish a flood protection commission for the municipality with extended jurisdiction and becomes its chairman. He/she will appoint the remaining flood protection commission members from among the employees of the municipality with extended jurisdiction and representatives of bodies and legal persons able to carry out measures or assist in protection against flood. The flood protection authority of the municipality with extended jurisdiction is subordinate to the regional flood protection authority.

2) Within the scope of ensuring the flood protection measures, the flood protection authorities of municipalities with extended jurisdiction shall within their territorial jurisdiction:

- a) perform authorisation of conformity between the factual and graphical parts of submitted flood protection plans of municipalities with the flood protection plan of the municipality with extended

- jurisdiction,
- b) prepare the flood protection plan of the municipality with extended jurisdiction and submit it to the river basin administrators for their professional view,
  - c) organise implementation of flood protection inspections,
  - d) examine the levels of the preparation of the flood protection participants pursuant to the flood protection plans,
  - e) organise professional instruction and training for the staff of the municipal flood protection authorities and flood protection participants,
  - f) if needed, impose upon the owners of water management structures the obligation to modify their rules of operation with respect to the flood protection purposes,
  - g) organise and govern the flood warning service on the territory of the administrative ward of the municipality with extended jurisdiction, provide information on the flood danger and flood evolution to the flood protection authorities of neighbouring **municipalities with extended jurisdiction**, to the pertinent river basin administrators, to the Czech Hydrometeorological Institute and to the Fire Rescue Services of the Czech Republic,
  - h) organise, govern, co-ordinate and impose the implementation of flood protection measures pursuant to the flood protection plans, govern and co-ordinate measures carried out by the flood protection authorities of municipalities, and, if needed, ask other authorities and legal and natural persons for staff and material assistance,
  - i) declare and terminate degrees of flood protection activities in areas within their territorial jurisdiction,
  - j) use services of the operational centre of the Fire Rescue Services of the Czech Republic for governing rescue activities, their co-ordination with the components of the integrated rescue system and for communication with the localities where rescue activities are carried out,
  - k) if necessary, unless the regional flood protection commission has been convened, being subject to prior consultancy with the river basin authorities, they direct special operation of water management structures, which is beyond the scope of approved rules of operation with possible effect within the administrative ward of a municipality with extended jurisdiction,
  - l) if danger is involved in delay, ask the Armed Forces of the Czech Republic for assistance in excess of the means stipulated in the flood protection plans,
  - m) during the flood, co-operate with the flood protection authorities of municipalities in providing hygiene and health care, organise substitute supplies, transportation and other functions which have been affected by the flood,
  - n) collect reports on the extent and levels of the flood damages, assess effectiveness of the implemented measures and compile a summary report on the flood assessment,
  - o) keep records in the flood book,

## Section 80

### **Regional Flood Protection Authorities**

1) The chief executive of the regional authority shall establish the regional flood protection commission and becomes its chairman. The chairman of the commission shall appoint the remaining members of the flood protection commission from the staff of the river basin administration, staff of regional authorities in the river basin and representatives of bodies and legal entities able to carry out measures or assist in protection against flood. The regional river basin flood protection authority is subordinate to the central flood protection authority.

2) Within the scope of ensuring the flood protection measures, the regional flood protection authorities shall within their territorial jurisdiction

- a) confirm conformity between the factual and graphical parts of submitted flood protection plans for administrative wards of municipalities with extended jurisdiction with the flood protection plan of the region,
- b) prepare the river basin flood protection plan of the administrative ward of the region under Section 71 par. 3 letter c) and submit it to the central flood protection authority,
- c) examine the levels of the preparation of the flood protection participants pursuant to the flood protection plans,

- d) if needed, impose upon the owners of water management structures the obligation to modify their rules of operation with respect to the flood protection purposes,
- e) organise professional instruction and training for the staff of the flood protection authorities of municipalities with extended jurisdiction and flood protection participants,
- f) participate in the activities of the flood warning service in the river basin, provide information on the flood danger and flood evolution to the flood protection authorities of municipalities with extended jurisdiction, to the Czech Hydrometeorological Institute and to the Ministry of the Environment,
- g) organise, manage and co-ordinate the implementation of flood protection measures pursuant to the flood protection plans, manage and co-ordinate measures carried out by the flood protection authorities of municipalities with extended jurisdiction,
- h) declare and terminate degrees of flood protection activities in areas within their territorial jurisdiction,
- i) control regulation of the flow regime in the administrative ward by operating water management structures pursuant to the rules of operation; they direct special operation of water management structures, which is beyond the scope of the approved rules of operation, subject to prior consultancy with the pertinent flood protection authorities of municipalities with extended jurisdiction in the administrative ward, with river basin administrators and regional flood protection authorities whose administrative wards could be affected by such operation,
- j) assess the impacts on flow regime of the flood protection activities on watercourses and water management structures after consultation with administrators of watercourses and water management structures and co-ordinate these activities,
- k) compile a summary report on the flood assessment including the analysis of its extent and levels of the flood damage and the effectiveness of the implemented measures,
- l) keep records in the flood book,
- m) use services of the operational and information centre of the Fire Rescue Services of the Czech Republic for governing rescue activities, their co-ordination with the components of the integrated rescue system and for communication with the localities where rescue activities are carried out.

#### Section 81

#### **Central Flood Protection Authority**

1) Within the scope of ensuring the flood protection measures, the Ministry of the Environment, as a central flood protection authority, shall

- a) govern the flood protection activities and execute supervision thereof, except for governing flood rescue activities which are within the jurisdiction of the Ministry of the Interior,
- b) undertake methodological supervision of preparation of flood protection measures, particularly the preparation, submission and approval of flood protection plans, and organisation of the flood forecasting and warning service,
- c) following consultation with the pertinent bodies of the state administration, prepare the Flood Protection Plan of the Czech Republic and submit it to the Central Flood Protection Commission for approval,
- d) authorise conformity of the flood protection plans of the administrative wards of the regions with the Flood Protection Plan of the Czech Republic,
- e) participate in the activities of the flood warning service, prepare technical documents allowing the Central Flood Protection Commission to undertake responsibility for governing flood protection measures, and provide information to the news media,
- f) ensure implementation of major research and documentation projects (aerial surveys, mapping, etc.),
- g) participate in professional training of the staff of the flood protection authorities.

2) The Government shall establish a Central Flood Protection Commission of the Czech Republic and approve its Statutes. The Minister of the Environment acts as the Commission's Chairman, the Minister of the Interior as its Vice-Chairman.

3) The Central Flood Protection Commission shall manage, check, co-ordinate, and if needed, impose duties in the entire scope of flood protection during floods endangering vast areas, if the regional flood protection commissions are not able to take the required measures using their own means. Within the scope of ensuring the flood protection measures, the Central Flood Protection Commission shall:

- a) provide information on the evolution and consequences of the flood to the Government,

- b) after prior consultation with the pertinent regional flood protection authorities and river basin authorities, order special operations of water management structures beyond the scope of approved rules of operation and whose territorial effect may exceed the area of a river basin districts under Section 25 par. 2,
- c) co-ordinate and control the activities of the regional flood protection commissions,
- d) keep records in the flood book.

#### *Part 4*

#### *Other Participants Involved Flood Protection*

#### Section 82

#### **River Basin Administrators**

Within the scope of ensuring the flood protection measures, and in addition to the tasks of the administrators of the watercourses, the river basin administrators shall

- a) prepare professional standpoints on the flood protection plans of administrative wards of municipalities with extended jurisdiction,
- b) co-operate in the drawing up of flood protection plans for administrative wards of the region and the Flood Protection Plan of the Czech Republic,
- c) co-operate with the flood protection authorities of the municipalities with the extended jurisdiction and of river basins in carrying out flood protection inspections,
- d) prepare proposals to the flood protection authorities to impose necessary measures in flood plain areas or other measures for flood protection,
- e) participate in the activities of the flood warning service, particularly in monitoring and assessing hydrological conditions in the river basin and provide information to the flood protection authorities, co-operate with the Czech Hydrometeorological Institute in providing the flood forecasting service,
- f) co-operate with the owners of water management structures in giving notice of the special flood danger,
- g) make suggestions to the flood protection authorities that a degree of the flood protection activities be declared or terminated,
- h) provide professional, technical and organisational assistance to the flood protection commissions of the regions,
- i) ensure documentation concerning the flood evolution in the river basin,
- j) following the flood, collect reports from the flood protection authorities of municipalities with extended jurisdiction and the administrators of watercourses, prepare a summary report covering the river basin and submit it to the regional flood protection authorities and to the Ministry of the Environment,
- k) co-operate with the flood protection authorities of the municipalities with the extended jurisdiction and regions in instructing and training the staff,
- l) prepare proposals for organisational and technical improvements in flood protection and ensure their implementation by the flood protection authorities.

#### Section 83

#### **Administrators of Watercourses**

Within the scope of ensuring the flood protection measures, the administrators of watercourses shall

- a) provide professional views on the flood protection plans of the municipalities,
- b) carry out flood protection inspections of watercourses in co-operation with the flood protection authorities of the municipalities with the extended jurisdiction,
- c) prepare proposals for the pertinent authorities to impose the obligation of carrying out necessary flood protection measures on the owners of water management structures or other structures and land plots located on watercourses and in flood plain areas,
- d) provide staff and material for carrying out the most necessary flood protection activities on watercourses,
- e) during periods of flood danger, ensure accessibility of their staff and availability of material means, and examine their preparedness pursuant to the flood protection plans,
- f) on watercourses, monitor all factors which could contribute to the occurrence or evolution of a flood, particularly evolution and extent of freezing, formation of dangerous ice jams and blockages, snow melting and movement of ice masses, water stages and flows, and possible accumulation of floating objects,

- g) participate in the activities of the flood warning service, provide information on the flood danger and flood evolution to the flood protection authorities of municipalities with extended jurisdiction, pertinent river basin administrators, the relevant department of the Czech Hydrometeorological Institute and the Fire Rescue Services of the Czech Republic,
- h) provide professional assistance to the flood protection commissions of municipalities and the flood protection commissions of municipalities with extended jurisdiction,
- i) make proposals to the flood protection authorities to declare and terminate degrees of the flood protection activities,
- j) carry out flood security activities on watercourses and other measures pursuant to the flood protection plans,
- k) ensure documentation concerning evolution of floods in watercourses,
- l) following floods, carry out inspections of watercourses, determine the extent and levels of the flood damages, assess the effectiveness of the implemented measures and prepare a report on the flood and submit it to the flood protection authorities of the municipality with extended jurisdiction, to the pertinent river basin administrator and to relevant department of the Czech Hydrometeorological Institute,
- m) eliminate flood damage in watercourse channels, particularly secure critical points for cases of further flooding, renew the flow profile of the channel; these activities are not governed by special legal regulations<sup>34a)</sup>; the watercourse administrator shall inform the relevant nature protection authority of the commencement of these activities 10 working days in advance.

#### Section 84

#### **Owners of Water Management Structures**

- 1) Within the scope of ensuring the flood protection measures, the owners of those water management structures which can affect evolution of natural flood shall
  - a) in co-operation with the flood protection authorities of municipalities with the extended jurisdiction and regions, carry out flood protection inspections of the water management structures, particularly examine the state of individual structures and their conditions in terms of the flood protection, and eliminate any defects detected,
  - b) provide staff and material means for carrying out flood security activities at water management structures,
  - c) during periods of flood danger, ensure accessibility of their staff members and availability of material means and examine the state of preparedness thereof,
  - d) on the water management structures, monitor all factors affecting safety of flood routing, particularly function of outflow structures, evolution and extent of freezing, formation of dangerous ice jams and blockages, snow melting and movement of ice, water stages or possible accumulation of floating objects,
  - e) participate in the activities of the flood warning service, provide information on the flood danger and flood evolution to the flood protection authority of the municipality with extended jurisdiction, the administrator of the watercourse, pertinent river basin administrator, relevant department of the Czech Hydrometeorological Institute and the Fire Rescue Services of the Czech Republic,
  - f) operate the water management structures within the limits allowed by the approved rules of operation with the aim to decrease the danger of the flood damage, following also instructions of the water management operational centre of the pertinent river basin administrator,
  - g) apply to the flood protection authority of the municipality with extended jurisdiction or region (subject to territorial impact of the operation) for approval to operate the water management structures in a way which is beyond the limits allowed by the approved rules of operation,
  - h) carry out flood security activities at water management structures,
  - i) ensure documentation concerning the flood evolution at water management structures,
  - j) following floods, carry out an inspection of water management structures, determine the extent and

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<sup>34a)</sup> Section 4 par. 2, sentence 3 of Act No. 114/1992 Coll.

Section 12 par. 2 of Act No. 114/1992 Coll.

Section 8 par. 4 of Decree No. 395/1992 Coll., which implements some stipulations of Czech National Council Act 395/1992 Coll. on protection of nature and landscape.

levels of the flood damages, assess the effectiveness of implemented measures and furnish the flood protection authority of the municipality with extended jurisdiction, the administrator of the watercourse and the pertinent river basin administrator with background documents for preparation of the report on the flood,

k) eliminate the flood damages to the water management structures, and particularly implement protective measures for potential occurrence of further floods at these structures.

2) The owners of water management structures which fall into categories I to III (Section 61) who have been charged with the duty to ensure carrying out technical and safety supervision, shall further

a) provide information on the parameters of a possible special flood (in particular the flood wave characteristics and extent of endangered territory) and on carrying out technical and safety supervision (program) during flood protection activities or in a state of emergency, to the respective flood protection authorities, emergency management authorities<sup>34)</sup> and the integrated rescue system authorities<sup>35)</sup>,

b) notify immediately pertinent flood protection authorities and administrators of watercourses and the Fire Rescue Services of the Czech Republic of facts requiring declaration of the state of danger or the state of emergency due to special flood danger, and, if possible, predict further evolution,

c) warn the flood protection authorities in areas located downstream pursuant to the flood protection plans of territorial units, the Fire Rescue Services of the Czech Republic, and if there is a danger of delay, the entities exposed to direct danger, in cases of a danger to the safety of water management structures, development leading to a breakdown of their function and possible occurrence of a special flood.

3) For water management structures under construction, the above duties of the owner of the water management structure (par. 1 and 2) shall be performed by the builder.

