

**ACT**  
of 4 February 1994  
**Geological and Mining Law.<sup>1)</sup>**  
(in accordance with the legal status as at 1 January 2006)  
(Official Journal of 1 March 1994)

(Official Journal of 1994 No. 27 Item 96; 1996, No. 106 Item 496; 1997, No. 88 Item 554, No. 111 Item 726 and No. 133 Item 885; 1998, No. 106 Item 668; 2000, No. 109 Item 1157 and No. 120 Item 1268; 2001, No. 110 Item 1190, No. 115 Item 1229 and No. 154 Item 1800; 2002 No. 113 Item 984, No. 117 Item 1007, No. 153 Item 1271, No. 166 Item 1360 and No. 240 Item 2055, 2003 No. 223 Item 2219; 2004 No. 96 Item 959, No. 173 Item 1808 and No. 273 Item 2703 and 2005 No. 90 Item 758).

This document also contains Art. 2-9 of the Act of 22 April 2005 on amendment of the Act: Geological and Mining Law and the Act on Waste.

**PART I**  
**GENERAL PROVISIONS**

**Chapter 1**  
**Scope of applicability**

**Article 1**

The Act shall specify the rules and terms of:

- 1) carrying out of geological works,
- 2) minerals exploitation from deposits,
- 2a) storing of waste in the subsurface, including underground mining excavations, with the exception of such storage carried out in open-pit mining excavations,
- 3) protection of mineral deposits, groundwater and other components of the environment in connection with carrying out of geological works and minerals exploitation.

**Article 2**

The provisions of this Act shall apply, respectively, to the economic activities carried out in the scope of non-reservoir storage of substances in the subsurface, including underground mining excavations, with the exception of such activity carried out in open-pit mining excavations.

**Article 3**

Where needed to ensure public safety, occupational safety and health and environmental protection, the Council of Ministers shall, by way of an ordinance, extend the applicability of all or some provisions of the Act to carrying out of specified underground works with the application of mining techniques, setting out the place and objective of the works and the scope of the applicability of this Act.

#### **Article 4**

The Act shall not apply to:

- 1) the use of waters to the extent regulated by separate regulations,
- 1a) carrying out the points for the abstraction of groundwater up to the depth of 30m for the purposes of ordinary water usage,
- 2) geological scientific research and teaching that are conducted without carrying out of geological operations,
- 3) acquisition of samples of minerals, rocks and fossils for scientific, collecting and teaching purposes, which takes place without mining operations being performed,
- 4) determining the geotechnical usefulness of lands for the needs of construction without performing geological operations,
- 5) carrying out operations related with artificial supplying of the shoreline zone with sand coming from the sea bottom sediments of the maritime areas of the Republic of Poland.

#### **Article 5**

1. Minerals shall be divided into basic and common ones.
2. Basic minerals shall include:
  - 1) natural gas, oil and its natural derivatives, lignite, hard coal, and coal-bed methane,
  - 2) ores of precious metals, metal ores (except for the soddy iron ores) and native metals, including ores of rare and dispersed elements as well as ores of radioactive elements,
  - 3) apatite, barite, fluorite, phosphate rock, gypsum and anhydrite, pyrite, native sulfur, potassium and potassium/magnesium salts, strontium salts, rock-salt,
  - 4) asbestos, bentonite, diatomite, dolomite, white burnt and stoneware clays, refractory clays and shales, graphite, kaolin, gemstones and decorative stones, quartz, quartzite, magnesite, micas, marbles and crystalline limestones, moulding and glass sands, feldspars, siliceous earth.
- 2a. In the terms of this Act, all minerals present within the borders of the maritime areas of the Republic of Poland shall be basic minerals.
3. The minerals not referred to in paragraph 2 and 2a shall be common minerals.
4. In terms of this Act, groundwater shall not be minerals, with the exception of brines and curative and thermal waters.
5. The Council of Ministers shall specify, by way of an ordinance:
  - 1) the groundwater deposits classified as brines and curative and thermal waters, taking into account their special values resulting from mineralization, physical and chemical properties, quantities and conditions of occurrence,
  - 2) the deposits of other curative minerals with especially precious values in the light of the type and quality of the mineral concerned.
6. The Council of Ministers may, by way of an ordinance, classify a common mineral present in a specified deposit or geological unit, as one of basic minerals, because of its type, quantity or conditions of occurrence.

## Article 6

In the terms of the Act:

- 1) a mineral deposit is such a natural accumulation of minerals and rocks, as well as of other solid, gaseous and fluid substances that their exploitation may bring economic benefits,
- 2) geological work means the designing and conducting of investigations aimed at identification of the geology of the country, in particular prospecting for and exploration of mineral deposits and groundwater deposits, determination of geological-engineering conditions and preparation of geological maps and documentation as well as designing and carrying out research for the purposes of the Earth heat exploitation or groundwater abstraction,
- 3) a geological operation means carrying out, within the framework of geological works, any activities below the surface, including those requiring the use of explosives, as well as the closing down of excavations arising after such operations,
- 4) prospecting means the performance of geological works with the aim of discovery and preliminary documentation of resources of minerals or groundwater deposits,
- 5) exploration means the performance of geological works in the area of a mineral or groundwater deposits with respect to which preliminary documentation was performed,
- 5a) a point for the abstraction of groundwater means a borehole, a group of boreholes, a built-up natural spring or other point of excavation, the construction of which is prepared for groundwater's usage,
- 6) an entrepreneur means a party that has a concession for conducting the activities regulated by this Act,
- 7) a mining plant means a technically and organizationally distinct set of means that are used by an entrepreneur directly to exploit minerals from a deposit, including mining excavations, buildings as well as processing facilities and equipment technologically associated with them,
- 8) a mining area means the space within the boundaries of which an entrepreneur is authorized to exploit the mineral and carry out mining works covered by the concession,
- 9) a mining protective area is the space subjected to the expected damaging effects of the mining operations of a mining plant,
- 10) a mining excavation means the space on a land real estate or in the subsurface developed as a result of mining operations,
- 11) a mining operation means the performance, protection or closing down of mining excavations in relation to the activity regulated by this Act,
- 12) injection of water into formation means reinjection of groundwater pumped from mines and quarries, formation waters and used brines, curative and thermal waters, consisting in pumping water via boreholes into geological formations, isolated from the usable aquifer or, in the justified cases, also to the usable aquifer,
- 13) blasting agents are explosives in the terms of the Act of 21 June 2002 on explosives earmarked for civil usage (Official Journal No. 117/1007);
- 14) geological information constitutes the data and samples obtained as a result of carrying out geological works;

- 15) underground repository means the subsurface, including underground mining excavation, in which waste is being neutralized via its storage, with the exception of waste storage in open-pit mining excavations,
- 16) exploitation of the Earth heat means reception of the energy from the soil or subsurface via energy carriers inserted to the borehole.

## **Chapter 2 Ownership and mining usufruct**

### **Article 7**

1. The mineral deposits that do not constitute components of land real estate shall be the property of the State Treasury.
2. Within the bounds specified by Acts, the State Treasury may, to the exclusion of other persons, use mineral deposits as well as dispose of the right thereto by establishing mining usufruct.
3. The rights of the State Treasury referred to in paragraph 2 shall be exercised by the authorities that are competent for granting of concessions, hereinafter referred to as the “concession authorities”.

### **Article 8**

In the matters not regulated by this Act, the regulations concerning land real estate ownership shall apply, respectively, to the ownership of mineral deposits.

### **Article 9**

Within the bounds specified by Acts and by the mining usufruct agreement, the mining usufructuary may, to the exclusion of other parties, prospect for, explore or exploit a designated mineral. Within the same bounds, the mining usufructuary may dispose of its right.

### **Article 10**

1. The establishment of the mining usufruct shall take place by way of an agreement, in exchange for compensation, subject to obtaining a concession.
2. An agreement concerning the establishment, amendment thereto, or transfer of the mining usufruct must be concluded in writing or otherwise deemed null and void.
3. In the case of expiry or withdrawal of the concession, the mining usufruct shall expire.

### **Article 11**

1. The establishment of the mining usufruct may be preceded by collection of tenders, unless the provisions of this Act provide otherwise.
2. Subject to Art. 12, paragraph 1, the establishment of the mining usufruct covering the prospecting for, exploration and exploitation of natural gas, oil and its natural derivatives as well as coal-bed methane shall be preceded by a collection of tenders.
- 2a. Mining usufruct comprising prospecting for, exploration or exploitation of natural gas, oil and its natural derivatives as well as coal-bed methane may be

established via a non-tender procedure if at least one of the following conditions is fulfilled:

- 1) a listing of areas on which mining usufruct may be established according to such a method has been announced to the public by the concession authority and published thereby in the Official Journal of the European Union,
- 2) the area subjected to the proposed mining usufruct in the past was an object of a bid which had not concluded in establishing of a mining usufruct.
3. The authorities competent for the conducting of a collection of tenders for the acquisition of the mining usufruct right shall be the authorities competent for granting of concessions.
4. The Council of Ministers shall specify, by way of an ordinance, the rules of placing notices concerning the collection of tenders for the acquisition of the right of mining usufruct and the data that shall be included in the notice, the requirements to be satisfied by the bidder and the tender, the deadline for the submission of tenders and the bid completion as well as the rules and procedure of organization and the manner of conducting of the collection of tenders, including the appointment and work of the bid commission.
5. In adopting the ordinance referred to in paragraph 4, the Council of Ministers shall take into account the need to provide objective and non-discriminatory criteria for selection of the bidder for the acquisition of the mining usufruct.