## Section 85

### **Owners of Land and Buildings Situated in the Flood Plain Area or Deteriorating Flood Evolution**

1) Owners of land plots and buildings situated in the flood plain area or which could deteriorate flood evolution shall ensure that the runoff regime and flood evolution are not deteriorated, they shall

a) produce flood protection plans, if they have such a liability under Section 71, par. 4, or they are encumbered with such by the water authority pursuant to Section 71, par. 5,

b) in co-operation with the flood protection authorities, carry out flood protection inspections, particularly examine the state of structures within the flood plain area in terms of their impact on the runoff regime during flood and possible washing away of buildings, their parts and movable assets,

c) if requested by the flood protection authority, remove their objects and facilities which may cause deterioration of the runoff regime or block the watercourse channel downstream,

d) provide staff and material means to safeguard their objects and facilities which may cause the deterioration of the runoff regime or block the watercourse channel downstream,

e) during periods of flood danger, ensure accessibility of their staff members and availability of material means and examine the state of preparedness thereof,

f) on their land and buildings, monitor all factors affecting safety of flood routing, particularly the accumulation of floating objects and blocking of the outflow profile,

g) participate in the activities of the flood warning service, provide information on the flood danger and flood evolution to the flood protection authority, the watercourse administrator and the Fire Rescue Services of the Czech Republic,

h) ensure the safety of persons and property, including the premature harvest of crops,

i) ensure the protection of vessels and facilities used for shipping; in doing this they follow the instructions of the bodies of State Shipping Authority,

j) carry out flood security activities, in particular on culverts and bridges and road and railroad earthworks, to ensure that the flow capacity is not endangered,

k) following floods, carry out an inspection of land and buildings, determine the extent and level of the flood damages and furnish the flood protection authority with background documents for preparation of the report on the flood,

l) eliminate flood damage and particularly implement protective measures at critical locations for potential

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<sup>35)</sup> Act No. 239/2000 Coll. on the Integrated Rescue System and Change to Some Acts.

occurrence of further floods.

2) For buildings under construction, the above duties of the owner shall be performed by the builder.

3) Owners of a movable asset situated in watercourses or flood plain areas are obliged to take care for its location and use in a manner that will not hinder high water flow or, if pertinent, prevent it against being washed away.

*Part 5*  
*Costs of Flood Protection Measures*

Section 86

1) The state shall bear the costs of flood protection measures stipulated in the programs of measures based on the Plan of the main river basins of the Czech Republic. Should technical facilities be part of such measures, the state will also pay for their operation.

2) The regions shall bear the costs of flood protection measures stipulated in the programs of measures based on the river basin district plans. For this purpose, the regions shall create a reasonable reserve within their budget serving to cover other flood protection measures within the administrative ward of the region. The state may contribute to such measures.

3) Individual municipalities may take measures aimed at direct protection of property in their territory. The State and the regions may contribute to such measures. The municipalities may request from the owners of property protected by such measures a contribution for the cost of their implementation.

4) Legal entities and natural persons shall bear the costs incurred by them in connection with their own measures adopted for their property protection against floods.

5) Costs of flood security activities on watercourses shall be borne by the watercourse administrators. The owners of water management structures shall bear the costs of flood security activities on such structures.

6) The cost of flood rescue activities, except for costs pursuant to par. 4, shall be borne by the municipalities, district authorities, regions and the state in accordance with their jurisdiction within the flood protection system pursuant to a special legal regulation<sup>36)</sup>.

Section 87

Property damage arising as a result of activities or measures imposed during flood by:

- a) the municipal flood protection commission, shall be borne by the municipality,
- b) the flood protection commission of a municipality with extended jurisdiction, shall be borne by the municipality with extended jurisdiction,
- c) the flood protection commission of a region, shall be borne by the region,
- d) the Central Flood Protection Commission, shall be borne by the Ministry of the Environment.

CHAPTER X

**FEES AND CHARGES**

*Part 1*  
*Fees and Charges*

Section 88

**Charges for the Withdrawal of Groundwater**

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<sup>36)</sup> Act No. 218/2000 Coll., on Budgeting Rules and Change to Some Related Acts (The Budgeting Rules), as later amended.

1) The authorised person having permission to withdraw groundwater [Section 8 par. 1 letter b) point 1 and Section 8 par. 2] (hereinafter only “consumer“) is obliged to pay charges for the actual quantity of groundwater withdrawn under the conditions stipulated by this Act according to the purpose of the water withdrawal. If the authorised person permitted the use of its authorisation to use water pursuant to Section 11 par. 3 to the operator of a water supply system for public use<sup>10a)</sup> whereby it contractually transferred its authorisation<sup>36a)</sup> and if operator gave notice of its name, registered address and identification number to the Czech Environmental Inspectorate, the operator of a water supply system for public use is considered to be the consumer. The fee is paid once per calendar year and its rates in CZK/m<sup>3</sup> are given in Attachment No. 2 to this Act.

2) The fee is exempt for actual withdrawal of groundwater from one resource not exceeding 6 000 m<sup>3</sup> per calendar year or not exceeding 500 m<sup>3</sup> monthly in the respective calendar year and withdrawals permitted for the purpose of gaining thermal energy, withdrawal of water for reduction of the pollution of groundwater, withdrawal of water to reduce level of the water body and withdrawal of water serving for hydraulic protection of groundwater against pollution.

3) Should the authorised person withdraw groundwater from a water resource in several locations in one municipality, the withdrawn water quantity shall be added up for the purposes of the fee calculation.

4) Financial offices with the respective territorial jurisdiction over registered addresses of persons authorised for water use shall collect and recover the respective fees on the basis of warrants issued by the Czech Environmental Inspectorate; in doing so, they will comply with the act on the administration of taxes and fees, unless this Act stipulates otherwise.

5) For stipulating the amount of the fee advance for the following calendar year the consumer is liable to draw up a fee report, where it gives its identification information pursuant to the act for administration of taxes and charges and gives facts decisive for the calculation of fee advances, particularly facts on the permitted quantity of withdrawn groundwater in a breakdown according to the withdrawal of groundwater according to individual permits and the purposes of its use. In his fee report, the consumer shall calculate the fee deposits for the following calendar year and submit the report to the Czech Environmental Inspectorate at the latest by the 15th October of the current year. The form of the fee report shall be specified by the Ministry of Agriculture, in co-operation with the Ministry of the Environment, in a decree.

6) The annual amount of the fee in the fee statement is calculated by the consumer by multiplying the corresponding rate of fees by the permitted annual withdrawal of groundwater in m<sup>3</sup>.

7) Based on the fee report and verification of information decisive for the calculation of the fee deposit, the Czech Environmental Inspectorate shall stipulate the deposit payments and amounts of quarterly or monthly payments by an assessment, which will be delivered to the consumer, the respective financial authority of the place of residence<sup>36b)</sup> of the consumer by 15th December of the current year. An appeal against the fee assessment has no deferral effect.

8) In the assessment, the Czech Environmental Inspectorate shall stipulate equal quarterly deposits, if their total amount equals or is less than CZK 300 000 or equal monthly deposits, if their total amount exceeds CZK 300 000. The consumer must pay monthly advances by the latest by 25th day of the calendar month when the deposit payment is due. The consumer must pay quarterly advances by the latest on the 25th day of the last month of the calendar quarter in respect of which the advance is due.

9) Should the consumer cease to be a legal entity, without a legal successor, during the calendar year, it is liable to pay the proportional amount of the expected annual fee by the latest on the date of cessation, advance payments made in respect of the same calendar year shall be credited against this amount.

10) The consumer is liable by the 15th February to submit to the Czech Environmental Inspectorate a fee statement for the previous calendar year, in which it gives facts decisive for the fee balance calculation, particularly facts on the amount of fees paid and actual amount of withdrawn groundwater in a breakdown according to the withdrawal of groundwater according to individual permits and the purposes of its use. In his fee statement, the consumer shall calculate the annual fee amount for the previous calendar year, compare

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<sup>36a)</sup> Section 8 of Act No. 274/2001 Coll.

<sup>36b)</sup> Section 6 par. 2 of Act 531/1990 Coll. on Local financial authorities, as amended by Act No. 320/2002 Coll.

it with the fees paid, propose settlement and submit the statement to the Czech Environmental Inspectorate. The form of the fee declaration shall be specified by the Ministry of Agriculture, in co-operation with the Ministry of the Environment, in a decree.

11) The annual amount of the fee in the fee statement is calculated by the consumer by multiplying the corresponding rate of fees by the actually withdrawn volume of groundwater for the previous calendar year in m<sup>3</sup>.

12) Based on the fee statement and verification of information decisive for the calculation of the settlement of fees, the Czech Environmental Inspectorate shall stipulate the amount of the fee for the previous year and its settlement with paid fee deposits in the fee assessment, which will be delivered to the consumer and the respective financial authority of the place of residence of the consumer within 30 days of receipt of the fee statement with notice that the fee assessment has become legally effective and is executable.

13) If the advance payments are lower than the actual fee, the consumer must pay the difference to the account of the respective financial office within 30 days of the day of receipt of the assessment of fees. If the advance payments made are higher than the assessed fee, the respective financial office will return the excess payment to the consumer without an application within 30 days of the day when the Czech Environmental Inspectorate's notification that the assessment of fees is legally effective and executable was delivered to the respective financial office.

14) A copy of the advance payment assessment and fee assessment, which is legally effective and executable, is sent by the Czech Environmental Inspectorate forthwith to the State Environmental Fund.

15) 50% of the fee for actual withdrawal of groundwater constitutes budget revenue of the region on the territory of which the groundwater withdrawal takes place and the remainder constitutes revenue of the State Environmental Fund. Fees, which constitute revenue of the budget of the region, can only be used for supporting the building and renewal of water management infrastructure and for establishment and replenishment of a special account under Section 42 par. 4.

#### Section 89

##### **Fees for the Discharge of Waste Water into Surface Water**

1) Legal entity or natural person discharging waste water into surface water (hereinafter "the polluter") is under the conditions stipulated in this Act obliged to pay a fee for pollution of the discharged waste water and a fee for volume of the discharged waste water (hereinafter "the fees"). Fees are payable for individual sources of pollution.

2) The obligation to pay fees pursuant to par. 1 does not include the discharge of

- a) mineral water certified pursuant to a special act<sup>2</sup> as a natural curative resource, unless used in spa treatment,
- b) natural mineral water unless used in the production of packed mineral water,
- c) water from remedial wells,
- d) waste water from water cooling systems of steam turbines.

3) If flooding or another natural catastrophe causes reduction or interruption of the operations of a waste water treatment plant, the polluter shall pay for the period absolutely necessary for renewal of its operations a fee proportional to that stipulated by the fee assessment for the previous calendar year. The polluter shall give notice of the reduction, interruption and renewal of the operation of the water treatment plant to the Czech Environmental Inspectorate without delay, the Inspectorate shall verify these facts and take account of them in the fee assessment for that period.

#### Section 90

##### **Fee for the Pollution of Discharged Waste Water**

1) The polluter must pay a fee for the pollution of discharged waste water if the waste water discharged by him/her exceeds both the quantity and concentration limit for paying the fee of the respective pollution indicator. Pollution indicators, quantity and concentration limits as well as the fee rates classified by individual pollution indicators are stipulated in Attachment No. 2 to this Act.

2) The polluter must pay the fee for the volume of the waste water discharged into surface water if the volume of waste water discharged by him/her exceeds 100 000 m<sup>3</sup> in one calendar year.

3) The fee for the volume of the discharged waste water shall be calculated as a multiple of the discharged waste water volume and the rate of CZK 0.1 per 1 m<sup>3</sup>.

4) The fee for the pollution of the discharged waste water equals to the sum of partial fees calculated for individual pollution indicators as a multiple of the fee rate and the total quantity of discharged pollution in the calendar year. The total pollution shall be calculated as a multiple of the average annual concentration of the respective pollution indicator and the annual volume of waste water discharged. If, with some substances subject to a fee, there is a reduction of their total discharged quantity with respect to the previous year of at least 20 %, though no more than 50%, the fee for that substance will be reduced by double the achieved reduction. If with some substances subject to a fee there is a reduction of their total discharged quantity with respect to the previous year of more than 50%, the fee for that substance shall not be paid.

5) The fee rate for the “organic substances characterised by the chemical oxygen demand” shall be applied depending on the respective waste water type.

6) The polluter may, for the purpose of the fee calculation, subtract the pollution in water withdrawn by him, from the total pollution in the discharged waste water. The subtracted pollution of the withdrawn water must be substantiated by data on pollution concentration in the withdrawn water for individual pollution indicators and the data on the withdrawn water quantity in the year for which the fee is calculated.

#### Section 91

##### **Monitoring, Measuring and Keeping Records of Waste Water Pollution**

1) For the purpose of calculating the fee, the polluter who is subject to the obligation to pay fees under this Act, is obliged to monitor the concentration of the pollution in the discharged waste water for respective indicators and for each source and outlet, measure the volume of the discharged waste water and keep operational records of such monitoring and measurements for individual pollution indicators. The polluter is responsible for the correctness of the identification of pollution sources of the discharged waste water, the determination of pollution concentration by individual pollution indicators, the measuring of the volume of the discharged waste water and of keeping operational records. He/she is obliged to archive all data supporting the operational records for a period of five years.

2) If the polluter discharges waste water in one locality using several outlets, waste water discharged from all outlets shall be included in the calculation of the pollution and the volume of the discharged waste water for the purpose of the fee calculation. More outlets in one locality means, for example, individual outlets from a public sewerage system of a municipality or individual outlets from an industrial facility. For the purpose of the fee calculation, different rates shall apply to purified and non-purified waste water. Purified waste water is water purified, e.g. in a mechanical-biological or mechanical-chemical waste water treatment plant. In case of doubt whether waste water is purified or not, the Czech Environmental Inspectorate shall decide the issue.

3) In a decree, the Ministry of the Environment shall stipulate the details for identification of pollution sources, the procedure for the determination of waste water pollution, the methods of measuring pollution indicators, calculation of the average pollution concentration and the annual volume of the discharged waste water, subtraction of the quantity of the pollution pursuant to Section 90, par. 6, practices for measuring the volume of discharged waste water and the details of the operational records.

#### Section 92

##### **Waste Water Pollution Analyses and Control**

1) The analyses determining the concentration of polluting substances in waste water for the purposes of this Act may be carried out only by professionally capable entities authorised for doing business (hereinafter “the authorised laboratory”). The analyses performed for the purpose of inspecting the correctness of waste water pollution monitoring may only be carried out by authorised laboratories selected by the Ministry of the Environment (hereinafter “the inspection laboratory”)

2) An inspection of the correctness of monitoring and measuring the volume of the discharged waste

water may only be carried out by professionally capable entities authorised for doing business and selected by the Ministry of the Environment (hereinafter "the measuring group"). In a decree, the Ministry of the Environment shall stipulate the method of monitoring waste water pollution, measuring the volume of the discharged waste water, requirements for professional capacity of authorised laboratories, inspection laboratories and measuring groups to perform analyses determining the concentration of polluting substances in waste water and to inspect the correctness of measuring the volume of discharged waste water for the purposes of this Act. In its Bulletin, the Ministry of the Environment shall regularly publish the list of authorised laboratories, inspection laboratories and measuring groups.