#### **Article 12**

1. The entrepreneur who explored and documented a mineral deposit being the property of the State Treasury and prepared geological documentation with the accuracy required for granting of a concession for mineral exploitation, may demand the establishment of the mining usufruct for its own benefit, with priority over other parties.
2. Any disputes regarding the matters specified in paragraph 1 shall be resolved by common courts.
3. The right referred to in paragraph 1 shall expire after two years of the receipt of a written notice stating the acceptance of the documentation by the geological administration authority.

#### **Article 13**

In all matters not regulated by the Act, the provisions of the Civil Code regarding the usufruct shall apply, respectively, to the mining usufruct.

#### **Article 14**

1. The provisions of this Chapter shall apply, respectively, to parts of the subsurface other than mineral deposits.
2. In the case of activities in respect of which the Act imposes no requirement to obtain a concession, the prerogatives of the State Treasury specified in Art. 7, paragraph 2, shall be exercised by the voivodeship administration. With regard to such activities conducted within the boundaries of the maritime areas of the Republic of Poland - the competent authority shall be the minister responsible for the environment, acting in agreement with the minister responsible for maritime economy.

## **Chapter 3 Concessions**

### **Article 15**

1. A concession shall be required for:
  - 1) prospecting for or exploration of mineral deposits,
  - 2) exploitation of minerals from deposits,
  - 3) non-reservoir storage of substances and disposal of waste in the subsurface, including underground mining excavations.
2. The issues not regulated by the Act with respect to granting concessions shall be regulated by the provisions of the Act of 2 July 2004 on freedom of economic activity (Official Journal No. 173/1807).
3. (Repealed).
4. It shall be forbidden to extract deposits in the way other than within the framework of licensed economic activities in the terms of the Act of 2 July 2004 on freedom of economic activity (Official Journal No. 173/1807 and No. 281/2777 and of 2005 No. 33/289).

### **Article 16**

1. A concession for:
  - 1) the activity set out in Art. 15, paragraph 1, carried out within the boundaries of the maritime areas of the Republic of Poland,
  - 2) an activity in the scope of prospecting for, exploration and exploitation of basic minerals listed in Art. 5, paragraph 2, subparagraphs 1-3, brines, curative and thermal waters as well as other curative minerals classified as basic minerals pursuant to Art. 5, paragraph 6,
  - 3) the activity set out in Art. 15, paragraph 1, subparagraph 3,  
- shall be granted by the minister responsible for the environment.
2. Subject to the provisions of paragraphs 1 and 2a, the concessions for prospecting for, exploration or exploitation of basic and common minerals shall be granted by the voivodeship marshal.
- 2a. Concessions for prospecting for, exploration and exploitation of common minerals, where, at the same time, the following requirements are met:
  - 1) the area of such activity does not exceed 2 hectares,
  - 2) the mineral exploitation does not exceed 20,000 cubic meters during a calendar year,
  - 3) the activity does not require the use of explosives,  
- shall be granted by the county administrator.
3. Granting of concessions for:
  - 1) exploitation of the basic minerals shall require consent of the minister responsible for the economy,
  - 2) exploitation of the minerals used for curative purposes shall require consent of the minister responsible for health,
  - 3) activities carried out within the maritime areas of the Republic of Poland shall require consent of the minister responsible for maritime economy,
  - 4) prospecting for, exploration and exploitation of ores of radioactive elements shall require consultation with the President of the State Atomic Agency,
  - 5) exploitation of minerals from the subsurface underneath inland waters and areas exposed to flood hazards shall require consultation with the authority competent

- for waters maintenance and a consent of the authority authorized to grant a permit pursuant to the Water Law,
- 6) the activity referred to in paragraph 2a shall require consent of the competent mining supervision authority and consultation with the competent voivodeship marshal.
  4. Except for prospecting for and exploration of the mineral deposits within the boundaries of the maritime areas of the Republic of Poland, granting of a concession for such activities shall require consultation with the competent head of the commune, town mayor or city president.
  5. Granting of a concession for the activities referred to in Art. 15, paragraph 1, subparagraphs 2 and 3, except for such activities conducted within the boundaries of the maritime areas of the Republic of Poland, shall require consent of the competent head of the commune, town mayor or city president. The consent shall be based on the local land use plan. In the absence of such a plan, the provisions relating to the setting out of the conditions for land development and use shall apply, respectively.
  - 5a. The provisions for granting a concession shall apply to an amendment thereof.
  6. The granting of a concession shall not prejudice the requirements under separate regulations.

#### **Article 17**

1. Granting of a concession may be subject to establishing a collateral to secure the claims that may arise as a result of carrying out the activities covered by the concession, if this is warranted by a particularly important interest of the state or by a particularly important public interest, in particular an interest associated with environmental protection.
2. The form and amount of the collateral referred to in paragraph. 1 shall be specified in the concession depending on the kind of activities carried out, the space covered by the concession, the period for which the concession was granted, as well as the degree of harmfulness of the intended activities for the environment.
3. It is obligatory to specify the form and amount of the collateral discussed in paragraph 1 in the concession for storing of waste in the subsurface, including storage in underground mining excavations.

#### **Article 18**

1. Unless the Act provides otherwise, an application for the granting of a concession shall contain:
  - 1) (deleted),
  - 2) (deleted),
  - 2a) specification of the applicant, its registered office and address,
  - 2b) Entrepreneurs' Register number or the entry number in the Economic Activities Register,
  - 2c) specification of the type and scope of carrying out of the economic activities for which the concession shall be granted,
  - 3) specification of the right of the applicant to the area (space), within the boundaries of which the proposed activities are to be conducted, or specification of the right that the applicant seeks to obtain,

- 4) specification of the period for which the concession is to be granted, together with designation of the date of commencement of the activities,
  - 5) specification of the resources available to the party applying for the concession to ensure the proper performance of the activities covered by the application.
2. The data covered by the application shall be supported by evidence to their existence, in particular by enclosing graphic annexes developed in compliance with the requirements for mining maps.
  3. The concession authority may oblige the applicant to submit data identifying the legal status of the real estates to be affected by the proposed activity and – in the case of real estates with an unsettled legal status – data from the register of land and buildings. The concession authority may also demand the submission of a copy of the application for the concession with annexes.

#### **Article 19**

In addition to the requirements set out in Art. 18, a geological work programme shall be enclosed with an application for the granting of a concession for prospecting for and exploration of mineral deposits.

#### **Article 20**

1. An application for the granting of a concession for exploitation of minerals shall, in addition to the requirements provided for in Art. 18, specify:
  - 1) the mineral deposit, or a part of it, that is to be subjected to the exploitation,
  - 2) the scale and manner of the intended mineral exploitation operation,
  - 3) the degree of intended utilization of the mineral deposit, including that of the accompanying minerals and co-occurring useful trace elements, as well as the means enabling the achievement of this aim,
  - 4) the planned location of the mining area and mining protective area and their boundaries.
2. The following shall be appended to the application referred to in paragraph 1:
  - 1) evidence of the fact the applicant has the right to use the geological documentation with the aim to apply for the concession,
  - 2) a deposit development plan, reviewed by the competent mining supervision authority,
  - 3) evidence of the fact the applicant has the right to the land real estate within the boundaries of which the intended open-pit operation of mineral exploitation is to be conducted, or evidence of the promise of establishing such a right.
- 2a. If in relation to exploitation of the mineral from deposit there is anticipated the injection of water to formation coming from mines and quarries, formation waters or used brines, curative or thermal waters, hydro-geological documentation stipulating the hydro-geological terms in relation to injection of water to the formation shall be attached to the application discussed in paragraph 1.
3. The requirements set out in paragraph 2, subparagraph 3, shall not apply to an application for granting of a concession for lignite exploitation.
4. The concession authority may demand the submission of geological documentation.
5. The requirements set out in paragraph 2, subparagraph 2, shall not apply to an application for the granting of a concession for exploitation of common minerals in the scope regulated by Art. 16, paragraph 2a.

### **Article 21**

1. An application for granting of a concession for non-reservoir storage of substances and disposal of waste in the subsurface, including underground mining excavations, shall, in addition to the requirements provided for in Art. 18, specify:
  - 1) type, amount and properties of the substances or waste,
  - 2) current and expected geological, hydro-geological and geological engineering conditions,
  - 3) technology of storage or disposal,
  - 4) the planned boundaries of the space where non-reservoir storage of substances or disposal of waste is proposed and the boundaries of the space expected to be affected by the harmful impacts of this activity.
- 1a. The approved hydro-geological and geological-engineering documentation prepared for the purposes of conducting the activities subject to the application shall be attached to the application discussed in paragraph 1.
2. When it is intended to dispose of radioactive waste in the subsurface, including underground mining excavations, authorization of the President of the State Atomic Energy Agency shall be enclosed to the application discussed in paragraph 1, if the provisions of the Atomic Law require granting of this authorization.
3. The application for granting concession within the scope of disposal of waste in the subsurface, including in the underground mining excavations, shall specify the proposed form and size of collateral with regard to the claims and the scope and method of the underground repository monitoring.

### **Article 22**

A concession shall specify:

- 1) type and manner of the conduct of activity covered by the concession,
- 2) space within the boundaries of which the activity is to be conducted,
- 3) period of validity of the concession, with designation of the date of commencement of the activities,
- 4) other requirements concerning the conduct of the activities covered by the concession, in particular those connected with general safety and environmental protection.