3) The polluter must allow access to facilities subject to an inspection to the authorised staff of inspection laboratories and measuring groups and persons performing their activities in accordance with Section 126b and furnish them with documentation necessary for the performance of the inspection as well as ensure conditions for taking samples from all outlets of the pollution source under inspection.

4) The costs associated with carrying out the analyses and inspection of waste water pollution for the purpose of the execution of the state administration shall be borne by the State Environmental Fund of the Czech Republic based on a proposal of the Czech Environmental Inspectorate.

### Section 93

#### **Advance Payments**

1) For the determination of the advance payments payable in respect of fees due in the following calendar year, the polluter is obliged to prepare a fee report involving facts decisive for the advance payment calculation, particularly the data regarding the quantity and concentration of pollution indicators and the volume of the discharged waste water by individual pollution sources and their outlets including the data for the subtraction of pollution in withdrawn water (Section 90, par. 6) and the information regarding postponements granted for the purpose of the fee calculation. In his fee report, the polluter shall calculate the fee advances and submit the report to the Czech Environmental Inspectorate at the latest by the 15 October of the current year. In a decree, the Ministry of the Environment shall issue a pilot fee report.

2) Based on the fee report and verification of information decisive for the calculation of the fee advance, the Czech Environmental Inspectorate shall stipulate the advance payment in an assessment, which will be delivered to the polluter, the respective financial authority, the State Environmental Fund of the Czech Republic by 15<sup>th</sup> December of the current year. In the assessment, the Czech Environmental Inspectorate will stipulate equal quarterly advances, if their total amount equals or is less than CZK 1 000 000 or equal monthly advances, if their total amount exceeds CZK 1 000 000.

3) The polluter must pay monthly advances by the latest by 25<sup>th</sup> day of the calendar month in respect of which the advance payment is due. The polluter must pay quarterly advances by the latest on the 25th day of the last month of the calendar quarter in respect of which the advance is due.

4) If during the year in which the advance payments are to be paid, the Czech Environmental Inspectorate reveals that actual facts decisive for the calculation of fee advances differ from the information in the fee report by more than 30% or that the polluter failed to include in his fee report the pollution values of all pollution indicators exceeding the limit values stipulated in Attachment No. 2 to this Act, it will issue a new fee assessment within 30 days of the day on which the above facts were ascertained. In this new assessment it will stipulate new advance payments for the remaining part of the year pursuant to par. 2; the advance payments due before this date remain unchanged. It shall proceed likewise if it is established that the polluter has not submitted the fee report.

5) If the polluter reveals that actual facts decisive for the calculation of fee advances differ from the information in the fee report by more than 30%, he/she is obliged to file a new fee report on the basis of which the Czech Environmental Inspectorate will issue a new assessment stipulating fee advances, within 30 days of the receipt of the new fee report. Par. 2 and 4 apply correspondingly to the remaining actions.

6) Obligations under par. 4 and 5 do not apply to one-off single deviations.

## Section 94 **Statement of Fees**

1) The polluter must submit to the Czech Environmental Inspectorate the statement of fees in respect of the previous calendar year by 15<sup>th</sup> February. In this statement, the polluter shall specify the actual information regarding the number of pollution indicators subject to a fee, their concentration in the discharged waste water and the volume of discharged waste water for individual sources of pollution and their outlets, including the information required for a subtraction in respect of withdrawn water, if pertinent (Section 90, par. 6), the information on any postponements granted and the sum of advance payments made. In a decree, the Ministry of the Environment shall issue a template statement of fees.

2) Based on the statement of fees and verification of information decisive for the fee calculation, the Czech Environmental Inspectorate shall assess the fee for the previous calendar year in a fee assessment, which will be delivered to the polluter, the respective financial office and the State Environmental Fund of the Czech Republic by 30<sup>th</sup> April of the current year. If the advance payments are lower than the actual fee, the polluter must pay the difference to the account of the respective financial office within 15 days of the day of receipt of the assessment of fees. If the advance payments made are higher than the assessed fee, the respective financial office will return the overpayment to the polluter without an application within 30 days of the day when the Czech Environmental Inspectorate's notification that the assessment of fees is legally effective and executable was delivered to the respective financial office. Underpayments or overpayments not exceeding CZK 500 are transferred to the following fiscal period.

## Section 95

The assessment of fee advances and the fee assessment are issued for individual pollution sources and constitute basis for fee collection and claiming.

## Section 96

### **Postponement of the Fee Payment**

1) A polluter who has a building permit and evidently started the construction of a waste water treatment plant (hereinafter "the structure") or another facility of a capital investment nature (hereinafter "another facility") aimed at the reduction of pollution of discharged waste water and who has a permit issued by water authority under Section 38 par. 9 to discharge, during the construction, waste water with allowable waste water pollution indicator values in excess of values stipulated by special legal regulations<sup>38)</sup>, however, after the construction, with the values not exceeding the level stipulated by special legal regulations (Section 38 par. 5), or who, based on a contract, has associated funds for this purpose, may apply to the Czech Environmental Inspectorate for permission to postpone the payment of up to 80% of the fee payable for the pollution source in respect of which the above work was started or funds have been associated (hereinafter "the postponement") by the latest within one year of the starting date of the construction of the structure or another facility or the conclusion of a contract on the association of funds. The Czech Environmental Inspectorate will send the decision on the postponement of the fee payment to the polluter, the respective financial office and the State Environmental Fund of the Czech Republic.

2) The postponement may be permitted from the first day of the month following the real starting date of the construction of the structure or another facility substantiated by the record in the building book or, in case of funds association, after the structure or another facility starting date, by the earliest from the first day of the month following the date of concluding the contract on the association of funds. The postponement will remain in effect until the last day of the month stipulated as the structure completion deadline in a legally effective permission of the water authority. The Czech Environmental Inspectorate will permit a postponement up to the level of costs of the structure or another facility.

3) If the polluter or the person with whom the polluter has concluded a contract on the association of funds will complete the structure or another facility before the deadline stipulated for their completion in a legally effective permission of the water authority, he/she is obliged to notify the Czech Environmental Inspectorate of this fact in writing within one month of the date of completion. The postponement shall expire on the last day of the month in which the written notification was delivered to the Czech

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<sup>38)</sup> Czech Government Regulation No. 82/1999 Coll. specifying indicators and values of permissible degree of water pollution.

Environmental Inspectorate.

4) If the polluter or the person with whom the polluter has concluded a contract on the association of funds has applied for an approval to start pilot operation pursuant to a special legal regulation<sup>4)</sup> and has obtained such approval or has obtained a permission for a temporary use of the structure or another facility for pilot operation before the issuance of the building inspection certificate, the postponement shall remain in force over the pilot operation period, however, by the latest for 2 years of the date of the approval or permission.

5) Should the polluter or the person with whom the polluter concluded a contract on the association of funds not comply with the conditions of the postponement, the polluter shall be obliged, based on the decision of the Czech Environmental Inspectorate, to pay the postponed part of the fee by the latest within one year of the date when such decision became legally effective, in regular monthly payments. An appeal against such decision does not suspend the requirement to pay the fee.

6) The polluter may submit the application for the postponement by the latest within one year of the structure or another facility starting date or the date of the contract on the association of funds.

7) The polluter is obliged to submit documentation necessary for granting the permission and assessment of compliance with its conditions.

8) In a decree, the Ministry of the Environment shall stipulate the essential parts of an application for granting the postponement and the procedures to be adopted by the Czech Environmental Inspectorate for the evaluation of applications and for granting the permission.

#### Section 97

##### **Remission of a Part of the Fee**

1) If the polluter or the person with whom the polluter concluded a contract on the association of funds complies with the completion deadline of the structure or another facility as stipulated in the permission of the water authority and the discharged waste water pollution reaches the levels stipulated in the water authority's permission for waste water discharge but maximally the levels stipulated in a special legal regulation<sup>38)</sup>, the Czech Environmental Inspectorate will exempt a part of the fee amounting to the fee postponed in the Czech Environmental Inspectorate's decision pursuant to Section 96.

2) The Czech Environmental Inspectorate will decide on the remission of a part of the fee in cases pursuant to paragraph 1 based on a polluter's application. The decision will be sent to the polluter, the respective financial office and the State Environmental Fund of the Czech Republic.

#### Section 98

An appeal against the decision on the fees for discharging waste water in surface water does not suspend the requirement to pay the fee<sup>40)</sup>.

#### Section 99

##### **Administration of Fees**

1) The financial offices with the respective territorial jurisdiction over the seat of individual polluters execute the collection and claiming of fees due in respect of the discharge of waste water into surface water based on the documents issued by the Czech Environmental Inspectorate; in doing this they follow the act regulating administration of tax and charges<sup>37)</sup>, unless stipulated otherwise by this Act.

2) The polluter shall pay the fees, including advance payments, penalties<sup>37)</sup> and fines<sup>41)</sup> to the account of the respective financial office. They constitute the revenue of the State Environmental Fund of the Czech Republic. The respective financial office shall transfer the revenue from the fees and accessories, including advance payments, penalties and fines, to the account of the Czech State Environmental Fund monthly.

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<sup>40)</sup> Section 55 of Act No. 71/1967 Coll. on Administrative Proceedings (The Rules of Administration).

<sup>41)</sup> Act No. 71/1967 Coll. as later amended.

## Section 100

### **Fee for Permitted Discharge of Waste Water into Groundwater**

- 1) The authorised person (Section 8) shall pay a fee in respect of a permitted discharge of waste water in groundwater.
- 2) If waste water from a family dwelling or structures for individual recreation is purified by a domestic treatment plant to the level stipulated in the permission for the discharge of waste water, no fee applies to the discharge of such water into groundwater. In other cases, the permitted discharge is subject to a fee of CZK 3 500 per calendar year.
- 3) The obligation to pay the fees pursuant to paragraph 1 does not apply to the following:
  - a) discharge of mineral water certified pursuant to a special act<sup>2)</sup> as a natural curative resource, unless used in spa treatment,
  - b) discharge of natural mineral water unless used in the production of packaged mineral water,
  - c) water used for the purposes of gaining thermal energy [Section 8, par. 1, letter d)],
  - d) polluted water whose pollution was reduced after withdrawal from groundwater [Section 8 par. 1 letter e)]
- 4) The fee is payable by 31<sup>st</sup> January following the year in which the liability arose.
- 5) The fee is payable to the municipality in the cadastral area where the discharge takes place and constitutes its revenue.
- 6) The water authority issuing the permission for the discharge of waste water into groundwater shall submit the necessary information to the municipality.
- 7) When stipulating fees the municipality shall proceed pursuant to the legal code and when collecting and recovering fees pursuant to the act regulating administration tax and charges.

## *Part 2*

### *Payments to Cover Watercourse and River Basin Administration, and the Costs of Measures taken in Public Interest*

## Section 101

### **Payments to Cover Watercourse and River Basin Administration**

- 1) A person authorised to withdraw surface water from a watercourse is obliged to pay for the administration of the watercourse and in case of withdrawing surface water from a significant watercourse, also for the river basin administration, per units of CZK/m<sup>3</sup> depending on the purpose for which the surface water is withdrawn and according to actually withdrawn surface water quantity.
- 2) The payment shall be calculated as a multiple of the actual quantity of water withdrawn for the past calendar month (or another period, not exceeding one calendar year, agreed with the administrator of the watercourse from which the surface water is being withdrawn) reduced by the quantity of surface water for which the payment does not apply (par. 4) and the price for the withdrawal of surface water stipulated by the watercourse administrator in accordance with a special act<sup>42)</sup>. If a person authorised to use water withdraws surface water from one water resource in several localities, the withdrawn quantities are summed for the purpose of the fee calculation.
- 3) The price for the surface water withdrawal shall be stipulated separately for the following purposes:
  - a) through-flow cooling of steam turbines
  - b) agricultural irrigation,
  - c) filling of artificial terrain cavities (pits remaining after excavation of raw material) in cases requiring pumping or transfer of water; this price must not exceed the sum of operational costs which arise for the watercourse administrator for this activity,
  - d) other withdrawals

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<sup>42)</sup> Section 6 of Act 526/1990 Coll. on Prices.

4) The fee for surface water withdrawal does not apply provided the withdrawn water quantity does not exceed 6 000 m<sup>3</sup> per calendar year or less or equal to 500 m<sup>3</sup> per each calendar month. It further does not apply to surface water withdrawals for the purpose of operation of fish hatcheries and tanks, for filling of ponds and water reservoirs used for fish breeding, filling of artificial trenches in the terrain (pits remaining after mineral mining), transfer of water by the watercourse administrator, for flow cooling of research nuclear reactors, fire protection purposes, filling of public bathing pools, dead watercourse branches and reservoirs constituting a protected biotope of flora and fauna, for the production of snow using water guns, for the withdrawal of surplus water for agricultural or forest production and for a permitted withdrawal for the purpose of feeding the water deficit of agricultural crops. Surplus water for agricultural and forest production means surface water withdrawn from watercourse during high flow (water level) and used for irrigation by flooding.

5) The person authorised to withdraw surface water is obliged to pay the fee monthly by each 25<sup>th</sup> day following the end of the respective calendar month to the respective administrator of the watercourse from which the surface water is being withdrawn, unless payment conditions are mutually agreed upon otherwise; such agreement, however, may not stipulate a payment deadline beyond the 25<sup>th</sup> of January of the following year.

6) Should the authorised person fail to pay the outstanding fee, the respective administrator of the watercourse from which surface water is being withdrawn, is entitled to claim the payment including a penalty (Section 103) in court.

#### Section 102

#### **Payments for Covering Costs of Measures in Public Interest**

1) The State may provide financial means to settle the costs of measures taken in public interest, in particular for the following:

- a) river basin administration activities pursuant to this Act,
- b) administration of small watercourses,
- c) monitoring and assessment of the status of surface water and groundwater,
- d) water management planning,
- e) runoff regime studies, determining the flood plain areas and studies of preventative flood protection measures,
- f) renewal of water management structures and watercourse channels,
- g) establishing, renewal and operation of water management structures and facilities for the protection against flood and drought,
- h) increasing the capacity of and regulating watercourse channels and improving the landscape runoff regime,
- i) establishment and renewal of structures for land reclamation,
- j) renewal and reconstruction of fish ponds and removal of mud,
- k) renewal and operation of water-ways,
- l) administration of a water management structure the owner of which is unknown and that are not cared for by anybody else,
- m) other measures pursuant to the approved programs of measures (Section 26),
- n) renewal of the watercourse channel following a flood (Section 45, par. 1).
- o) check examination of the quality and quantity of discharged waste water, including detection of sources of pollution.

2) The state will provide financial means for measures in the public interest to river basin administrators, the Czech Environmental Inspectorate, administrators of watercourses, owners of water management structures and authorised professional institutions (Section 21 par. 3) and other natural persons and legal entities; no legal claim exists for obtaining the funds.

3) Each year, the government will prepare binding rules regulating the provision of financial funds and the method of control of their use, in the form of an attachment to the state budget.

*Part 3*  
*Penalties*

Section 103

1) For each day of delay in the payments pursuant to Section 88, **89**, 100 and 101, persons withdrawing water are obliged to pay a penalty amounting to 0.1 percent of the outstanding amount. A special act 37) regulates the penalty remission.

2) For administering penalties pursuant to this Act the procedure for interest on default pursuant to regulations for administration tax and charges shall be used.

CHAPTER XI  
**EXECUTION OF STATE ADMINISTRATION**

Section 104

1) The water authorities and the Czech Environmental Inspectorate execute the state administration pursuant to this Act. The district hygiene station inspects the quality of surface water determined by a decree for bathing (Section 34), unless special legal regulations encumber this liability on another person.

2) The water authorities are as follows

- a) municipal authorities,
- b) military zone authorities<sup>43)</sup> in military zones,
- c) authorities of municipalities with extended jurisdiction,
- d) regional authorities,
- e) ministries, as a central water authority (Section 108).

This does not affect the provisions regarding the flood control authorities.

Section 105

**Municipal authorities and Military Zone Authorities**

1) Municipal authorities regulate, limit or ban, pursuant to Section 6 par. 4 of this Act, general use of surface water, except for watercourses forming the state border.

2) Authorised municipal authorities

- a) permit withdrawal and other use of surface water or groundwater for the need of individual citizens (households), except for the discharge of waste water into surface water or groundwater, and the establishment, changes and removal of water management structures connected with such withdrawal or use,
- b) decide in cases in which they have the jurisdiction to permit a water management structure; the same applies to other water management issues related to such water management structures,
- c) issue approval pursuant to Section 17, par. 1, letters c), d) and e) for the construction of individual housing buildings and landscaping work in flood plain areas when these activities do not affect the runoff regime,
- d) provide expert opinion pursuant to Section 18 of this Act in cases in which they do not have the jurisdiction for the issuance of permission or agreement.

3) In the military zone territories, state administration pursuant to Sections 105 through 107 is executed by the military zone authorities within the scope of the need to secure the state defence and Armed Forces training, except for powers pursuant to Chapters X and XII of this Act.

Section 106

**Municipal authorities with extended jurisdiction**

The jurisdiction, which under this Act pertains to the water authorities, is executed by municipal authorities with extended jurisdiction unless this Act appoints such to other authorities.

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<sup>43)</sup> Section 35 of Act No. 222/1999 Coll.

Section 107  
**Regional Authorities**

The jurisdiction of the regional authorities includes the obligation:

- a) to provide expert opinion pursuant to Section 18 of this Act in respect of structures which affect substantially water use, water protection or flood protection if they reserve this right for themselves,
- b) to decide in matters regarding transboundary waters after consulting with the Ministry of Agriculture and the Ministry of the Environment; if such decision affects the course, character or marking of the state border, consultation with the Ministry of the Interior is also requested; transboundary waters are surface water or groundwater stipulated in international agreements binding for the Czech Republic<sup>44)</sup>,
- c) to adopt measures in extreme situations, in particular in cases of water shortages and accidents which exceed the territory of an administrative ward of a municipality with extended jurisdiction or municipal authority with extended jurisdiction,
- d) to co-operate with the central administration authorities and river basin administrators in development of river basin district plans and their implementation. Regional authorities may request the co-operation of professional institutions, institutions monitoring the quality and healthiness of water, nature protection bodies, associations of citizens acting in the area of environmental protection and fish breeding, owners and operators of water supply and sewerage systems and other bodies as needed for ensuring co-operation in the development of river basin district plans and control of the implementation of river basin district plans.
- e) to impose measures stipulated by the programs of measures in public interest pursuant to Section 26, par. 3,
- f) to control the execution of the technical and safety supervision of water management structures, which it permits,
- g) to decide on the classification of a water management structure into the respective categories in terms of the technical and safety supervision, if they reserve this right,
- h) to stipulate the manner and conditions of the discharge of mine water into surface water and groundwater,
- i) to prepare, in co-operation with the river basin administrator, supporting documentation for the decision regarding the determination of an administrator of a small watercourse.
- j) to permit discharge of waste water into surface water from sources of pollution with a size of 10 000 population equivalent or more,
- k) to permit discharge of waste water from mining and uranium processing, nuclear power stations and waste water containing especially dangerous or dangerous substances pursuant to Attachment 1 into surface waters,
- l) to permit withdrawal of polluted groundwater for the purpose of reducing its pollution and its subsequent discharge into this water or into surface water [Section 8, par. 1, letter e)],
- m) to permit damming and accumulation of surface waters in reservoirs with a total volume above 1 000 000 m<sup>3</sup> or with a height of damming-up above 10m from the floor of the bottom outlet,
- n) to stipulate at the proposal of the water basin administrator the extent of the flood plain areas of important watercourses and encumber them with the preparation of such proposals,
- o) to decide in cases of doubt whether water is surface water or groundwater,
- p) to decide in cases of doubt whether it concerns a watercourse under Section 43 par. 2, as well as whether other surface waters than those specified in paragraph 1 constitute a watercourse.
- r) to issue a statement pursuant to Section 18 in cases in which they have the jurisdiction to issue permission or agreement.
- s) to permit exceptions for the use of harmful substances (Section 39 par.7).
- t) to permit water management structures enabling use of water under letters j) to m),

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<sup>44)</sup> Notification No. 7/2000 Coll. m.s. on the Agreement between the Government of the Czech Republic and the Government of the Slovak Republic on Co-operation on Transboundary Waters.  
Notification No. 66/1998 Coll. on the Agreement between the Czech Republic and the Federal Republic of Germany on Co-operation on Transboundary Waters in the Area of Water Management  
Decree No. 57/1970 Coll. on the Agreement between the Czechoslovak Republic and the Republic of Austria Regulating the Water Management Issues in Transboundary Waters.

- u) to decide in cases in which they have the jurisdiction to permit a water management structure; the same applies to other water management issues related to such water management structures and protection zones of water sources connected to them,
- v) to approve rules of operation or rules of service for the water management structure which it permits,
- w) to stipulate the manner and conditions for the discharge of mine water into surface water and groundwater,
- x) to stipulate areas determined for retention of flood flows.

#### Section 108

#### **Ministries as a Central Water Authority**

1) Unless stipulated otherwise by this Act, the Ministry of Agriculture shall execute the powers of a central water authority.

2) The Ministry of the Environment shall execute the powers of the central water authority in the following matters

- a) protection of the quantity and the quality of surface water and groundwater, including
  1. permission to discharge waste water into surface water or groundwater [Section 8, par. 1, letter c)]
  2. permission to withdraw polluted groundwater for the purpose of reducing its pollution and its subsequent discharge into this water or into surface water [Section 8, par. 1, letter e)]
  3. permission to discharge waste water containing especially dangerous substances into the sewerage systems (Section 16),
  4. stipulating the minimum residual flow and imposing the obligation to install a water gauge or water-mark on a water management structure including the obligation to measure the minimum residual flow regularly and to report the results of such measurements to the respective river basin administrator (Section 36),
  5. stipulating the minimum level of groundwater and imposing the obligation to submit draft rules for groundwater withdrawal or the obligation to measure the groundwater level regularly, including the method of such measurement and the obligation to report the results of the measurements to the respective water authority and the river basin administrator (Section 37)
  6. activities in permitting the discharge of waste water into surface water or groundwater and collecting the results of the measurement of the volume of the discharged water and its pollution rate (Section 38),
  7. drafting an executive regulation stipulating the indicators and values of admissible water pollution (Sections 31, 32, 33, 35 and 38),
- b) monitoring and assessment of the status of surface water and groundwater together with the Ministry of Agriculture (Section 21 and 22),
- c) monitoring and assessment of the status of surface water and groundwater through authorised professional institutions established by the Ministry (section 21),
- d) development and maintenance of the information system together with the Ministry of Agriculture pursuant to this Act (Sections 19 and 22),
- e) production and approval of plans in the water sector and the preparation of the programs of measures, together with the Ministry of Agriculture (Sections 24 through 26),
- f) assessment of the plans in the water sector in terms of their impact on the environment (Sections 24 and 25),
- g) protected areas of natural water accumulation (Section 28)
- h) protection of water resources (Sections 29 and 30),
- i) sensitive areas (Section 32)
- j) vulnerable zones (Section 33),
- k) stipulating remedial measures in cases of insufficient quality of surface water in use for bathing (Section 34, par. 2),
- l) stipulating surface water suitable for the life and reproduction of indigenous species of fish and other aquatic fauna, together with the Ministry of Agriculture (Section 35),
- m) protection of surface water and groundwater against harmful substances (Section 39),
- n) accident amelioration (Section 41) and elimination of harmful impacts of accidents (Section 42),
- o) flood control (Sections 63 through 87),

- p) supervision of the Czech Hydrometeorological Institute (Section 73),
- q) fees for the withdrawal of groundwater, together with the Ministry of Agriculture (Section 88),
- r) fees for the discharge of waste water into surface water and groundwater (Sections 89 through 100),
- s) co-operation with the regional authorities in delegated jurisdiction in the matters of the protection of quantity and quality of transboundary waters (Section 107),
- t) supervision of the Czech Environmental Inspectorate (Section 112),
- u) supervision of the basic and applied research in the area of the protection of water quantity and quality,
- v) fulfilment of tasks resulting from the relation to European Communities in the area of water protection, submitting reports on the fulfilment of the respective EC directives and co-ordinating the adoption and implementation of EC legislation in the water sector,
- w) co-ordinating the water management plans and programs of measures as part of the international co-operation in water protection in the Elbe, Danube and Oder River Basin Districts.

3) The Ministry of Health executes the powers of a central water authority in the matters relating to the determination of surface water in use for bathing, in **co-operation** with the Ministry of the Environment (Section 34).

4) The Ministry of Transport and Communications executes the powers of a central management authority in the matters relating to using surface water for shipping (Section 7).

5) The Ministry of Defence executes the powers of a central water authority in matters falling under the jurisdiction of military zone authorities pursuant to Section 105, par. 3.

#### Section 109

##### **Powers of a Water Authority in Emergency Measures**

1) If required in the public interest, in particular in cases of a temporary water shortage, the water authority may regulate the permitted water use without reimbursement for the necessary period of time or, if required, place limitations on or ban such water use. These measures shall be taken after consulting with the respective institutions, unless such consultations are not possible due to the urgency of the situation.

2) If the authorised withdrawals of surface water or groundwater are limited or made impossible due to an emergency situation, which seriously endangers public interest, the water authority is obliged to ensure corrective measures after consulting with the respective authorities. In doing this, it may stipulate who shall be obliged to carry out measures ensuring emergency water withdrawal or water carriage, including the way and extent of these activities. The water authority may request the person who caused the abnormal limitation or interruption of water withdrawal, to carry the expenses incurred in connection with the imposed measures. This does not affect general regulations on liability for damages.

3) The Rules of Administration do not apply to the procedure pursuant to par. 1 and for the imposition of measures pursuant to par. 2.

#### Section 110

##### **Water Management Supervision Executed by Water Authorities**

1) Water authorities supervise the compliance with the provisions of the Water Act and related regulations and within their powers impose measures to eliminate shortcomings found.

2) Within the scope of their powers, the water authorities are obliged to supervise whether decisions issued by them are observed.

3) In execution of the water management supervision, the water authorities may request the co-operation of professional institutions, institutions monitoring the quality and wholesomeness of water, nature protection bodies, association of citizens active in environmental protection and fish breeding, and other authorities, as required.

4) Municipal authorities with the extended jurisdiction and regional authorities as part of the water management supervision, execute the supervision of water management structures the condition of which may endanger the security of persons or property. In doing this, they in particular supervise how the owners or users of such structures ensure technical and safety supervision and perform measures required for the structure safety.

## Section 111

### **Supreme Water Management Supervision**

1) Within the framework of supreme water management supervision, the Ministry of Agriculture and the Ministry of the Environment execute supervision of water authorities and the Czech Environmental Inspectorate in the area of implementation of the provisions of Water Act and the secondary legislation issued pursuant to this Act.

2) Within the scope of their powers under this Act as part of the supreme water management supervision, the Ministry of Agriculture and the Ministry of the Environment are also entitled to supervise the compliance with the provisions of Water Act and the secondary legislation issued pursuant to this Act, the compliance with the decisions of water authorities, the compliance with the obligations of water management structure owners, watercourse administrators and river basin administrators. If they discover any shortcomings, they may impose measures required for their elimination.

3) In co-operation with the Ministry of the Environment, the Ministry of Agriculture shall submit an annual report to the government evaluating the control activities carried out in the last year as part of the supreme water management supervision.

## Section 112

### **Czech Environmental Inspectorate**

- 1) The Czech Environmental Inspectorate is authorised to perform the following
- a) supervise how natural persons or legal entities comply with the obligations stipulated by this Act or imposed under this Act by the Inspection or by water authorities in the area of
    1. use of surface water or groundwater,
    2. protection of this water including its protection in shipping operation,
    3. accidents endangering quality of this water,
    4. water management structures designed for elimination of the pollution of waste water or for waste water discharge in surface water or groundwater or sewerage systems,
    5. protection of water regime and water resources,
    6. in cases requiring special attention, ensuring that the discharge of waste water in surface water or groundwater is in compliance with the requirements of the law,
  - b) impose measures aimed at elimination and remedy of shortcomings, their causes and harmful impacts in cases when a breach of obligations in areas stipulated under letter a) was found,
  - c) within the area in which it is entitled to carry out supervision, order an interruption of production or another activity, should such activity seriously endanger public interest and environment, until the time when the shortcomings or their casual factors are eliminated,
  - d) co-operate with the water authorities,
  - e) keep central records of accidents pursuant to Section 40 et seq.,
  - f) supervise the compliance with the provisions on fees for discharging waste water into surface water by polluters,
  - g) perform control examination of the quality and quantity of discharged waste water, including detection of sources of pollution,
  - h) fulfil other tasks pursuant to this Act.

2) The provisions of Section 115 apply to proceedings taken by the Czech Environmental Inspectorate pursuant to this Act, if permitted by the nature of such proceedings.

## Section 113

The district hygiene station shall decide on the ban of bathing in surface water used for bathing. The Rules of Administration do not apply to such a ban. The ban shall be announced by putting it up on an official bulletin board of the municipal authority with extended jurisdiction and all municipalities forming its administrative ward.