### **Article 23**

1. A concession for prospecting for or exploration of mineral deposits shall, in addition to the requirements provided for in Art. 22, specify:
  - 1) purpose, scope, type and schedule of the geological works,
  - 2) required accuracy of geological exploration.
2. The surface of the area where the works referred to in paragraph 1 may be conducted on the basis of one concession, cannot exceed 1200 km<sup>2</sup>.

### **Article 23a**

Concession for the activity consisting in disposal of waste in the subsurface, including underground mining excavations, in addition to the requirements provided for in Art. 22 shall specify:

- 1) type of the underground repository,

- 2) type and amount of waste,
- 3) scope and method of the underground repository monitoring,
- 4) scope and the deadline for submitting the information regarding disposal of waste to the concession authority.

**Article 24**  
(deleted)

**Article 25**

1. In addition to the requirements provided for in Art. 22, a concession for mineral exploitation shall also designate the boundaries of the mining area and the mining protective area as well as identify the exploitable resources of the mineral deposit and the minimum degree of their utilization.
  - 1a. In the case when the concession for exploitation of a mineral from a deposit provides for injection of water into formation coming from mines and quarries, formation waters or brines used, curative or thermal waters, it shall also stipulate the terms for injecting water into the formation.
2. The boundaries of the mining area and the mining protective area shall be designated by the concession authority, in consent of the President of the State Mining Authority.
3. If the actual damaging impact of the mining operations of the mining plant exceeds the boundaries of the mining protective area specified in the concession, the concession authority shall change its decision in the part concerning the boundaries of the mining protective area.
4. The concession for the activity referred to in Art. 15, paragraph 1, subparagraph 3, shall also designate the boundaries of space destined for non-reservoir storage of substances or disposal of waste as well as the boundaries of the space to be affected by the expected damaging effects of this activity. In designating these boundaries, the provisions of paragraphs 2 and 3 shall apply, respectively.

**Article 26**

In justified cases, when there is no threat to the environment, the concession authority may exempt the party applying for a concession for exploitation of common minerals from some of the concession requirements stipulated by the Act. This exemption may not concern the requirements specified in Art. 22, subparagraphs 1-3.

**Article 26a**

1. When it is not to the detriment of a public interest associated with environmental protection, in particular the rational management of mineral deposits, or a particularly important interest of the national economy, with the consent of the entrepreneur who was granted the concession, the concession authority shall be obliged to transfer this concession to the party which:
  - 1) agrees to all the conditions arising therefrom,
  - 2) in the extent necessary for conducting the intended activity, demonstrates the right to the geological information, right to the land real estate, the right of mining usufruct, or the promise of obtaining them, subject to Art. 20, paragraph 3,
  - 3) demonstrates that it is able to meet the requirements associated with the conduct of the intended activity.

2. The transfer of the concession referred to in paragraph 1 shall also cause the transfer of the rights and obligations arising from other decisions made pursuant to the Act.
3. When the decision referred to in paragraph 1 is made, the concession authority may, by way of a separate decision, change the conditions for the collateral referred to in Art. 17.

#### **Article 26b**

The concession may be refused if the intended activity violates the requirements of environmental protection, including those associated with the rational management of mineral deposits, also in the scope of exploitation of accompanying minerals, or prevents the use of the real estates in accordance with their designation. Granting of a concession may also be refused within the scope of disposal of waste in the subsurface, if there exists a technically, ecologically or economically justified possibility to recover or neutralize waste in other way than waste disposal.

#### **Article 26c**

1. The entrepreneur who has been granted a concession for the activity referred to in Art. 15, paragraph 1, subparagraphs 2 and 3, shall be obliged to set up a fund for the closing down of the mining plant, hereinafter referred to as the “fund”, unless such an obligation results from separate regulations.
2. The entrepreneur referred to in paragraph 1, who:
  - 1) conducts mineral exploitation using the underground or borehole systems, or non-reservoir storage of substances or disposal of waste in the subsurface, including underground mining excavations, shall allocate to the fund resources equivalent from 3% to 10% of the depreciation allowances for fixed assets of the mining plant as determined in accordance with the regulations on income tax.
  - 2) conducts open-pit mineral exploitation, shall allocate to the fund resources equivalent to 10% of the due royalty referred to in Art. 84.
3. The entrepreneur shall collect the resources of the fund at a separate bank account, starting to make payments to this account on the date that the obligation to pay the royalty comes into effect or on the date that he commences the activity referred to in paragraph 2, subparagraph 1, which is not subject to the obligation to pay the royalty, until the date when the closing down of the mining plant begins.
4. The resources of the fund shall constitute tax deductible costs in the terms of the regulations on income tax and may be used exclusively to cover the costs of the closing down of the mining plant or the designated part thereof, also in case of the entrepreneur’s bankruptcy.
5. Unless the Act provides otherwise, the bank shall make payments from the fund exclusively after the entrepreneur has presented the final decision of the competent mining supervision authority approving the operations plan of the mining plant being closed down or the designated part thereof, and, in the case of an entrepreneur who exploits a common mineral under the conditions set out in Art. 16, paragraph 2a, after a decision stating the expiry of the concession has been presented.
6. The entrepreneur shall be obliged to present to the concession authority and the mining supervision authority, on their request, current bank statements for the

bank account where he collects the resources as well as information on the manner of their use.

7. The resources shall not be subject to execution, except in the case where the execution is conducted in connection with the failure of the entrepreneur to carry out his obligations in the scope of the closing down of the mining plant or its designated part.
8. After the conclusion of the closing down of the mining plant, having consulted the competent head of the commune, town mayor or city president, the mining supervision authority shall consent to the closing down of the fund.
9. The requirements set out in paragraphs 1-8 shall apply, respectively, to the legal successor of the entrepreneur who takes over the resources of the fund.
10. In agreement with the minister responsible for public finance and the minister responsible for the environment, the minister responsible for the economy shall, by way of an ordinance, lay down the detailed principles of:
  - 1) setting up and operating the fund,
  - 2) setting the rate of equivalence in respect of the allowances referred to in paragraph 2, subparagraph 1, depending on the type and scope of the activity conducted,
  - 3) determining the dates for the transfer of resources to the fund,
  - 4) using the resources of the fund,taking into account the manner and scale of the activity conducted and its harmfulness for the environment as well as the need to effectively secure resources for the closing down of mining plants.

**Article 27**  
(deleted)

**Article 27a**

1. In the case when the entrepreneur infringes the provisions of the Act, in particular within the scope of environment protection, reasonable management of the minerals deposits' resources or does not fulfill the requirements stipulated in the concession, including the lack of commencing the activities or permanent discontinuance thereof, the concession authority shall immediately summon it to cease the infringements.
2. If the entrepreneur, despite of the summons discussed in paragraph 1, continues in infringing the provisions of the Act or does not fulfill the requirements of the concession, the concession authority may withdraw the concession or limit its scope without compensation.

**Article 28**

1. A concession granted on the basis of the Act shall expire:
  - 1) when the period for which it was granted has elapsed,
  - 2) when it has become purposeless,
  - 3) in case of the closing down of the activity of the entrepreneur,
  - 4) in case of the surrender of the concession.
- 1a. When the bankruptcy of the entrepreneur is announced, the concession authority may, by way of a decision, withdraw the concession without compensation.
2. In the cases specified in paragraph 1, the concession authority shall proclaim, by way of a decision, the expiry of the concession.

### **Article 29**

1. The withdrawal or expiry of a concession shall not exempt the hitherto entrepreneur from carrying out the obligations concerning environmental protection and those related to the closing down of the mining plant.
2. The scope and manner of fulfilling the obligations referred to in paragraph 1 shall be established by the concession authority in the decision concerning the withdrawal of the concession, or in the decision proclaiming the expiry of the concession, in agreement with the competent head of commune, town mayor or city president as well as the adequate mining supervision authorities, and in the case of activities carried out within the boundaries of maritime areas of the Republic of Poland – with the minister responsible for the maritime economy.
3. In the decision referred to in paragraph 2, the concession authority shall specify the date of expiry of the obligation regarding the collateral referred to in Art. 17.
4. The provisions of the Act applicable to the entrepreneur shall apply, respectively, to the party on which the obligations set out in paragraph 2 have been imposed.

### **Article 29a**

The concession authority shall forward copies of decisions made pursuant to the provisions of this Chapter for information purposes to the geological administration and mining supervision authorities with local competence.

### **Article 30**

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## **PART II GEOLOGICAL WORKS**

### **Chapter 1 Planning and carrying out of geological works**

#### **Article 31**

1. Geological works may be carried out, supervised and managed only by persons who possess appropriate qualifications.
- 1a. The qualifications of the persons referred to in paragraph 1 shall be ascertained by:
  - 1) the minister responsible for the environment, subject to subparagraph 2,
  - 2) the voivodeship marshal – in respect of persons applying for the right to carry out activities in the scope of geological supervision over geological works, with the exception of geophysical investigations, and the right to manage geological operations in the field carried out outside of the mining area when performed without the use of explosives, or when the planned depth of the excavation does not exceed 100 m.
2. Taking into account the requirements of general safety, the correct performance of geological works and the needs of environmental protection, the minister responsible for the environment shall lay down, by way of an ordinance:
  - 1) categories of geological works,
  - 2) general and professional qualifications required from persons who carry out, supervise or manage specific categories of geological works,
  - 3) the manner of ascertaining qualifications,
  - 4) the procedure for appointing examination commissions, the composition of the examination commission appointed to check the candidates' knowledge and the scope of knowledge subject to examination,
  - 5) the amounts of fees associated with the procedure of ascertaining the qualifications, the manner of paying the fees and the amount of the remuneration for the members of the examination commission.
3. The qualifications shall be ascertained by the issue of a certificate.
4. The geological administration authority competent for ascertaining the qualifications shall refuse, by way of an administrative decision, to allow a candidate who fails to meet the requirements set out in the provisions adopted pursuant to paragraph 2 to take part in the examination.