## Section 114

### **Powers of Persons Executing Water Management Supervision and Supreme Water Management Supervision**

- 1) In performing their activity, the authorised employees of the Czech Environmental Inspectorate (hereinafter the "Inspectors") and the authorised employees of water authorities shall be entitled:
  - a) to enter or drive into, within the necessary scope, third party's land, enter third party-owned structures used for business activity or for other operations, unless a special permission pursuant to special legal regulations is required,
  - b) to request necessary documents, information and written or oral explanations relevant to the subject under supervision and take necessary samples; the person under supervision is obliged to provide the requested documents, data and explanation and to co-operate in the necessary scope in the execution of the supervision.
- 2) Inspectors and authorised employees of the water authorities are obliged
  - a) to prove their identity by an inspector license or an authorised employee license,
  - b) to inform the third-party facility operator prior to their entry
- 3) The state is liable for any damage caused by the performance of procedures pursuant to par. 1 letter a); it cannot be released from this liability.

## Section 115

### **Water Administration Proceedings**

- 1) Unless stipulated otherwise by this Act, in proceedings regarding matters regulated by the Water Act, the water authorities follow the Rules of Administration<sup>41)</sup> or the Building Code<sup>4)</sup> for decisions regarding water management structures.
- 2) The Ministry of Agriculture, in co-operation with the Ministry of the Environment shall stipulate in a decree, types of cases, when and what documents the applicant for decision or opinion must submit, as well as the particulars of permissions, approvals and opinions pursuant to this Act.
- 3) In cases when the permission of a water authority may affect water regime in territorial districts of several municipalities, the water authority shall announce the date and the subject of oral proceedings by putting up a public decree at places of the municipal authorities concerned. It will send a written invitation for such oral proceedings to all parties concerned according to the knowledge of the authority.
- 4) Municipalities in the territorial district of which the water regime or environment may be affected as a result of the decision adopted by the water authority, are also party to the proceedings, unless this Act stipulates otherwise.
- 5) The watercourse administrator is party to the proceeding in cases regarding the watercourse; the water authority will also invite the respective river basin administrator for the proceeding, if the decision may affect water regime in the river basin.
- 6) Civic associations the purpose of which is environmental protection according to their statute are also entitled to obtain information on the opening of an administrative proceeding held pursuant to this Act, if they request this information from the water authority; the application must be specific in terms of the subject and location of the proceeding.
- 7) A civic association is in the position of party to the proceeding held under this Act, if such position is requested within 8 days of the date when the information pursuant to paragraph 6 has been delivered to it.
- 8) The water authority shall deliver the invitation for oral proceedings directly into the hands of the party to the proceeding at least 8 days and in more complicated cases at least 30 days before the oral proceedings date. The public decrees announcing oral proceedings in cases pursuant to paragraph 3 must also be displayed over this period of time. The water authority will inform the parties to the proceedings that objections raised after the oral proceedings will not be considered. In case of line-type structures, extremely large structures or when the number of parties to the proceeding is very large, the water authority may announce the proceeding opening date to the parties to the proceeding by the means of a public notice at least

30 days prior to the date of local inquiry or oral proceeding, and if oral proceeding does not take place, prior to the expiration of the deadline stipulated for raising objections. The water authority may also deliver its decision to parties of the proceeding other than the applicant for the permission or watercourse administrator or the person who raised objections by the means of a public notice located on notice boards in municipalities in the territorial districts of which the interests of parties concerned are affected.

9) If the decision will affect water regime or the quality of water in the jurisdiction of another water authority or if the water management structure subject to proceeding is situated partially in the territorial district of another water authority, the water authority with the respective factual and local jurisdiction will decide upon consulting with those water authorities the territorial districts of which are affected by the decision.

10) In simple matters, in particular if a decision can be made based on documentation submitted to the parties of water administration proceeding, the water authority will decide without undue delay. In other cases it will decide by the latest within 60 days of the commencement date of the water administration proceeding; in especially complicated cases by the latest within three months. If, due to the nature of the matter, a decision cannot be made within the above deadlines, the appellate authority may correspondingly extend the deadline.

11) If the water authority issues simultaneously several decisions concerning one applicant, they may be made in one decision.

12) If new decisive facts are revealed, the water authority may, in a new water administration proceeding, change or cancel its other decisions issued in connection with a permission, which was changed or cancelled.

13) The costs of expert opinions, which are required in the water administration proceeding initiated by an applicant for permission or agreement under this Act, shall be borne by the applicant.

14) Measures or decisions of the water authorities adopted pursuant to Section 109 (measures in case of water shortage) can be declared or cancelled by the means of a public notice or another manner normally used in the area. Public notice can also be used for announcing bans, limitations or other measures adopted by the water authority pursuant to Section 6, par. 4, Section 30, Section 58 par. 3 and Section 68.

15) The applicant applying for a permission for impounding surface water must prove to the water authority his/her proprietary right to land and buildings affected by the impounded water or the fact that he/she has filed a proposal for their expropriation or that he/she has adopted measures to clarify unclear ownership relations to such land and buildings or to ascertain the residence of their owners, if they are unknown to him/her.

16) When imposing measures to eliminate shortcomings discovered by the water supervision the scope of which cannot be specified without prior research or prior preparation of technical documents, such research or preparation of technical documents may be assigned individually and individual decisions required for remedy may then be issued based on their results. If the decision on remedial measures requires water use in a manner which otherwise requires permission pursuant to Section 8, this permission does not have to be issued in this case.

17) The water authority approves the rules of operation as well as operational rules of water management structures by a decision.

18) If the water management structure or its activities extend into the administrative wards of several water authorities the governing water authority is the one in whose administrative ward the decisive part of the water management structure resides or where the decisive activities are performed. Activities are understood as use of water, activities given in Section 14 and other activities pursuant to the Act including those for which the water authority issues a statement pursuant to Section 18. The local water authority for stipulating the protection zones of the water resource or water management structure is the water authority in whose administrative ward the water management structure subject to the stipulation of the protection zones resides. The local water authority for stipulating areas intended for flood flow retention (Section 68) is the water authority in whose administrative ward the decisive part of the areas intended for flooding or the decisive structure for flood protection connected with these areas reside. In case of doubts about which water authority is the corresponding one for issuing permits, other decisions or statements the matter is decided by

the supervising water authority.

## CHAPTER XII

### SANCTIONS

#### **Fines Imposed on Natural Persons Doing Business or Legal Entities**

##### Section 116

1) Unless a criminal act is involved, the Czech Environmental Inspectorate or municipal authorities of municipalities with extended jurisdiction shall impose a fine on a natural person doing business or a legal entity (hereinafter "the liable party"), who:

- a) withdraws surface water or groundwater without the respective permission of the water authority or in breach of it (hereinafter "illegal water withdrawals")
- b) discharges waste water or mining water into surface water or groundwater or sewerage systems in breach of this Act (hereinafter "illegal water discharge"),
- c) pollutes surface water or groundwater or endangers their quality or wholesomeness through illegal use of harmful substances or causes an emission of such substances into sewerage system in breach of this Act (hereinafter "illegal use of harmful substances"),
- d) breaches of other liabilities whereby it
  1. does not carry out, when using surface water and groundwater for manufacturing purposes, modifications leading to economic use of water resources taking account of the best available technology (Section 5 par. 2),
  2. does not equip the vessel with required equipment for accumulation of waste water or does not duly operate it or does not prevent the leaking of waste water or dangerous substances from vessels into surface waters (Section 7 par. 2),
  3. does not ensure the liability of the operator of a dock or special vessel designed for transport of fuels or shipping waste (Section 7 par. 3),
  4. uses surface water or groundwater without the respective permission of the water authority when such permission is necessary under the provisions of Section 8, unless it concerns inadmissible withdrawal of water under Section 117,
  5. pumps waste water or harmful substances from vessels or supplies vessels with fuel or operational substances outside the port, if the volume of such material exceeds 50 litres in each individual case or unless such activities are performed by a service ship (Section 7 par. 4),
  6. does not measure the quantity and the quality of surface water or groundwater which it is authorised to use (Section 10 par. 1 and 2),
  7. does not notify the transition or transfer of rights to use surface water or groundwater together with land or structures, as acquirer in the set time limit (Section 11 par. 1),
  8. performs activities which require permission under the provisions of Section 14 without the permission of the water authority (Section 14 par. 1),
  9. makes constructions, equipment or performs activities without the agreement of the water authority (Section 17 par. 1),
  10. does not submit information necessary for the recording of the water management structure of which it is the owner in the land registry within the time limit,
  11. does not communicate information requested by the river basin administrator or authorised person about its use of surface water or groundwater or does not allow them to acquire this information (Section 21 par. 5),
  12. does not provide data necessary for water balance management at the stipulated time and in the stipulated manner (Section 22 par. 2)
  13. does not, as an owner, prevent deterioration of the runoff regime or washing away of soil by water (Section 27),
  14. performs to a forbidden extent the activities laid down in the provisions of Section par. 2 without permission for an exception by the Ministry of Environment in a protected area of natural water accumulation (Section 28 par. 2 and 3),

15. does not give notice of detection of the occurrence of groundwater in an unusual quantity on its land or occurrence of confined groundwater on its land (Section 29 par. 3),
16. releases fish or other aquatic fauna of other than indigenous species, of genetically improper or unverified populations of natural species into watercourses and water reservoirs without approval of the water authority (Section 35 par. 4),
17. when working with harmful substances does not take adequate precautions to prevent their releases into surface water or groundwater and to prevent them from endangering the environment (Section 39 par. 1).
18. when working with harmful substances does not take adequate precautions to prevent their releases into the sewerage system not forming part of the technological equipment of the production plant (Section 39 par. 4).
19. does not draw up an emergency plan for cases of accidents [Section 39, paragraph 2, letter a)],
20. does not keep or archive records on measures implemented when working with harmful substances [Section 39 par. 2 letter d)],
21. does not locate facilities for using, accumulating, storing, processing or transporting harmful substances in a manner pursuant to Section 39 par. 4 letter a),
22. does not check or repair warehouses, stores, pipe leaking, tanks intended for storage harmful substances and vehicles for their transport in the time limits stipulated in the provisions of Section 39 par. 4 letter c),
23. does not construct and operate an appropriate control system for the detection of emission of harmful substances [Section 39 par. 4 letter d)],
24. does not ensure that newly constructed structures be secured against undesirable leaks of harmful substances during fire-fighting [Section 39 par. 4 letter e)],
25. does not keep records of the types of especially dangerous substances which it processes or uses or records of their quantity, the content of their active substances and their characteristics (Section 39 par. 6),
26. does not provide information which it is liable to record (Section 39 par. 6) on request to the water authority or Fire Rescue Services of the Czech Republic,
27. washes motor vehicles and other operational equipment in watercourses or in places where there may be a threat to the quality of surface water or groundwater (Section 39 par. 9),
28. does not implement immediate measures for removing the causes or consequences of accidents which it causes (Section 41 par. 1),
29. does not follow the emergency plan or the instructions of the water authority and the Czech Environmental Inspectorate (Section 41 par. 1) when eliminating an accident which it caused,
30. does not immediately announce accidents which it detects or causes (Section 41 par. 2),
31. does not meet requirements of an appeal when eliminating causes or consequences of an accident it caused (Section 41 par. 5),
32. does not provide required information of accidents whose elimination it took part in (Section 41 par. 6),
33. does not return a land plot or structure which needed to be used when eliminating a damaged condition back to the original state, unless the own agreed otherwise (Section 42 par. 7),
34. does not respect the ban on modifications which change the direction, the longitudinal slope and the cross-section of the watercourse channel or damage its banks, excavates soil, sand or raw materials from watercourse channels, deposits objects in watercourses which might endanger fluent water flow, human health or safety or deposits such objects in areas from which they may be washed into the water,
35. does not fulfil the liabilities of a watercourse administrator for the section for which it is administrator or perform its administration (Section 47),
36. does not fulfil the liabilities of an owner of land on which watercourse channels are located (Section 50),
37. does not fulfil the liabilities of an owner of land adjacent to a watercourse channel (Section 51 par. 1),
38. does not remove objects trapped or stuck on those structures or facilities in the channels of which it is the owner (Section 52 par. 1),

39. does not take appropriate care of the safety or maintenance of structures or facilities in the channels of the watercourse which are not water management structures and of which it is the owner (Section 52 par. 2),
40. does not make appropriate corrections to the interruption of the smooth flow of surface waters which occurred as a result of neglecting care of the static security or maintenance of structures or facilities which are not water management structures and of which it is the owner (Section 52 par. 2),
41. uses the land which it owns in a manner negatively affecting the function of the structure for land reclamation or its part [Section 56 par. 4 letter a)],
42. does not report to the owner of the structure for land reclamation or to the water authority, obvious failure of the function of the structure established on the land which it owns [Section 56 par. 4 letter b)],
43. refuses the structure for land reclamation or its part on the land it owns [Section 56 par. 4 letter a)],
44. refuses use of the land it owns for the maintenance of the structure for land reclamation [Section 56 par. 4 letter d)],
45. damages water management structures or their functions (Section 58 par. 1),
46. plants wood species on protected levees (Section 58 par. 2)
47. drives a vehicle over protected levees (Section 58 par. 2),
48. damages staff gauges, water meters, water gauges, water marks, flood marks and other facilities serving for comparison the state of surface water and groundwater [Section 58 par. 2 letter b)],
49. does not respect approved rules of operation or rules of service of the water management structure [Section 58 par. 1 letter a)],
50. does not submit a proposal of amendments of the rules of operation of water management structures of which it is the owner [Section 58 par. 1 letter a)] to the water authority for approval,
51. does not maintain the water management structure which it owns in as state preventing damage [Section 59 par. 1 letter b)],
52. does not perform technical and safety supervision [Section 59 par. 1 letter c)], for a water management structure subject to technical and safety supervision of which it is the owner,
53. does not respect the instruction of the given watercourse administrator when using a water management structure which it owns [Section 59 par. 1 letter e)],
54. does not remove objects and matter trapped by to the water management structure which it owns or removes them in an unauthorised manner [Section 59 par. 1 letter f)],
55. does not place nautical signs [Section 59 par. 1 letter h)] on the water management structure which it owns [Section 59 par. 1 letter h)],
56. as owner it does not maintain the water management structure serving for damming surface water in the watercourse in a correct state, particularly the floor and banks of the watercourse, and particularly does not remove sediments and obstacles in the watercourse [(Section 59 par. 1 letter i)],
57. does not create conditions for migration of aquatic fauna through the water management structure which it owns [Section 59 par. 1 letter i)],
58. does not remove natural seeding vegetation from the levee serving for flood protection, damming or accumulation of surface water, which it owns [Section 59 par. 1 letter j)],
59. does not allow entry onto land adjacent to a water management structure (Section 60 par. 1)
60. does not specify a natural person responsible for the technical and safety supervision of the water management structure of which it is the owner or builder, or does give notice of or announce the stipulated information [Section 62, par. 4 letter a)],
61. does not invite the water authority to inspect a water management structure subject to technical and safety supervision in the set time limit [Section 62, par. 3],
62. does not submit a report on the results of the technical and safety supervision of the water management structure of which it is the owner or builder and which is subject to technical and safety supervision in the set time limit [Section 62, par. 4] letter c)],
63. does not allow entrance by persons or vehicles to land and buildings which it owns to persons who manage, co-ordinate and execute security and rescue work for flood protection (Section 63 par.3),
64. does not provide personnel or material assistance towards flood protection when ordered to by the flood protection bodies (Section 63 par. 3),

65. does not respect the orders of the flood protection authority during floods (Section 63 par. 3),
66. extracts raw materials and soil in a manner deteriorating the surface water flow or carries out terrain modifications deteriorating the surface water flow (drainage) in the delimited active zone of the flooded area [Section 67 par. 2 letter a)],
67. stores materials, substances or objects which can be washed away in the delimited active zone of the flooded area in a manner deteriorating the surface water flow [Section 67 par. 2 letter b)],
68. installs fencing, hedgerows or similar obstacles in the active zone of the flooded area [Section 67 par. 2 letter c)],
69. sets up a camp, campsite or other temporary accommodation in the active zone of the flooded area [Section 67 par. 2 letter d)],
70. does not draw up a flood protection plan for land or buildings it owns which are situated in the flood plain area or deteriorate the flood evolution (Section 71 par. 4 and 5),
71. does not update the flood protection plan of the whole area (Section 71 paragraph 6),
72. does not submit the factual and graphical part of the flood protection plan of the whole area to the higher flood protection authority for approval of conformity with the flood protection plan at higher level (Section 71 par. 7),
73. does not submit flood protection plans for land and buildings situated in flood plain areas or capable of deteriorating the flood evolution, to the flood protection authority of the municipality in whose territory the land and buildings are situated (Section 71 Par. 7),
74. does not give notice of the danger of extreme flooding or immediately warn affected natural or legal persons (Section 73 par. 3),
75. does not ensure communication of reports and information from forecasting and flood warning services (Section 73 par. 4),
76. does not perform flood security activities on the watercourse it administers or structures which it owns in accordance with the flood protection plans (Section 75 par. 3),
77. does not negotiate security activities on water management structures falling into category I or II which it owns or builds from the point of view of technical and safety supervision with a person authorised to carry out the technical and safety supervision, unless there was danger from a delay (Section 75, par. 3),
78. does not fulfil the liabilities of a river basin administrator or minor watercourse supervisor (Section 82 and 83),
79. does fulfil the liabilities of an owner of a water management structures (Section 84),
80. does not take precautions to prevent deterioration of flood flow conditions and flood evolution (Section 85),
81. does not take appropriate case with the location or use of the movable asset which it owns in a manner that will not hinder high water flow or, if pertinent, prevent the movable asset against being washed away (Section 85 par. 3).
82. does not submit the fee report (Section 88 par. 5 and Section 93 par. 1) or the fee statement (Section 88 par. 10 and Section 94 par. 1),
83. does not monitor the concentration of pollution in discharged waste water or measure the volume of discharged waste water (Section 91 par. 1),
84. does not keep operational records of monitoring and measuring the concentration of pollution in discharged waste water or its volume nor keeps documentation for its recording for the set period (Section 91),
85. does not allow access to facilities subject to an inspection to the authorised staff of inspection laboratories and measuring groups carrying out activities in accordance with Section 126b or furnish them with documentation necessary for the performance of the inspection or ensure conditions for taking samples from all outlets of the pollution source under inspection (Section 92 par. 3).

2) A fine may be imposed on a natural person doing business only provided the above activities were carried out in doing business.

3) Municipalities, which do not fulfil the liabilities stipulated in Art. II point 6 of Act No. 20/2004 Coll., can be fined a sum up to CZK 1 000 000 by the Czech Environmental Inspectorate.

#### Section 117

##### **Fines for Illegal Water Withdrawals**

- 1) The fine for illegal surface water withdrawals shall be stipulated as a multiple of the rate of 10 CZK/1 m<sup>3</sup> of illegally withdrawn surface water and the total quantity of water withdrawn.
- 2) The fine for illegal withdrawal of groundwater shall be stipulated as a multiple of the rate of CZK 50/m<sup>3</sup> of illegally withdrawn groundwater and the total quantity of water withdrawn.
- 3) If the quantity of illegally withdrawn water cannot be determined when stipulating the fine, the authority imposing the fine will assess the quantity based on facts allowing an indirect determination of the withdrawn water quantity.
- 4) If the fine calculated or stipulated pursuant to the preceding paragraphs does not reach CZK 5 000, it shall be determined at CZK 5 000.
- 5) The fine can be imposed for a maximum of 3 years preceding the day when the illegal water withdrawal was revealed.
- 6) The maximum fine is CZK 10 000 000.

#### Section 118

##### **Fines for Illegal Discharge of Waste Water or Mining Water**

- 1) The fine for illegal discharge of waste water or mining water shall be stipulated at level between CZK 10 000 and CZK 10 000 000.
- 2) When stipulating the fine, the fine imposing body will, in particular, consider the degree of exceeding the conditions stipulated in the permission for such water discharge, the impact on the quality of surface water or groundwater and the size of area affected, the degree of protection of the affected area (protected areas) and the reason for illegal water discharge.

#### Section 119

##### **Fines for Illegal Use of Harmful Substances**

- 1) The fine for illegal use of harmful substances shall be stipulated at level between CZK 5 000 and CZK 5 000 000.
- 2) When stipulating the fine, the fine imposing body will, in particular, consider the circumstances, under which the illegal use occurred, the efforts of the legal entity to attenuate the harmful impacts, the quantity and nature of the emitted substance, the locality which was endangered, the quantity and nature of the harmful substance which was emitted into surface water or groundwater, harmful impacts and possibilities of their elimination and the impact of the harmful substance on the quality of such water, and the degree of protection of the affected area (protected areas).

#### Section 120

##### **Fines for Breaching Obligations Regarding Water Management Structures**

Bodies specified in Section 116 impose fines pursuant to the Building Act<sup>4)</sup> for breach of liabilities stipulated by building regulations in Section 116.

#### Section 121

##### **Fines for Breaching Obligations Regarding the Use of Surface Water for Shipping**

- 1) The State Shipping Authority may impose a fine of up to CZK 100 000 on a vessel operator who:
  - a) operates a vessel with a combustion engine on surface water on which the use of vessels with combustion engines is prohibited (Section 7 par. 5),
  - b) operates a vessel in breach of the stipulated scope and conditions of the use of surface water for shipping (Section 7 par. 5).

2) The fine can be imposed within 2 years of the day when the State Shipping Authority learnt of the breach of the above obligations, however by the latest within 3 years of the day when the breach occurred.

3) When stipulating the fine, the significance and duration of illegal activity and the scope of damage caused shall be considered.

4) The fine is payable within 15 days of the day when the decision on its imposition became legally effective. The State Shipping Authority is also responsible for collecting the fine. Fines constitute a state budget revenue.

#### Section 122

##### **Fines for Breaching Other Obligations**

1) For unlawful conduct

a) pursuant to Section 116 par. 1 letter d) points 7, 11, 12, 15, 27, 42, 43, 44, 47, 59, 60, 61, 62, 63, 64, 65 or 75 a fine is imposed at a level between CZK 1 000 and CZK 50 000.

b) pursuant to Section 116 par. 1 letter d) points 10, 19, 20, 25, 26, 30, 32, 33, 36, 37, 38, 41, 46, 50, 53, 54, 55, 57, 58, 70, 71, 72, 73, 77, 81, 84 or 85 a fine is imposed at a level between CZK 5 000 and 200 000.

c) pursuant to Section 116 par. 1 letter d) points 6, 8, 18, 22, 23, 24, 34, 35, 39, 49, 52, 78, 79, 80, 82 or 83 a fine is imposed at a level between CZK 10 000 and 500 000.

d) pursuant to Section 116 par. 1 letter d) points 1, 2, 3, 4, 5, 9, 13, 14, 16, 17, 21, 28, 29, 31, 39, 40, 45, 48, 51, 56, 66, 67, 68, 69, 74, or 76 a fine is imposed at a level between CZK 200 000 and 1 000 000.

2) When imposing the fine, the following facts shall mainly be considered: what consequences the breach of obligations caused or could have caused, circumstances under which the breach occurred and the efforts of the legal entity to eliminate or mitigate harmful consequences.

3) Breaching the payment terms pursuant to Chapter X of this Act shall not be considered as breaching other obligations.

#### Section 123

##### **Fines for Repeated Breach of Obligations**

1) If a natural person doing business or a legal entity breaches any obligation for which a fine is imposed pursuant to this Act within one year of the date when a decision on a fine imposition became legally effective, a double rate shall apply for the fine. If a lower limit is specified for stipulating the above imposing fine, this limit is doubled.

2) In case of fine increase pursuant to par. 1, the fine may not exceed CZK 20 000 000.

#### Section 124

##### **Imposing the Fine**

1) The procedure of a fine imposition may be initiated by the latest within one year of the day when the municipal authority of a municipality with extended jurisdiction or the Czech Environmental Inspectorate learned about facts under Section 116; however, a fine may be imposed by the latest 3 years after the day when such facts occurred.

2) Only one of the authorities stipulated under Section 116 will initiate the proceeding on the fine imposition, the one that first learned about the fact that obligations have been breached. The above authorities will mutually inform each other about initiating fine proceedings. If the municipal authority of a municipality with extended jurisdiction and the Czech Environmental Inspectorate learn about a breach of obligations on the same day, the municipal authority of a municipality with extended jurisdiction will decide on the fine imposition. Reviewing the decisions of the Czech Environmental Inspectorate on fine imposition in appellate proceedings is under the jurisdiction of the Ministry of the Environment.

3) The fine is payable within 15 days of the day when the decision on its imposition became legally effective.

4) 50% of the fines imposed by the Czech Environmental Inspectorate constitute budget revenue of the municipality in the cadastral area of which the regulations were breached and 50% is allotted as revenue of

the State Environmental Fund of the Czech Republic. Fines imposed by a municipal authority with extended jurisdiction are revenue for that municipality with extended jurisdiction.

Section 125  
**Fine Waiver**

1) The Czech Environmental Inspectorate or authority of a municipalities with extended jurisdiction may, based on a proposal, decide on the termination of proceedings initiated under Section 124, if:

- a) the liable party acted voluntarily to eliminate the consequences, and
- b) the liable party adopted measures preventing further pollution or risk to surface water or groundwater, and
- c) the imposition of a fine would cause unreasonable hardship taking into account measures adopted by the liable party.

2) Based on an application by the liable party, the authority holding proceedings on the imposition of a fine may interrupt the proceeding for the fact that measures pursuant to par. 1 letters a) and b) have been taken.

CHAPTER XIII

**JOINT AND TEMPORARY PROVISIONS**

Section 126  
**Joint Provisions**

1) The terms "owner" or "acquirer" used in this Act are understood to also include the person having the right of use. If the owner transferred his/her rights or obligations relating to a respective provision of this Act to a user, the user is considered as an owner.

2) Watercourse administrators, if state organisations, are obliged on request to take over, from the respective organisational units of the state, water management structures on watercourses and land constituting watercourse channels situated in reaches administered by them, if using the said property pursuant to a special act due to the reason that when the property was acquired by the state, it was not clear which organisational unit or state organisation is entitled to use it or it was revealed that the property belongs to the state but is not used by a state organisational unit or state organization<sup>45)</sup>. In case of doubt which administrator is supposed to take over a water management structure or land belonging to the state, the Ministry of Agriculture will decide the issue; such decision does not have the nature of a decision made in administrative proceedings.

3) A specific drainage facility owned by the state and situated on third-party land shall become the property of the owner of the land affected by this structure as of the effective date of this Act including the respective technical documentation, if available. A specific drainage facility constructed by the state on land owned by the state shall be transferred to a new acquirer free of charge together with the land, unless the new acquirer informs the respective water authority within 24 months of the effective date of this Act that he/she disagrees with the ownership transfer. The transfer of ownership rights shall be executed on the day following the expiration date of the deadline for objecting the transfer.

4) The powers of water authorities, which are not expressly stated herein, must be determined accordingly to the areas in which they are authorised to execute state administration.

5) A decision pursuant to Section 8 par. 1, Section 16 par. 1, Section 17 par. 1, Section 36 and 37, Section 39 par. 2 letter a) and statements pursuant to Section 18 par. 1 are not issued pursuant to this Act, provided their issue is substituted by a process in the proceedings on the issue of integrated permission pursuant to the Act on integrated pollution prevention and control, on the Integrated registry of pollution and amendments to some acts (the Act on Integrated prevention). This does not affect the other provisions of this Act.

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<sup>45)</sup> Section 10 of Act No. 219/2000 Coll. on the Property of the Czech Republic and its Acting in Legal Relations.

6) Water authorities take part in regional planning as affected state authorities and issue standpoints on regional planning documentation negotiated pursuant to special legal regulations<sup>4)</sup>. This does not affect the provisions of Section 126 of special legal regulations<sup>4)</sup>. The Ministries of Agriculture and Environment issue standpoints on regional planning documentation provided by the districts. The jurisdiction of regional authorities includes the issuing of standpoints on regional planning documentation provided by municipalities with extended jurisdiction.

#### Section 126a

The jurisdiction stipulated for the regional authority, municipal authority of a municipality with extended jurisdiction or a municipal authority is the performance of delegated jurisdiction.

#### Section 126b

1) Analyses to detect concentrations of polluting substances in waste water and analyses for the purposes of checking the accuracy of pollution monitoring of waste water (Section 92 par. 1) and checks on the accuracy of monitoring and measuring the volume of discharged waste water (Section 92 par. 2) can be temporarily carried out in the territory of the Czech Republic<sup>45a)</sup> by persons based in other Member States of the European Community provided it can be shown that

a) they are nationals of Member States of the European Community,  
b) they are authorised to carry out activities laid down in Section 92 par. 1 and 2 pursuant to the regulations of other Member States of the European Community.

2) Such persons are required to submit documentation on the fulfilment of conditions pursuant to par. 1 letters a) and b) to the Ministry of Environment prior to commencing the activities laid down in Section 92 par. 1 and 2.