#### **Article 32**

1. Geological works involving geological operations may be carried out exclusively on the basis of a geological work programme.
2. The geological work programme shall specify:
  - 1) the objective of the works planned and the way of achieving that objective, together with specification of the type of geological documentation required,
  - 2) the works schedule,
  - 3) the space within the boundaries of which the geological works are to be carried out,
  - 4) undertakings necessary for the protection of environment, including particularly groundwater protection and the manner of closing down of

excavations and boreholes, as well as land reclamation and measures to prevent damage.

### **Article 33**

1. The geological work programme for activities, which do not require a concession, with the exception of the geological work programme discussed in paragraph 4, shall be subject to approval by the competent geological administration authority, by way of a decision.
2. The granting of the decision referred to in paragraph 1 shall require consultation with the competent head of the commune, town mayor or city president, and if the geological works are to be conducted within the boundaries of the maritime areas of the Republic of Poland, they shall require consent of the minister responsible for maritime economy.
3. The programme shall be approved for a specific period.
4. The geological work programme carried out for the purposes of making use of the Earth heat shall be reported to the adequate geological administration authority.

### **Article 33a**

1. The geological works discussed in Art. 33 paragraph 4 may be commenced if within a period of 30 days of the date of submitting the works programme, the adequate authority will not rise an objection by way of a decision.
2. The adequate authority shall rise an objection if:
  - 1) the submitted programme does not meet the requirements stipulated in the regulations of the geological and mining law,
  - 2) the geological works have been planned :
    - a) within the area of groundwater resources abstraction and there exists a risk that it may negatively affect the quality of the water abstracted,
    - b) within the mining areas designated in the concessions for exploitation of curative waters co-occurring with the groundwater and in the concessions for curative peat exploitation.

### **Article 34**

The party performing geological works shall be obliged to possess the documentation of the works being carried out and to update it as the works proceed.

### **Article 35**

1. The party performing geological works shall be obliged to notify the adequate geological administration authority, mining supervision authority and the head of the commune, town mayor or city president competent in the light of the place where the works are to be conducted about the intention to start the carrying out of geological works.
2. If geological works are to be carried out in the maritime areas of the Republic of Poland, the intention to start the carrying out of the works shall be notified to the appropriate maritime administration authority.
3. (deleted)
4. The intended dates of the start and completion of works, their type, the basic data concerning geological works, as well as data on persons supervising and managing the works shall be specified in the notification.

5. The notification shall be made in a written form, no later than two weeks before the intended date of the start of the works.

#### **Article 36**

The geological administration authority may order, by way of a decision, the parties carrying out geological works to perform, for compensation, additional geological works, in particular investigations, survey, as well as collection of additional samples.

#### **Article 37**

1. The party performing geological works shall be obliged to utilize the mineral which is exploited or comes out spontaneously as the works are carried out.
2. The provisions of the Act on mineral exploitation and royalty shall apply, respectively, to the activities referred to in paragraph 1.

#### **Article 38**

1. Subject to the provisions of Art. 67a, the provisions on the operation of a mining plant shall apply, respectively, to the performance of geological works.

#### **Article 39**

1. Unless the Act provides otherwise, the provisions concerning an entrepreneur shall apply, respectively, to parties carrying out geological works that do not require a concession.
2. The provisions of this Chapter shall not apply to geological works and operations related to the operation of a mining plant.

### **Chapter 2 Geological documentation**

#### **Article 40**

The results of geological works shall be presented in the geological documentation, together with their interpretation and specification of the extent to which the intended purpose has been achieved.

#### **Article 41**

1. The geological documentation of a mineral deposit shall be prepared in order to identify the boundaries of the deposit, its resources and the geological conditions of its occurrence.
2. The geological documentation of the mineral deposit shall specify:
  - 1) type, amount, and quality of the minerals explored, and also of accompanying minerals and of co-occurring useful trace elements, as well as of the environmentally harmful substances present in the deposit,
  - 2) location of the deposit, its geology structure, form and boundaries,
  - 3) components of the environment surrounding the deposit,
  - 4) (deleted),
  - 5) hydro-geological and other geological-engineering conditions of occurrence of the deposit,
  - 6) (deleted),
  - 7) state of surface development.

3. When the geological documentation is to provide the basis for granting a concession for exploitation of minerals, the degree of the deposit exploration shall enable the preparation of the deposit development plan and indication of the possibilities and directions of land reclamation after exploitation.
4. The geological documentation shall be prepared taking into account the economic viability criteria for the resources of mineral deposits. By way of a decision, the competent geological administration authority may authorize a change in the economic viability criteria.

#### **Article 42**

1. Hydro-geological documentation shall be prepared in order to:
  - 1) evaluate the groundwater resources,
  - 2) specify the hydro-geological conditions in relation to:
    - a) designing drainage systems for the purposes of exploitation of minerals from deposits,
    - b) injection of water into the formation,
    - c) designing drainage systems for buildings by means of boreholes,
    - d) designing investment projects that may pollute groundwater, including surface disposal of waste,
    - e) non-reservoir storage of substances and disposal of waste in the subsurface, including underground mining excavations,
    - f) establishing protective zones for groundwater reservoirs,
    - g) completion or change in the level of drainage of closed down mining plants.
2. Subject to paragraph 3, the hydro-geological documentation shall specify:
  - 1) geology structure and hydro-geological conditions in the area investigated,
  - 2) conditions under which underground water occurs, including a description of the aquifers at a given depth,
  - 3) quality of groundwater, and in the case of curative waters - also the persistence of its chemical composition and its physical properties,
  - 4) undertakings necessary to protect the environment,
  - 5) undertakings necessary to protect facilities on the surface.
3. Besides the requirements referred to in paragraph 2, the hydro-geological documentation shall also specify, where necessary:
  - 1) resources and depression of specified aquifers and at a specified time,
  - 2) technical possibilities of water exploitation,
  - 3) technical possibilities of injection of water into the formation,
  - 4) the impact of the planned investment discussed in paragraph 1 subparagraph 2 letter d or non-reservoir storage of substances in the subsurface or disposal of waste, including mining excavations, on the water regime,
  - 5) boundaries of protective zones planned with regard to groundwater's points of abstraction and protective zones for groundwater reservoirs,
  - 6) hydro-geological assessment and a prediction of the effects following the completion of drainage of mining plants,
  - 7) type, character and degree of the land and groundwater pollution.

### **Article 43**

1. The geological engineering documentation shall be prepared in order to:
  - 1) specify the geological conditions for the purposes of land development,
  - 2) identify geotechnical conditions for the foundation of building structures,
  - 3) (deleted),
  - 4) non-reservoir storage of substances and disposal of waste in the subsurface, including underground mining excavations.
  - 5) disposal of waste on the surface.
2. The geological engineering documentation shall specify:
  - 1) geology structure, geological-engineering and hydro-geological conditions of the construction bedding or specified area,
  - 2) a forecast of changes in the environment that may arise as a result of construction or use of building structures,
  - 3) occurrence of mineral deposits, particularly of construction raw materials, that are suitable for use when carrying out an investment project.

### **Article 44**

(deleted)

### **Article 45**

1. The geological documentation, referred to in Art. 41-43, shall be submitted in four copies to the competent geological administration authority.
- 1a. Within 2 months of the receipt of the geological documentation, the authority referred to in paragraph 1, shall notify in writing that it has accepted the documentation with no objections, and when the documentation fails to meet the requirements set out by law, the authority shall, by way of a decision, order the documentation to be complemented or corrected. Without one month of the date of the receipt of complemented or corrected documentation, the authority shall notify of its acceptance without objections.
2. The authority referred to in paragraph 1 shall collect information and samples obtained as a result of geological works with the aim of carrying out its duties specified in the Act.
3. The information and samples referred to in paragraph 2 shall be protected to the extent required by the interest of the state, or their owner.
4. (deleted)

### **Article 46**

1. The geological documentation shall be revised when:
  - 1) significant differences have been ascertained between the existing geology structure or geological conditions or in the method and conditions of groundwater use compared to the data determined in the approved or accepted documentation,
  - 2) the subject or scope of the activities for which the documentation was prepared has changed.
2. The provisions of Art. 45 shall apply to a revision of the geological documentation.