#### Section 127

##### **Temporary Provisions**

1) Rights and obligations established by the existing legal regulations shall remain in force unless this Act stipulates otherwise. Proceedings initiated and still open before the effective date of this Act shall be completed pursuant to the existing regulations.

2) When imposing an increased fine, fines imposed pursuant to the existing legal regulations shall be considered as fines imposed pursuant to this Act.

3) The classification of water management structures into categories for the purposes of technical and safety supervision (Section 61) according to the existing legal regulations shall remain in force.

4) Authorisation granted for the performance of technical and safety supervision according to the existing legal regulations shall be considered as authorisation granted for the performance of technical and safety supervision pursuant to this Act, unless the qualifications of the authorised person, based on which the authorisation for the performance of the technical and safety supervision has been granted, changed.

5) Proprietary rights to land plots which form watercourse channels and which have not yet been registered in the real estate register under a class of water area plot type and which became the property of the state pursuant to Act No. 138/1973 Coll. on Water (the Water Act) as later amended shall be transferred to the owners of land registered in the real estate register on which such watercourse channels are situated, unless they inform the respective water authority within 6 months of the effective date of this Act of their disagreement with such transfer. The proprietary rights shall be transferred on the day following the expiration date of the deadline for objecting to the transfer.

6) If on the effective date of this Act, municipalities discharge waste water into surface water in breach of the provisions of this Act, the water authority may, based on their application submitted maximally within three months of the effective date of this Act, issue a new permission for waste water discharge, permitting a pollution level not exceeding the pollution of waste water discharged during the last 12 months prior to the effective date of this Act. As of the effective date of this Act, this new permission shall replace the existing

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<sup>45a)</sup> Articles 49 and 50 of Treaty establishing the European Community.

valid permission. In the new permission, the water authority shall stipulate a reasonable deadline in which the indicators and allowable waste water pollution values according to this Act and the regulations issued pursuant to this Act must be met including the conditions for gradual meeting of the requested level of discharged pollution; when stipulating the deadline, the water authority shall consider justified requirements for water protection and possibilities of technical solutions. During this period, the water authority or the Czech Environmental Inspectorate shall refrain from imposing penalties under Section 116 par. 1, letter b) under the conditions, that the conditions stipulated for meeting the requested level of discharged pollution are being met. The reasonable deadline stipulated by the water authority for meeting the indicators and allowable values of waste water pollution which will be in compliance with this Act and regulations issued pursuant to this Act and conditions for gradual meeting of the required level of discharged pollution, must not fall beyond 31<sup>st</sup> December 2010 for pollution sources in excess of 2000 population equivalent.

7) Withdrawals of groundwater or surface water, which is mining water, shall be considered as permitted as of the effective date of this Act; this permission will expire on 31 December 2004, unless additional withdrawal is permitted pursuant to Section 8. The provisions on charges and fees pursuant to Chapter X of this Act do not relate for such withdrawals during the above-stated period of time.

8) The Czech Environmental Inspectorate shall submit the documentation required to ensure the administration of fees for the discharge of waste water into surface water pursuant to this Act to the regional authorities in delegated jurisdiction by the latest within 30 days of their establishment.

9) Water management records kept pursuant to the existing legal regulations shall become part of the records of decisions issued by the water authorities pursuant to Section 19.

10) The issues of discharging water into the public sewerage systems, water supply from public water supply systems and fees for water supply and sewerage services are governed by the existing legal regulations, including Sections 24, 30 and 46 of Act No. 138/1973 Coll. on water (the Water Act) as later amended, until the date when a new legal regulation on water supply and sewerage systems takes effect.

11) The fees calculated according to rates stipulated in part B of Attachment No. 2 to this Act shall be paid at an amount of 80% in 2002.

12) The fees calculated according to rates stipulated in part A of Attachment No. 2 to this Act shall be paid for the purpose of drinking water supply and for other use not subject to fees pursuant to a special legal regulation<sup>46)</sup> at an amount of 35% in the year 2002 and at the amount of 70% in 2003.

13) Water management structures permitted pursuant to the existing legal regulations shall be considered as water management structures pursuant to this Act. Should other legal regulations use a term "water work", this means a water management structure pursuant to this Act.

14) Rights and obligations established under the existing legal regulations in the area of fees for discharging waste water into surface water and charges for withdrawals of surface water or groundwater remain in force after the effective date of this Act.

15) When deciding, providing opinion and performing other measures pursuant to this Act, the water authorities are obliged to follow the master water management plan in its valid version until the approval date of new plans pursuant to this Act for the respective river basin district.

16) Flood plain areas determined pursuant to the existing legal regulations shall be considered as flood plain areas pursuant to Section 66.

17) Administrators of small watercourses determined pursuant to the existing legal regulations shall be considered as administrators of small watercourses pursuant to this Act.

## PART TWO Amendment to the Act on Public Health Protection

### Section 128

Act No. 258/2000 Coll. on the protection of public health and the amendment to some related acts shall

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<sup>46)</sup> Government Order No. 35/1979 Coll. on Charges in Water Management, as later amended.

be amended as follows:

1. Section 4, paragraph 3 including footnote No. 7 shall be as follows:

”(3) Within the minimum scope and frequency stipulated by an executing legal regulation, the person stipulated in Section 3, paragraph 2, except for the owner and administrator of public water supply system, shall be obliged to ensure drinking water analyses in an accredited laboratory<sup>7)</sup> or by an authorisation holder (Section 83a). Based on the person’s request, the scope and frequency of the analyses may be amended by a decision of a public health protection authority with local jurisdiction.

<sup>7)</sup> Act No. 22/1997 Coll. as later amended.”.

2. In Section 80, par. 1, a comma shall be inserted after letter l) and letter m) shall be added as follows:

”m) grants and withdraws the authority to perform authorisations.”.

3. The following new Sections 83a through 83d shall be inserted after Section 83 including footnote No. 47a:

#### ”Section 83a

1) Authorisation for the purposes of this Act is understood as a procedure opened based on an application of a natural person doing business or a legal entity which results in the issuance of a certificate that the person is capable of performing the following within the specified scope:

- a) taking samples and examining quality and wholesomeness of drinking water (Section 3 par. 1), water in swimming pools and water in resource for artificial swimming pools and sauna pools (Section 6),
- b) examining and measuring the concentrations and intensity of factors in the internal environment of structures (Section 13 paragraph 1),
- c) taking samples and measuring the microbiological and parasite pollution of outdoor playgrounds (Section 13 paragraph 2),
- d) taking samples and examining the wholesomeness of products coming into direct contact with drinking and raw water, except for products of building industry (Section 5), and things for general use, except for toys (Section 25),
- e) disinfection and sterilisation control (Section 17),
- f) taking samples and examining the wholesomeness of food [Section 24, paragraph 1, letter e)],
- g) examining and measuring the intensity of noise, vibrations and non-ionising radiation in social venues and workplaces (Sections 30 through 35),
- h) examining and measuring the intensity of lighting and microclimatic conditions and concentrations of dust and chemical harmful substances in workplaces (Section 37 par. 3),
- i) biological exposure tests and examinations in the area of genetic toxicology, physiology and psychology of labour.

2) The Ministry of Health may grant the authority to perform authorisations to a legal entity or a state organisational unit established to fulfil tasks within the jurisdiction of the Ministry of Health (hereinafter ”the authorising person”). This authority is not transferable. The Rules of Administration do not apply for granting this authority. Authorisations are issued in compliance with conditions stipulated for individual areas pursuant to paragraph 1 by the Ministry of Health. Granting the authority to the authorising persons and withdrawing such authority, as well as the conditions for the authorisation shall be published by the Ministry of Health in its Bulletin.

#### Section 83b

1) The authorising person shall issue a certificate of authorisation to a legal entity or a natural person doing business based on its application. This certificate shall be issued, provided the applicant meets the following authorisation conditions:

- a) professional level relevant to the proposed area of authorisation,
- b) equipment for technical and administrative activities and access to facilities for special examinations,
- c) necessary number of staff with professional training, knowledge and abilities,
- d) existence of staff confidentiality agreements in respect of facts learned by persons performing the authorisation,
- e) non-existence of financial or other interests which could affect the results of activity of the person performing the authorisation,

f) integrity of the applicant for authorisation.

2) Non-existence of financial or other interests pursuant to paragraph 1 letter e) shall be documented by an affidavit.

3) For the purposes of this Act, a person does not have the required integrity if he/she was convicted (and the conviction became legally effective) for a crime the merits of which relate to the object of business. For a legal entity, integrity pursuant to paragraph 1 letter f) must be proven for its statutory representative and all members of a statutory body. A natural person shall prove integrity by an excerpt from the criminal register which must not be older than 3 months.

4) In an application for granting a certificate of authorisation, the applicant will state the name of business company, name and surname of a natural person or a legal entity name, place of doing business or permanent address in case of a natural person, registered seat of a legal entity, identification number and information demonstrating the compliance with the conditions under paragraph 1. A foreign entity<sup>47a</sup> will state place of its residence outside the Czech Republic, its residence in the Czech Republic if the stay was permitted, the location and name of the organisational body situated in the Czech Republic, name and surname of the manager of such organisational body and address of his/her residence in the territory of the Czech Republic, and information demonstrating the compliance with the conditions under paragraph 1.

5) Citizens of the European Union member states shall demonstrate their authority to perform authorisation pursuant to Section 83a, paragraph 1

a) by a certificate of competency required in a European Union member state for access to such activities and issued by this European Union member state or

b) by a document proving qualifications for the performance of such activities obtained in a European Union member state,

if they provide guarantees, in particular in the area of health, safety, environmental protection and consumer protection within the scope regulated by Section 83a paragraph 1.

6) In case of doubt and based upon an application of the citizen of the European Union member state, the Ministry of Health shall decide whether requirements pursuant to paragraph 5 have been met. The application must include documents issued by the respective authorities of the European Union member state proving facts stipulated under paragraph 5. The proceeding on the application assessment must be completed by the latest within 4 months upon the submission of all documents relating to the respective person.

### Section 83c

1) The certificate of authorisation stipulates the subject, scope and conditions of the activity and the duration for which it was issued. The Rules of Administration do not apply to the issuance of the certificates of authorisation. The applicant may object against a decision not to grant a certificate of authorisation within three days of the delivery thereof. The Ministry of Health shall decide on the objections. The decision of the Ministry of Health regarding objections cannot be appealed. Costs incurred in connection with the authorisation including the issuance of the certificate of authorisation shall be borne by the applicant. The price is determined pursuant to a special legal regulation.

2) Authorisation is non-transferable to a third person and shall be granted for a maximum period of 5 years from the date of issue. The authorisation may be extended always for another five years. The person who obtained the certificate of authorisation (hereinafter "the authorisation holder") must submit his/her application for the extension of the certificate of authorisation to the person granting the authorisation a minimum of 6 months prior to the expiry of the certificate's duration.

3) The list of authorisation holders including the business name, registered seat or place of business and identification number pursuant to Section 83b) paragraph 4, including any changes thereto shall be published by the Ministry of Health in its Bulletin. The person granting the authorisation shall deliver this information to the Ministry of Health.

4) The authorisation holder is obliged to meet the conditions of the authorisation and participate in inter-laboratory tests within the scope and time stipulated by the person granting the authorisation. The authorisation holder is obliged to archive the documentation of the results of inter-laboratory tests for a period of five years. Cost of inter-laboratory tests shall be borne by the authorisation holder.

5) The person granting the authorisation shall supervise the compliance with the authorisation conditions and the results of inter-laboratory tests. For this purpose, this person is entitled to enter facilities of the authorisation holder, verify compliance with the authorisation conditions and request submission of documentation including the results of inter-laboratory tests. The authorising person may invite an expert for the respective area to assist in performing the inspection. If the person granting the authorisation discovers a shortcoming, they will either suspend the validity of the certificate or withdraw it depending on the seriousness of the shortcoming. By withdrawing the certificate, the authorisation becomes extinct. The authorisation holder may file objections against a decision on the certificate withdrawal within three days of its receipt. The Ministry of Health shall decide on the objections. The decision of the Ministry of Health regarding objections cannot be appealed.

#### Section 83d

1) In addition to reasons stipulated under Section 83c paragraph 5, the authorisation also becomes extinct in the following cases:

- a) expiration of time for which it was granted unless it was extended based on an application of the authorisation holder,
- b) renunciation of the certificate of authorisation; renunciation of the certificate shall become effective on the day when it was delivered to the person granting authorisation,
- c) provided a natural person is involved, in case of death of the authorisation holder or in case he/she is declared dead,
- d) dissolution of a legal entity which is the authorisation holder,
- e) issuing of a bankruptcy order against the authorisation holder, refusing a petition for issuing a bankruptcy order against the authorisation holder due to lack of assets or initiation of liquidation of the authorisation holder.

2) The person granting the authorisation in cases pursuant to paragraph 1 letter a) and pursuant to section 83c paragraph 4, the authorisation holder or his/her heir, legal successor of a legal entity or, if pertinent, its liquidator, in cases under paragraph 1 letters b) through e), are obliged to inform the Ministry of Health for the purposes under Section 83c par. 3 of the date of the authorisation extinction.

<sup>47a)</sup> section 21 paragraph 2 of the Commercial Code.”

4. In section 92 paragraph 3, the following sentence shall be added at the end of the text: ”A fine of up to CZK 1 000 000 may be imposed by this public health protection authority on a person who acted illegally as a person granting authorisation or authorisation holder.”

5. A new Section 100a shall be inserted after Section 100 as follows:

#### ”Section 100a

If this Act or a special legal regulation regulating the powers of a public health protection authority imposes an obligation on a foreign entity to submit documentation proving certain facts, this is understood as submission of documentation including its certified Czech translation, unless special legal regulations stipulates otherwise. The signatures and stamps on the submitted original documents must be notarised.”

### **PART THREE**

#### **Amendment to the Misdemeanour Act**

##### Section 129

Act No. 200/1990 Coll. on Misdemeanours, as amended by Act No. 337/1992 Coll., Act No. 344/1992 Coll., Act No. 359/1992 Coll., Act No. 67/1993 Coll., Act No. 290/1993 Coll., Act No. 134/1994 Coll., Act No. 82/1995 Coll., Act No. 237/1995 Coll., Act No. 279/1995 Coll., Act No. 289/1995 Coll., Act No. 112/1998 Coll., Act No. 168/1999 Coll., Act No. 360/1999 Coll., Act No. 29/2000 Coll., Act No. 121/2000 Coll., Act No. 132/2000 Coll., Act No. 151/2000 Coll., Act No. 258/2000 Coll., Act No. 361/2000 Coll., Act No. 370/2000 Coll., the finding of the Constitutional Court No. 52/2001 Coll. and Act No. 164/2001 Coll., shall be amended as follows:

Section 34 including the heading and footnote No. 3i) shall be as follows:

“Section 34

**Misdemeanours in the Water Management Sector**

1) Misdemeanour is committed by a person who:

- a) withdraws surface water or groundwater without required permission of the water authority or in breach thereof,
- b) discharges waste water or mine water into surface water or groundwater or into a sewerage system in breach of the Water Act<sup>3i)</sup>,
- c) pollutes surface water or groundwater or endangers its quality or wholesomeness as a result of illegal use of harmful substances or causes such substances to be emitted into a sewerage system in breach of the Water Act<sup>3i)</sup>,
- d) breaches obligations regarding water management structures and resulting from building regulations or
- e) breaches other obligations stipulated by the Water Act<sup>3i)</sup> or obligations imposed based on the Water Act.

2) A fine of up to CZK 50 000 can be imposed for misdemeanours pursuant to paragraph 1 letters a), b), c) or e), a fine of up to CZK 100 000 may be imposed for misdemeanours pursuant to paragraph 1 letter d).

3) The fines are imposed by the Czech Environmental Inspectorate or district authority. The provisions of Section 124 paragraph 2 of the Water Act apply correspondingly.

<sup>3i)</sup> Act No. 254/2001 Coll. on Water and Amendments to Some Acts (The Water Act).”.

**PART FOUR**

**Amendment to the Act on the State Environmental Fund of the Czech Republic**

Section 130

Act No. 388/1991 Coll. on the State Environmental Fund of the Czech Republic, as amended by Act No. 334/1992 Coll. shall be amended as follows:

1. Section 2 paragraph 1 letter a) including footnote No. 2) shall be as follows:

”a) fees for discharging waste water in surface water,<sup>2)</sup>

<sup>2)</sup> Sections 89 through 99 of Act No. 254/2001 Coll. on Water and Amendments to Some Acts (The Water Act).”.

2. Section 2 paragraph 1 letter e) including footnote No. 6) shall be as follows:

”e) fees for actual withdrawal of groundwater<sup>6)</sup> at 50% of their total level,

<sup>6)</sup> Section 88 of Act No. 254/2001 Coll.”.

**PART FIVE**

**Amendment to Act on Inland Shipping**

Section 131

Act No. 114/1995 Coll. on Inland Shipping, as amended by Act No. 358/1999 Coll., shall be amended as follows:

Sections 49 and 50 shall be deleted.

**PART SIX**

**Amendment to Act on the Amendment to the Criminal Code, the Act on Hunting, the Act on Fishing, the Act on State Administration in Water Management Sector, the Act on the Protection of Nature and Landscape and the Forest Act**

Section 132

Act No. 238/1999 Coll. amending Act No. 140/1961 Coll. on the Criminal Code as later amended, Act No. 23/1962 Coll. on Hunting as later amended, Act No. 102/1963 on Fishing as later amended, Act No. 130/1974 Coll. on State Administration in Water Management Sector as later amended, Act No. 114/1992 Coll. on the Protection of Nature and Landscape as later amended, and Act No. 289/1995 Coll. on Forests and Amendments to Some Other Acts (the Forest Act) shall be amended as follows:

Article IV shall be deleted.

## **PART SEVEN**

### **Amendment to Act on the Amendment to the Act on State Administration in Water Management Sector and the Competencies Act**

#### Section 133

Act No. 23/1992 Coll. amending and supplementing Act No. 130/1974 Coll. on State Administration in Water Management Sector as amended by Act No. 49/1982 Coll. and Act No. 425/1990 Coll., and Act No. 12/1969 Coll. on the Establishment of Ministries and Other Central Bodies of the State Administration of the Czech Republic as later amended shall be amended as follows:

Articles I and II shall be deleted.

## **PART EIGHT**

### **Amendment to the Building Code**

#### Section 134

Act No. 50/1976 Coll. on Regional Land Use Planning and Building Order (the Building Code) as amended by Act No. 103/1990 Coll., Act No. 425/1990 Coll., Act No. 262/1992 Coll., Act No. 43/1994 Coll., Act No. 19/1997 Coll., Act No. 83/1998 Coll., the finding of the Constitutional Court published under No. 95/2000 Coll., the finding of the Constitutional Court published under number 96/2000 Coll., Act No. 132/2000 Coll., Act No. 151/2000 Coll., Act No. 239/2000 Coll. and Act No. 59/2001 Coll. shall be amended as follows:

Section 143 paragraph 4 letter b) shall be as follows:

”b) The Ministry of Agriculture – legal regulations stipulating technical requirements for water management structures.”.

## **PART NINE**

### **Amendment to the Act on the Powers of the Authorities of the Czech Republic in Matters Relating to the Transfer of Some State-owned Property to Other Legal Entities or Natural Persons**

#### Section 135

Act No. 500/1990 Coll. on the powers of the authorities of the Czech Republic in matters relating to the transfer of some state owned property to other legal entities or natural persons as amended by Act No. 438/1991 Coll., Act No. 282/1992 Coll., Act No. 473/1992 Coll., Act No. 170/1993 Coll., Act No. 155/1994 Coll., Act No. 191/1994 Coll., Act No. 218/1994 Coll., Act No. 161/1997 Coll., Act No. 164/1998 Coll., Act No. 269/1998 Coll., Act No. 21/2000 Coll. and Act No. 246/2000 Coll. shall be amended as follows:

In Section 15 par. 2, the full stop at the end of letter t) shall be replaced by a comma and the following letter u) shall be added:

”u) for the transfer of financial funds totalling CZK 2.5 billion into a special account of State financial assets to increase the existing financial funds earmarked to cover the necessary costs of the renewal of watercourse channels and water management structures owned by the state and damaged as a result of flood catastrophes in the years 1997, 1998 and 2000, and to partial financing of the program of flood control measures on watercourses and water management facilities.”.

**PART TEN  
FINAL PROVISIONS**

Section 136

**Repealing Provisions**

The following are hereby repealed:

1. Act No. 138/1973 Coll. on Water (The Water Act) as amended by Act No. 425/1990 Coll., Act No. 114/1995 Coll., Act No. 14/1998 Coll. and Act No. 58/1998 Coll.
2. Act No. 14/1998 Coll. amending and supplementing Act No. 138/1973 Coll. on Water (The Water Act) as later amended.
3. Act No. 130/1974 Coll. on State Administration in Water Management Sector as amended by Act No. 425/1990 Coll., Act No. 132/2000 Coll., Act No. 240/2000 Coll. and Act No. 185/2001 Coll.
4. Act No. 58/1998 Coll. on Fees for Discharging Waste Water into Surface Water.
5. Act No. 281/1992 Coll. amending and supplementing Government Order No. 35/1979 Coll. on Charges in Water Management Sector as amended by Government Order No. 91/1988 Coll.
6. Government Order no. 35/1979 Coll. on Charges in Water Management Sector.
7. Government Order No. 91/1988 Coll. amending and supplementing Government Order No. 35/1979 Coll. on Charges in Water Management Sector.
8. Government Order No. 141/2000 Coll. amending Government Order No. 35/1979 Coll. on Charges in Water Management Sector as later amended.
9. Government Order No. 100/1999 Coll. on Protection Against Floods.
10. Decree No. 42/1976 Coll. on Water Managers.
11. Decree No. 62/1975 Coll. on Professional Technical and Safety Supervision of Some Water Management Structures and Technical and Safety Supervision of them by National Committees.
12. Decree No. 6/1977 Coll. on the Protection of the Quality of Surface Water and Groundwater.
13. Decree No. 82/1976 Coll. Regulating the Use of Surface Water for Motor Vessel Shipping.
14. Decree No. 422/1992 Coll. amending and supplementing Decree No. 82/1976 Coll. Regulating the Use of Surface Water for Motor Vessel Shipping.
15. Decree No. 99/1976 Coll. on Water Guard.
16. Decree No. 81/1977 Coll. supplementing the Decree on Water Guard.
17. Decree No. 28/1975 Coll. Determining Water Supply Watercourses and their Basins and Stipulating the List of Watercourses Significant for Water Management.
18. Decree No. 63/1975 Coll. on the Obligation of Organisations to Report on a Discovery of Groundwater and Data on its Withdrawals.
19. Decree No. 176/1999 Coll. Stipulating the List of Transboundary Watercourses Forming State Boundaries.

**PART ELEVEN  
ENTRY INTO FORCE**

Section 137

This Act becomes affective on 1 January 2002, except for the provisions of Section 20, paragraph 1, which become effective 5 years after the effective date of this Act and the provisions of Section 135 which becomes effective on the day of its declaration.

**Klaus** in own hand

**Havel** in own hand

**Zeman** in own hand

### **Especially dangerous substances**

Especially dangerous substances are substances belonging in the below-specified groups of substances, except for those that are biologically harmless or quickly transform into biologically harmless substances:

1. organohalogen compounds and substances that may form such compounds in the water environment,
2. organophosphorous compounds,
3. organotin compounds,
4. substances showing carcinogenic, mutagenic or teratogenic properties in the aquatic environment or under its effect
5. mercury and its compounds,
6. cadmium and its compounds,
7. persistent mineral oils and **persistent** hydrocarbons derived from oil,
8. persistent synthetic substances which may float, remain in suspension or sink to the bottom and which may affect any water use.

Individual especially dangerous substances are laid down in the government decree pursuant to Section 38 par. 5; other substances which belong to the given groups, which are not given in the decree, are considered as dangerous substances.

### **Dangerous substances**

Dangerous substances are substances belonging to the below-specified groups:

1. Metalloids, metals and their compounds:

1. zinc	6. selenium	11. tin	16. vanadium
2. mercury	7. arsenic	12. barium	17. cobalt
3. nickel	8. antimony	13. beryllium	18. thallium
4. chromium	9. molybdenum	14. boron	19. tellurium
5. lead	10. titanium	15. uranium	20. silver
2. Biocides and their derivatives not listed in the list of especially dangerous substances.
3. Substances having a harmful impact on the taste or smell of products for human consumption originating in water environment and compounds having the ability to increase the contents of such substances in water.
4. Toxic or persistent organic compounds of silicon and substances, which may increase the contents of these compounds in water, except for those that are biologically harmless or in water quickly transform into harmless substances.
5. Inorganic compounds of phosphorus or elementary phosphorus.
6. Non-persistent mineral oils and **non-persistent** hydrocarbons derived from oil.
7. Fluorides.
8. Substances having harmful impact on the oxygen balance, in particular ammonium salts and nitrites.
9. Cyanides.

**A. FEE RATES FOR THE CALCULATION OF PAYMENTS FOR ACTUALLY WITHDRAWN QUANTITY OF GROUNDWATER**

<b>Purpose of use of the withdrawn water</b>	<b>Rate in CZK/M<sup>3</sup></b>
Drinking water supply	2.00
Other uses	3.00

**B. RATES FOR THE FEE CALCULATION AND THE QUANTITY AND CONCENTRATION LIMITS FOR FEE IMPOSITION**

POLLUTION INDICATOR	RATE CZK/kg	FEE IMPOSITION LIMIT	
		quantity kg/year	concentration mg/l
1.			
a) chemical oxygen demand – non-purified waste water, until 31 December 2004	16	20 000	40
from 1 January 2005	16	8 000	40
b) chemical oxygen demand – purified waste water	8	10 000	40
c) chemical oxygen demand for purified waste water used in the production of pulp and refining of cotton and flax textiles	3	10 000	40
2. dissolved inorganic salts	0.5	20 000	1 200
3. undissolved substances <sup>47)</sup>	2	10 000	30
4. total phosphorus			
until 31 December 2004	70	13 000	3
from 1 January 2005	70	3 000	3
5. ammonium nitrogen			
until 31 December 2001	40	15 000	15
6. nitrogen Ninorg			
from 1 January 2001	20	20 000	20
7. AOX from 1 January 2002	300	15	0.2
8. mercury	20 000	0.4	0.002
9. cadmium	4 000	2	0.01

<sup>47)</sup> Fee for this indicator shall only be paid by polluters who

a) do not pay the fee for chemical oxygen demand, however the pollution exceeds the limit for undissolved substances

b) discharge quantity of undissolved substances into waste water exceeding a triplicate of the fee imposition limit for chemical oxygen demand

## **Article II of Act 20/2004 Coll.**

### **Final and temporary provisions**

1. Fee report for stipulating the amount of the fee advance for groundwater withdrawal in 2004 according to Section 88 par. 4 of Water act must be submitted by the consumer to Czech Environmental Inspectorate 60 days at the latest after the effective date of this Act.
2. Validity of permission for abstraction of surface water or groundwater, except for permission for groundwater withdrawal from water resources intended for individual drinking water supply of households, and validity of permission for waste water discharges into surface water or groundwater, which became effective before 31 December 2001, shall be expired on 1 January 2008 at the latest, if the expiration is not shorter consequently to the period for which the permission was granted. In case that the period for which such permission was issued ends before the effective date of this Act, its validity is extended until 31 December 2004. Provisions of Section 9 par. 4 of Water act are unaffected by this.
3. Records according to Section 21, par. 2, letter c) points 6, 7, 9 to 12 of Water act must be developed by the latest on 22 December 2004.
4. The Plan of the main river basins of the Czech Republic must be approved by the latest on 22 December 2006.
5. River basin district plans must be approved by the latest on 22 December 2009. For the purposes of the River basin district plans, an analysis of general and water management characteristics of the river basin districts, assessment of the impacts of human activities on the status of surface water and groundwater and an economic analysis of the use of water (according to Article I, point 26, as far as Section 26 par. 2 letter a) of this Act is concerned) must be carried out by the latest on 22 December 2004.
6. Municipalities whose current urban area is a source of pollution exceeding 2 000 population equivalent or those which will reach this by the latest on 31 December 2010 are obliged to ensure construction of sewerage systems and treatment of their waste waters to a level stipulated by the government in an order issued in accordance with Section 38 par. 5 of Water act by the latest on 31 December 2010.
7. Owners of water structures according to Section 20 par. 1 of Water act are obliged to submit background documents necessary for recording these structures and delimitation of protective zones in land registry in accordance with Section 20 par. 2 of Water act to relevant Land Deed Office by the latest on 1 January 2011.
8. Fee warrants for discharges of waste waters into surface waters in 2003 calendar year are issued by regional authorities on the basis of fee statements. The regional authorities shall submit warrants for fee advances for discharges of waste waters into surface waters in 2004 including a list of pollution sources subject to fee to the Czech Environmental Inspectorate 30 days at the latest after the effective date of this Act. The regional authorities shall submit fee warrants for discharges of waste waters into surface waters in 2003 to the Czech Environmental Inspectorate 30 days at the latest after their effective date.