#### **Article 47**

1. The State Treasury shall have the right to the information obtained as a result of carrying out of the geological works.
2. The State Treasury shall dispose of the right to geological information, subject to paragraph 3.
- 2a. Disposal of the right to the geological information shall be carried out on the basis of an agreement for a fee, with the exception of the situations discussed in paragraph 4.
- 2b. The valuation prepared by the entity applying for making use of the geological information constitutes the basis for determining the fee for the use thereof.
3. Who has incurred the costs of carrying out of the geological works conducted on the basis of decisions granted pursuant to the Act shall have the exclusive right to use the geological information free of charge for research and scientific purposes and for conducting the activities regulated by the Act. This right shall expire after 5 years from the date of the loss of effect of the decision authorizing the works which were the source of the information or allowing for the performance of another activity regulated by the Act or separate regulations. Unless a concession or a decision approving a geological work programme provides otherwise, the party which has the right to use the geological information acquired in this manner may make it available to other parties.
4. The geological information to which the State Treasury has the proprietary rights, with the exception of the geological samples, is subject to free of charge use for the purposes of:
  - 1) preparation of geological work programmes related with prospecting for or exploration of mineral deposits,
  - 2) preparation of geological work programmes which carrying out does not require obtaining a concession,
  - 3) preparation of scientific studies,
  - 4) working out studies for the purposes of didactic purposes, diploma projects, B.Sc., M.Sc. and post-graduate thesis,
  - 5) carrying out the duties by the local self-government bodies,
  - 6) carrying out the duties by the public administration bodies,
  - 7) applying by way of a tender for establishment of the mining usufruct for the activities regulated by the Act,
  - 8) preparation of annexes to the geological documentation of mineral deposits, in relation to the change of their borders as a result of the deposits' divide,
  - 9) valuation of the geological information.
- 4a. The geological information referred to in paragraph 4, shall be made available to the entities interested therein on their application approved by the State Treasury.
5. When the geological information to which the State Treasury has the proprietary rights is contained in geological documentation, it can be disposed of for a specific time only.
6. Who conducts activities on the basis of this Act shall be obliged to forward on a current basis to the geological administration authorities the geological information referred to in paragraph 1, as well as samples and the results of their research. A concession or, respectively, a decision approving a geological

work programme may set out the scope and timetable of the presentation of the information and samples.

7. The units of local self-government may demand from the State Treasury free of charge access to the information referred to in paragraph 1, if it concerns their territories and is necessary for carrying out of their duties. The information obtained in this manner may not be used by the units of local self-government to conduct economic activities, nor made accessible to other parties. Common courts shall settle any disputes.
8. The revenues from the title to dispose of the proprietary rights to the geological information which belongs to the State Treasury constitute the State revenues.
9. (deleted)
10. In the scope of the matters referred to in paragraphs 1, 2, 4-5 and 7, the tasks of the State Treasury shall be carried out by the minister responsible for environment.
11. The minister responsible for the environment may authorize the bodies discussed in Art. 101 subparagraph 2 and 3 and other state organizational units to dispose of the geological information.
12. The minister responsible for the environment shall determine by a way of an ordinance:
  - 1) the conditions, method and way of disposing of the right to the geological information for a fee and making the geological information available free of charge,
  - 2) the geological information valuation method made available for a fee,
  - 3) the format of applications for making use of the geological information- taking into account the differences related to the type and form of the geological information, the method and scope of its usage, and in the case of the geological information related with mineral deposits also the differentiation with regard to the information quality due to the time of its obtaining, the extent to which the deposit has been explored as well as the degree of its exploitation.

#### **Article 48**

Documented deposits of minerals and documented groundwater, within the boundaries of the planned protective zones of the points of abstraction and protective zones of groundwater reservoirs shall be included in the local land use plans.

#### **Article 49**

On the basis of the geological documentation and the resource register, the minister responsible for the environment shall prepare the annual national balance of mineral deposits.

#### **Article 50**

1. The minister responsible for the environment shall lay down, by way of an ordinance:
  - 1) detailed requirements for the geological work programme and the principles of the submission for approval of the geological work programme the performance of which does not require a concession,
  - 2) detailed requirements for:
    - a) the geological documentation of mineral deposits,
    - b) hydro-geological and geological-engineering documentation,

- 3) the economic viability criteria for mineral deposits, excluding the minerals referred to in Art. 16 paragraph 2a, and the cases where a change in the economic viability criteria may be allowed,
  - 4) detailed requirements for the current inventories of the resources of mineral deposits,
  - 5) the principles of collecting and making available the samples and geological documentation, the manner of handling them, as well as the scope of protection of geological information and samples obtained as a result of carrying out of the geological works,
  - 6) the cases where it is necessary to prepare geological documentation other than that specified in this Chapter, detailed requirements for that documentation and the manner of handling it,
  - 7) the scope and manner of the performance by the party carrying out the geological works of the obligation to make available and transfer the information and samples to the geological administration authorities.
2. The minister responsible for the environment:
- 1) in issuing the ordinances referred to paragraph 1, subparagraphs 1-4 and 6, shall take into account the requirements of environmental protection, the need to protect the resources of minerals or groundwater, and, moreover, in issuing the ordinance referred to in paragraph 1, subparagraph 2, letter a, the minister shall make the detailed requirements dependent on the state of concentration of the mineral concerned, the scope of the activity and the category of exploration of the deposit,
  - 2) in issuing the ordinances referred to paragraph 1, subparagraphs 5 and 7, shall take into account the need to differentiate the requirements for storing, making available and destroying geological samples as well as the cases of derogation from these requirements, depending on the type of samples and their significance for stratigraphic and scientific objectives.

### **PART III EXPLOITATION OF MINERALS**

#### **Chapter 1 Mining area and mining protective area**

##### **Article 51**

1. The mining area shall be delimited for every mineral, even if deposits of different minerals occur in the nearest neighbourhood of each other.
2. The mining area may cover a part of a deposit, if this poses no threat to the proper utilization of the deposit.
3. The basis for the mining area delimitation shall be the geological documentation and the deposit development plan.

##### **Article 52**

1. The mining area register shall be maintained by the minister responsible for the environment.

2. The register referred to in paragraph 1 shall also include the spaces designated for conducting the activities set out in Art. 2.
3. By way of an ordinance, the minister responsible for the environment shall specify the manner of maintaining the mining area register, the data to be entered into the register as well as the scope and the manner of making available and communicating the data contained in the register.
4. In the ordinance issued pursuant to paragraph 3, the minister responsible for the environment shall ensure that the register is an exhaustive record of the mining areas established throughout the country and, in addition, take into account the differentiated access to data, indicating which data shall be generally accessible and which shall be accessible only to the entrepreneurs to whom they apply.

### **Article 53**

1. Unless the Act provides otherwise, a local land use plan shall be prepared for every mining protective area, in accordance with the manner specified in separate regulations.
2. The plan referred to in paragraph 1 shall ensure integration of all activities undertaken within the boundaries of the mining protective area, in order to:
  - 1) exercise the rights specified in the concession,
  - 2) secure general safety,
  - 3) protect the environment, including buildings.
3. The plan referred to in paragraph 1 may, in particular, specify facilities or areas in respect of which a safety pillar shall be delimited to protect selected assets, within the boundaries of which mineral exploitation must not be carried out or may be permitted only in the manner ensuring the protection of these assets.
4. The costs of preparing a draft plan referred to in paragraph 1 shall be covered by the entrepreneur.
5. The draft plan referred to in paragraph 1 must be agreed with the competent mining supervision authority.
6. If only a slight adverse impact on the environment is expected, the commune council may adopt a resolution not to prepare the plan referred to in paragraph 1.

## **Chapter 2**

### **The deposit development plan**

#### **Article 54**

1. The entrepreneur applying for a concession for mineral exploitation from deposits shall prepare the deposit development plan referred to in Art. 20, paragraph 2, subparagraph 2, on the basis of the geological documentation, taking into account the technical and economic factors. The plan shall lay down the intentions in the scope of:
  - 1) the protection of mineral deposits, including accompanying minerals and useful trace elements present in the deposit, especially through their comprehensive and effective utilization,
  - 2) the exploitation technology that reduces the adverse impact on the environment.
2. In agreement with the minister responsible for the economy, by way of an ordinance, the minister responsible for the environment shall specify the

detailed requirements for deposit development plans, taking into account the principles of rational deposit management, the requirements of environmental protection, including injection of water into the formation, the safety of human life and health and the technical capacity to exploit the deposit.

#### **Article 55**

1. The deposit development plan shall be revised in the case:
  - 1) of a change in the geological documentation,
  - 2) when the conditions set out in the concession so require,
  - 3) when the provisions of the plan referred to in Art. 53 so require,
  - 4) of significant changes in the technical conditions or special economic factors affecting mineral exploitation.
- 1a. Paragraph 1 subparagraph 1 shall not apply in the case of preparing an annex discussed in paragraph 2 presenting an account of the resources of deposit in relation to discontinuing or completing of the mineral exploitation from the deposit.
2. The entrepreneur shall revise the deposit development plan in the form of an annex to the deposit development plan.
3. The entrepreneur shall submit the annex referred to in paragraph 2 to the concession authority.
4. Within 2 months of the receipt of the annex referred to in paragraph 2, having consulted the mining supervision authority, the concession authority shall notify the entrepreneur in writing that the annex has been accepted without objections, and when the annex does not meet the requirements set out in the Act or the changes introduced in it are not justified, the authority shall, by way of a decision, order the entrepreneur to revise or complement the annex.

#### **Article 56**

When significant changes, which may directly affect the conditions set out in the concession, are made in the deposit development plan, ex officio or on request of the entrepreneur, the concession authority may revise the concession without compensation.

#### **Article 56a**

The provisions of Art. 54-56 shall not apply to the exploitation of common minerals under the conditions set out in Art. 16, paragraph 2a.

### **Chapter 3**

#### **Construction of mining plant facilities**

##### **Article 57**

1. The designing, construction, maintenance, and dismantling of mining plant facilities shall be governed by the provisions of the construction law, unless the Act provides otherwise.
2. In respect of the activities referred to in paragraph 1, the tasks in the scope of architecture and construction administration as well as construction supervision as set out in the provisions of the construction law shall be carried out by the competent mining supervision authorities.

##### **Article 58**

The facilities of a mining plant shall be buildings in the meaning of the construction law, fully located above the subsurface and serving to directly exploit a mineral from its deposit.

##### **Article 59**

(deleted)

##### **Article 60**

(deleted)

##### **Article 61**

The provisions on the operations of a mining plant shall apply, respectively, to the activities governed by the provisions of this Chapter.

##### **Article 62**

The provisions of this Chapter shall apply, respectively, to repairs of the building facilities of the mining plant.

### **Chapter 4**

#### **Mining plant operations**

##### **Article 63**

Mining plant operations shall proceed on the basis of an operations plan, according to mining technique principles.

##### **Article 64**

1. An entrepreneur shall prepare an operations plan for each of the mining plants, on the basis of the terms specified in the concession and the deposit development plan.
2. The mining plant operations plan shall specify the detailed measures necessary to secure:
  - 1) general safety,
  - 2) fire safety,
  - 3) work safety and health for employees of the mining plant,
  - 4) correct and efficient management of the deposit,
  - 5) protection of the environment and of building facilities,
  - 6) prevention of damage and its remedy.

3. A mining plant operations plan of a plant exploiting a common mineral may be prepared in a simplified form.
4. A mining plant operations plan shall be subject to approval, by way of a decision, by the competent mining supervision authority.
5. Prior to the issue of the decision referred to in paragraph 4, the entrepreneur shall be obliged to submit an opinion of the competent head of the commune, town mayor or city president. Failure to deliver an opinion within 14 days of delivery of the application for the opinion shall be considered as non-objection to the contents of the operations plan.
6. By way of an ordinance, the minister responsible for public administration shall specify:
  - 1) detailed requirements relating to the parts and the content of a mining plant operations plan, indicating the special requirements for underground mining plants, open-pit mining plants and mining plants exploiting minerals through boreholes,
  - 2) the detailed requirements for the parts and content of an operations plan prepared in a simplified form,
  - 3) the detailed requirements for the parts and content of the operations plan of a plant being closed down,
  - 4) the detailed requirements for the parts and content of the operations plan of a plant:
    - a) conducting non-reservoir storage of substances in the subsurface, including underground mining excavations,
    - b) conducting non-reservoir disposal of waste in the subsurface, including underground mining excavations,
    - c) carrying out geological operations, taking into account the specific manner of carrying out these operations in the maritime areas of the Republic of Poland,
  - 5) the periods for which operations plans are to be prepared,
  - 6) the procedure for the preparation and revision of an operations plan as well as the procedure and dates for the submission of an operations plan (a revised operations plan) for approval – specifying the detailed measures necessary to ensure general safety, fire safety, work safety and health for employees of the mining plant, proper and efficient management of the deposit, protection of the environment and of building facilities, and prevention of damage and its remedy.

#### **Article 65**

1. The mining plant operation s plan may be revised if the natural, technical or organizational conditions of mineral exploitation change.
2. The operations plan shall be revised in accordance with the procedure provided for its approval. When the revision of the plan does not cover exploitation operations and the adverse impact on the environment, including facilities, the provision of Art. 64, paragraph 5, shall not apply.

#### **Article 65a**

Mining supervision authority shall send the adequate concession authority:

- 1) a copy of the decision approving the mining plant operations plan;

- 2) a copy of the decision approving the revision of the mining plant operations plan, if the revision relates to the deposit management.

#### **Article 66**

In the event of a danger to human life and health and an extraordinary danger to the environment or the safety of the mining plant, the operations of the mining plant shall be entirely or partially halted without delay until the danger is removed.

#### **Article 67**

1. An entrepreneur may depart from the approved operations plan if it is urgently necessary due to a danger to the mining plant or general safety. The manager of the mining plant operations shall be obliged to immediately notify the competent mining supervision authority in order to obtain its consent to the departure from the operations plan. In the case of a refusal to grant the consent, further operations of the mining plant may only be conducted in compliance with the plan approved.
2. In the event of a temporary suspension of mining activities as a result of the circumstances referred to in paragraph 1, the entrepreneur shall be obliged to secure the mining excavations as well as the facilities and equipment of the mining plant.

#### **Article 67a**

1. The provisions on mining plant operations plans shall not apply to:
  - 1) the operations of a mining plant exploiting a common mineral under the conditions set out in Art. 16, paragraph 2a,
  - 2) geological operations carried out outside of the mining area when the planned depth of the excavation does not exceed 100 m and without the use of explosives,
  - 3) carrying out geological operations related with the exploitation of the Earth heat.
2. The performance of geological operations or the mining plant operations referred to in paragraph 1 shall be based on the geological work programme or the conditions set out in the concession taking into account the requirements laid down in Art. 64, paragraph 2.

#### **Article 68**

1. The mining plant operations may be conducted only under the management and supervision of persons possessing proper qualifications.
2. By way of an ordinance, the minister responsible for the economy shall specify:
  - 1) the general and professional qualifications required of the staff who manage and supervise the operations in the different types of mining plants and in the operations sections of these plants,
  - 2) a list of positions in the mining plant operations other than those referred to in subparagraph 1 that may be held by persons with special professional qualifications and health condition as well as the type of these qualifications and condition,
  - 3) the manner of ascertaining the qualifications of the persons referred to in subparagraphs 1 and 2, the procedure for appointing examination commissions, the composition of the examination commission appointed to check the

candidates' knowledge and the scope of knowledge subject to examination, the amounts of fees associated with the procedure of ascertaining the qualifications, the manner of paying the fees, the manner of ascertaining the qualifications of the members of the examination commission and the amount of their remuneration.

3. The qualifications of the staff who manage and supervise the mining plant operations and the persons referred to in paragraph 2, subparagraph 2, shall be ascertained by the competent mining supervision authority, subject to the provision of paragraph 4.
4. The qualifications of operations managers at underground mining plants shall be ascertained by the President of the State Mining Authority.
5. The provisions of Art. 31, paragraphs 3 and 4, shall apply, respectively, to the ascertaining of the qualifications referred to in paragraphs 3 and 4.

#### **Article 69**

1. The entrepreneur shall be obliged to possess the geological-survey documentation and to update it as mining operations proceed.
2. The entrepreneur shall be obliged to grant competent authorities a free of charge access to the geological-survey documentation, to the extent necessary for carrying out of their duties.
3. In agreement with the minister responsible for the environment, by way of an ordinance, the minister responsible for the economy shall specify the type of the geological-survey documentation that the entrepreneur shall be obliged to possess, taking into account the documents that make up this documentation in different types of mining plants, the manner and dates of preparation and updating of the documentation as well as the scope of the obligation to make it available to the geological administration and mining supervision authorities; the requirements for the performance of survey works for the purposes of preparing this documentation, the principles and procedure of handling this documentation after the closing down of a mining plant and making it available as well as the cases where the mining supervision authority may consent to, or order, the preparation of other documents.
4. If the entrepreneur does not fulfill the obligations set out in paragraph 1, or does not carry out the measurements in accordance with the provisions issued pursuant to paragraph 3, the competent mining supervision authority may order that the surveys or the geological-survey documentation should be prepared or supplemented by an authorized person, at the entrepreneur's expense.

#### **Article 70**

1. A mining surveyor or a mining geologist shall be authorized to prepare geological-survey documentation, each of them within the scope of their qualifications.
2. The persons authorized to prepare the geological-survey documentation for common minerals shall also be those possessing the qualifications for the preparation of geological documentation, as ascertained on the basis of Art. 31.
3. By way of an ordinance, the minister responsible for the economy shall specify the general and professional qualifications required from the mining surveyor and the mining geologist, the manner of ascertaining the qualifications, the procedure for appointing examination commissions, the composition of the

examination commission appointed to check the candidates' knowledge and the scope of knowledge subject to examination, the amounts of fees associated with the procedure of ascertaining the qualifications and the manner of paying the fees, the manner of ascertaining the qualifications of the members of the examination commission and the amount of their remuneration.

4. The qualifications of mining surveyor and mining geologist shall be ascertained by the President of the State Mining Authority. The provisions of Art. 31 paragraph 3 and 4 shall respectively apply.
5. The ascertaining of the qualifications of mining surveyors and mining geologists in the procedure referred to in paragraph 3 shall, at the same time, represent the ascertaining of the qualifications required of the staff who manage and supervise the operations in the different types of mining plants.

#### **Article 71**

Supervision and inspection over the activities of geological survey services with regard to surveying and other activities conducted for the mining plant shall be exercised by the competent mining supervision authorities.

#### **Article 72**

1. An entrepreneur shall be obliged to keep the records of the resources of the deposit based on the geological documentation and deposit development plan.
2. Maintaining of the records of the resources of a mineral deposit shall consist of the identification of changes arising from:
  - 1) better exploration of the deposit,
  - 2) exploitation of the deposit and losses caused by the exploitation of the deposit,
  - 3) change in the boundaries or a division of the deposit,
  - 4) reclassification of economically viable geological resources into those not viable economically, of resources not viable economically into those viable economically, of industrial resources into non-industrial resources or of non-industrial into industrial or into losses or losses into industrial resources.
3. In multi-layer deposits the changes arising from better exploration shall be introduced only into exploited layers or those covered by the geological works or operations associated with the conduct of the mining plant operations.
4. When the changes in the reporting period exceed 50% of the annual production from the deposit, the entrepreneur shall make the reclassification referred to in paragraph 2, subparagraph 4, after the competent concession authority has granted its consent, by way of a decision.
5. Every year, until 31 March, the entrepreneur shall enter the changes in the resources of the deposit for the reporting period from 1 January to 31 December of the previous year into the current inventory.
- 5a. The text part of the inventory for deposits, referred to in paragraph 5, shall be submitted by the entrepreneur to the competent concession authority by 15 April.
6. The entrepreneur shall make a current inventory for deposits of common minerals the production from which exceeds 20,000 cubic meters of a mineral in a calendar year as well as for the basic mineral deposits on the basis of an estimation of the excavation. For gaseous and liquid minerals, the entrepreneur

shall make a current inventory on the basis of performing the surveys of the boreholes. The current inventory shall be added to the copy of the geological documentation and the deposit development plan, as of the state of the resources of the deposit on 31 December of a given year.

7. Every three years, the entrepreneur shall estimate the deposits of common minerals the production of which does not exceed 20,000 cubic meters of a mineral in a calendar year. Every year, the current inventory shall identify the state of the resources, the size of production and losses as estimates, to be identified in detail when the exact survey is made of the state of excavations.
8. By way of a decision, the concession authority may order the entrepreneur to survey the excavations at a different date, when:
  - 1) the concession is surrendered,
  - 2) the resources of the deposit have been exhausted,
  - 3) the regulations on environmental protection are violated.
9. The regulations on public statistics shall apply to the entrepreneur's preparation of a summary representation of the geological and industrial resources.

### **Article 73**

1. An entrepreneur shall be obliged in particular to:
  - 1) identify hazards associated with mining plant operations and to implement measures to prevent and remove the hazards, including an assessment and documentation of the professional risks present in mining plant operations, as well as to apply the necessary preventive measures to reduce the risks,
  - 2) possess appropriate financial and technical resources as well as operation services properly organized to ensure the safety of the employees and the mining plant operations,
  - 3) keep the records of people present in the mining plant.

### **Article 73a**

1. The natural hazards present in mining plants: bounces, methane hazards, hazards of gas and rock breakouts, hazard of coal-dust explosion, water hazard, eruption hazard, hydrogen sulfide hazard, radiation hazard posed by natural radioactive substances and the exposure to dusts harmful for health, shall be assigned to particular degrees of hazard (categories, classes).
2. By way of a decision, the competent mining supervision authority shall make the assignment referred to in paragraph 1, unless a special provision states otherwise.
3. The minister responsible for public administration shall specify, by way of an ordinance:
  - 1) the criteria for an assessment of the natural hazards referred to in paragraph 1, depending on the type of mineral, the intensity of hazard occurrence, the space where hazards occur and the type of mining plant, as well as the detailed principles of assignment of these hazards,
  - 2) the manner of assigning deposits (layers), their parts or excavations to particular degrees (categories, classes) of hazard,
  - 3) the cases when the operations manager of a mining plan may make the assignment.

#### **Article 74**

1. An entrepreneur shall be obliged to train mining plant employees within the scope of the knowledge of regulations that govern work safety in the mining plant and must not hire an employee who has not shown the adequate knowledge of these regulations.
2. The entrepreneur may commission the obligation to train employees as referred to in paragraph 1 to an organizational unit engaged in training.
3. The entrepreneur or the organizational unit engaged in training employees of the mining plant shall be obliged to have appropriate staff and necessary means allowing for the proper employee training.
4. On request of the entrepreneur or the organizational unit engaged in training, by way of a decision issued for the period of five years, the mining supervision authority shall ascertain the satisfaction of the conditions set out in paragraph 3.
5. In the case of ascertaining of breaking the terms stipulated in the decision issued on the basis of paragraph 4, the competent mining supervision authority may via a decision order the entrepreneur or the organizational unit engaged in training to implement changes aimed at ensuring fulfillment of such conditions determining the deadline to which they have to be introduced. In the case of a failure to keep the deadline the competent mining supervision authority may state expiry of the decision discussed in paragraph 4.
6. The provisions of paragraph 4 and 5 shall not apply to the entrepreneurs exploiting common minerals under the terms stipulated in Art. 16 paragraph 2a.
7. Employee training, referred to in paragraph 1, on the positions in the mining plant operations, other than the managerial and supervisory positions, which may be taken by persons with special professional qualifications and health condition, shall be carried out on the basis of training programs worked out for particular positions by the entrepreneurs or the organizational units engaged in trainings.
8. Training programs, referred to in paragraph 7, shall be approved, via a decision, by the competent mining supervision authority at the request of the entrepreneur or the organizational unit engaged in training.

#### **Article 75**

1. An entrepreneur shall:
  - 1) possess organized mine rescue services,
  - 2) provide the permanent possibility for the participation in rescue operations of the specialized mine rescue services of the Central Mine Rescue Service Station or other entity professionally engaged in mine rescue operations.
2. With consent of the competent mining supervision authority, expressed in a decision, the entrepreneur may commission the performance of mine rescue operations to the Central Mine Rescue Service Station or another entity professionally engaged in mine rescue operations.
3. The consent referred to in paragraph 2 shall be granted when the entity to which the entrepreneur intends to commission the performance of mine rescue operations satisfies the requirements for entities professionally engaged in mine rescue operations as provided for in the regulations laying down the organization, the detailed tasks of the mine rescue services of the entrepreneur and the entity professionally engaged in mine rescue operations, the

requirements for technical equipment of these services, the principles of preparing and approving a mine rescue plan, the qualifications required of the members of rescue teams as well as the principles with respect to the training within the scope of mine rescue operations and the performance of rescue operations.

4. The competent mining supervision authority may order an entrepreneur to:
  - 1) implement necessary changes in the organization of mine rescue services,
  - 2) supplement or change mine rescue equipment.
5. The authority referred to in paragraph 4 may exempt the entrepreneur from the obligation set out in paragraph 1 entirely or in some respects, if the natural hazards and their intensity in a given mining plant do not require the entrepreneur to carry out entirely the obligations referred to in paragraph 1 and if such an exemption does not cause a deterioration of the state of work safety and health conditions or the fire hazard in the mining plant.

#### **Article 75a**

1. The managers and specialists carrying out the activities within the scope of mine rescue operations, employed by the entities professionally engaged in mine rescue operations, shall obtain adequate qualifications.
2. The minister responsible for economy, taking into account the need of ensuring proper carrying out of the mine rescue operations as well as the efficiency of conducting the procedures of ascertaining the qualifications, shall specify by way of an ordinance, the listing of the positions taken by the persons referred to in paragraph 1, the general and professional qualifications required therefrom, the manner of ascertaining the qualifications, procedure for appointing examination commissions and the composition of the examination commission appointed to check the candidates' knowledge, the scope of knowledge subject to examination, the amounts of fees associated with the procedure of ascertaining the qualifications and the manner of paying the fees, the manner of ascertaining the qualifications of the members of the examination commission and the amount of their remuneration.
3. The qualifications referred to in paragraph 1 shall be ascertained by the President of the State Mining Authority. The provisions of Art. 31 paragraph 3 and 4 shall respectively apply.

#### **Article 76**

An entrepreneur shall be obliged to help another mining plant in the event of a threat to the safety of employees or operations of that plant.

#### **Article 77**

1. Anyone noticing a threat to people or mining plant operations, and damage to, or malfunction of the equipment of that plant, shall be obliged to immediately warn the persons being in danger, to undertake possible measures to remove the danger, and to inform the nearest person from the management or supervision of operations about the danger.
2. In the event of danger to life or health of a mining plant employees, operations in the danger zone shall be halted immediately and employees shall be withdrawn to a safe place.

- 3 The mining plant operations manager shall be obliged to inform the proper mining supervision authority immediately about the accident as well as about every danger to human life, health, or general safety.

#### **Article 78**

1. In agreement with the ministers responsible for labor and internal affairs, the minister responsible for the economy shall specify, by way of an ordinance, the detailed principles of work safety and health, the performance of operations and specialized fire protection associated with operations of particular types of mining plants, as well as detailed principles of assessment and documentation of professional risks and the use of necessary preventive measures to reduce the risks, in the form of a document relating to the safety and protection of the health of employees engaged in mining plant operations. In addition, these regulations shall address the cases when:
  - 1) setting in operation of particular facilities, machinery and equipment shall require authorization of the mining supervision authority,
  - 2) an entrepreneur shall be obliged to check technical solutions by way of testing conducted by experts.
2. In agreement with the minister responsible for internal affairs, by way of an ordinance, the minister responsible for the economy shall specify by way of an ordinance:
  - 1) detailed principles of storing and use of blasting agents in mining plants,
  - 2) detailed principles of storing and use of blasting equipment in the mining plants
  - taking into account the need to ensure general safety and the safety of the employees engaged in storing or use of blasting agents and the blasting equipment in particular types of mining plants and while carrying out the mining operations.
3. By way of an ordinance, the minister responsible for the economy shall specify the organization, detailed tasks of the mine rescue services of the entrepreneur and entities professionally engaged in mine rescue operations, including the Central Mine Rescue Service Station, the requirements for technical equipment of these services, the detailed principles of preparing and approving a mine rescue plan, professional, health and age qualifications required of the members of rescue teams, detailed principles of training in the scope of mine rescue operations as well as the principles of performance of rescue operations, depending on the type of natural hazards present in mining plants.
4. In special cases justified by the safety requirements and when it is necessary to introduce technical developments or to conduct research and development works, or experiments, the President of the State Mining Authority may, on request of the entrepreneur, authorize a departure from specific requirements set out in the regulations issued pursuant to paragraphs 1 and 2. This authorization shall specify in detail the mining plant, the scope of the departure, the conditions for its application and the valid term of the authorization.

#### **Article 78a**

1. An expert on mining plant operations may be:
  - 1) a scientific unit authorized by the President of the State Mining Authority,
  - 2) a physical person,

2. The procedure relating to the power of an expert on mining plant operations shall be initiated on request of the interested unit or person as referred to in paragraph 1.
3. The expert referred to in paragraph 1, subparagraph 2, may be a person who:
  - 1) enjoys full public rights,
  - 2) has:
    - a) a diploma of a technical university,
    - b) a proof of the qualifications of at least a member of higher operations supervision staff and at least five years of experience in higher operations supervision after the granting of the certificate or at least a Ph.D. degree in the scientific field related with the activities in relation thereto the expert function shall be performed,
    - c) (repealed).
4. The President of the State Mining Authority shall grant to a physical person the power of an expert on mining plant operations in the form of a certificate, setting out in it the scope of matters in respect of which the expert's function may be exercised and the valid term of the power.
5. A refusal to authorize the expert referred to in paragraph 1, subparagraph 1, and a refusal to grant the power of the expert referred to in paragraph 4 shall have the form of an administrative decision by the President of the State Mining Authority.
6. The experts authorized pursuant to paragraph 1, subparagraph 1, and the experts referred to in paragraph 4 shall be entered into the register of experts on mining plant operations. This register shall be maintained by the President of the State Mining Authority.
7. Deletion from the register of experts on mining plant operations shall take place:
  - 1) after the lapse of the term referred to in paragraph 4,
  - 2) on the expert's request,
  - 3) in the event of:
    - a) deprivation of the expert of public rights,
    - b) decease of the expert.
8. The register referred to in paragraph 6 shall be published in the Official Journal of the State Mining Authority.

#### **Article 79**

The provisions of this Chapter shall apply, respectively, to parties carrying out tasks associated with mining plant operations within the scope of their professional activities.

### **Chapter 5 Closing down of the mining plant**

#### **Article 80**

1. If a mining plant is closed down, an entrepreneur shall be obliged to:
  - 1) secure or close down mining excavations as well as facilities and equipment of the mining plant,
  - 2) secure the unutilized part of the mineral deposit,
  - 3) secure the neighbouring deposits of minerals,

- 4) take the measures necessary to protect the excavations of the neighbouring mining plants,
  - 5) take measures necessary to protect the environment and reclaim land and develop the post-mining areas.
2. The provisions on the protection of agricultural and forest lands shall apply, respectively, to the reclamation and development of the areas referred to in paragraph 1, subparagraph 5. Subject to the provisions of Art. 109, paragraph 1, subparagraph 5, the authorities set out in these provisions shall be competent for the matters of land reclamation and development of the said areas.

#### **Article 81**

1. The provisions on mining plant operations shall apply, respectively, to the closing down of the mining plant.
2. The operations plan of the mining plant being closed down shall particularly provide for the manner of carrying out of the obligations specified in Art. 80.
3. The operations plan of the mining plant being closed down shall require consent of the competent head of the commune, town mayor or city president.
4. If it is required by the circumstances provided for in Art. 80, the mining supervision authority may order that provisions of this Chapter should apply to closing down of a selected part of the mining plant.

#### **Article 81a**

1. If the obligation to close down the mining plant or the designated part of the plant has not been carried out, the mining supervision authority shall order, by way of a decision, the entrepreneur to carry out this obligation.
2. In the decision referred to in paragraph 1, the mining supervision authority shall set the date for carrying out the obligation to close down the mining plant, and as the date elapses without effect the authority shall initiate enforcement proceedings.
3. The decision referred to in paragraph 1 shall require consent of the competent head of the commune, town mayor or city president.
4. In case of doubts, it shall be deemed that the decision referred to in paragraph 1 shall authorize the use of another party's real estate if it is necessary to carry out the obligation. The provision of Art. 90 shall apply to the establishing of the manner of the use of another party's real estate.

#### **Article 82**

If it is justified, the costs of carrying out of the obligations specified in Art. 80 may be covered from the collateral established in the concession.

#### **Article 82a**

The provisions of this Chapter shall apply, respectively, to closing down of mining excavations, facilities and equipment remaining after the conclusion of mineral exploitation in a former mining plant when conducted by parties other than those set out in Art. 29 and Art. 80.

### **PART IIIa**

#### **DISPOSAL OF WASTE IN THE SUBSURFACE, INCLUDING UNDERGROUND MINING EXCAVATIONS**

### **Article 82b**

1. The following types of underground repositories shall be differentiated:
  - 1) underground repository of dangerous waste,
  - 2) underground repository of neutral waste,
  - 3) underground repository of waste other than dangerous and neutral.
2. The minister responsible for the environment shall specify, by way of an ordinance, detailed requirements for the particular types of underground repository shall meet within the scope of localization, exploitation and closing down as well as the scope, method and conditions for monitoring of such repositories, taking into account the geological conditions.

### **Article 82c**

1. It shall be forbidden to dispose in the subsurface, including underground mining excavations, waste:
  - 1) occurring in liquid form, including waste composed of water in the amount exceeding 95% of the total mass, with the exception of silt.
  - 2) of explosive, corrosive, oxidizing, highly flammable or flammable properties,
  - 3) medical infectious and veterinary infectious,
  - 4) generated as a result of scientific-research works, development works or didactic activities, which have not been identified or are new and whose effects on the environment are not known,
  - 5) such as tires, with the exception of bicycle tires and tires with the external diameter larger than 1,400 mm,
  - 6) other, which under the conditions of disposal in the subsurface, including in the underground mining excavations, may be subject to undesirable physical, chemical or biological changes.
2. The waste referred to in paragraph 1 subparagraph 6, comprise the following waste:
  - 1) which itself or in the containers it is stored, may, under the conditions they are disposed of, react with water or bedrock, which shall lead to the change of their volume, spontaneous ignition, toxic or explosive substances or gases creation or other reactions posing a danger to the geological barrier exploitation safety or its integrity,
  - 2) biodegradable,
  - 3) of a pungent smell,
  - 4) that may produce gaseous-airy mixtures of a toxic or explosive character,
  - 5) not fulfilling the geo-mechanical conditions due to their insufficient stability,
  - 6) of a spontaneous ignition type or susceptible to spontaneous ignition under the given disposal conditions, gaseous products,
  - 7) volatile and originating from a non-determined mixtures gathering.
3. It shall be forbidden to dilute or prepare mixtures of the waste or mixtures with other substances or objects in order to meet the criteria for allowing the waste for disposal in the underground repositories.
4. The waste shall be disposed of in a selective manner. Disposal of certain types of waste is allowed to be executed in a non-selective manner

(mixing), if as a result of such disposal there shall not be increased the negative effects of the waste on the environment or the safety of the repository.

5. The minister responsible for the economy, in agreement with the minister responsible for the environment, taking into account the waste properties and the need of ensuring proper waste treatment, may specify, by way of an ordinance, the criteria and procedures of allowing the waste to the underground repository.
6. The minister responsible for the economy, in agreement with the minister responsible for the environment, taking into account the waste properties, may specify, by way of an ordinance, the types of waste that may be disposed of in a non-selective way on the underground repositories.

#### **Article 82d**

The entrepreneur that operates within the scope of waste disposal in the subsurface, including underground mining excavations, shall be obliged to employ a person possessing a certificate confirming their qualifications within the scope of waste management issued on the basis of Art. 49 of the Act dated 27 April 2001 on waste (Official Journal No. 62/628 with subsequent amendments)<sup>3)</sup>.

#### **Article 82e**

1. For the purposes of disposal of waste in the subsurface, including underground mining excavations, there shall respectively apply the provisions of Art. 56-58, Art. 59 paragraph 1 subparagraphs 1-5 and Art. 61 of the Act dated 27 April 2001 on waste.
2. For the purposes of disposal of waste in the subsurface, including underground mining excavations, there shall be applied the provisions on mining plant operations.

#### **Article 82f**

The provisions of this Part shall not apply to disposal in the subsurface, including underground mining excavations, of:

- 1) non-polluted soil;
- 2) minerals,
- 3) neutral waste and other than dangerous and neutral waste, originating from prospecting for or exploration of mineral deposits, their exploitation and processing.

### **PART IV**

### **COMPENSATION FOR ESTABLISHMENT OF MINING USUFRUCT CHARGES**

#### **Article 83**

1. The amount and manner of payment of the compensation for the mining usufruct shall be specified by the agreement referred to in Art. 10, paragraph 1.
2. The compensation referred to in paragraph 1 may be paid in a single payment or in installments.
3. The compensation referred to in paragraph 1 shall be the income of the State Treasury.

#### **Article 84**

1. An entrepreneur that exploits a mineral from its deposit shall pay the royalty for the mineral exploited.
2. The royalty shall be calculated as the product of the rate of the royalty for a given type of mineral and the amount of the mineral exploited in the calculation period.
3. The royalty for the accompanying mineral exploited shall be calculated as the product of 50% of the amount of the royalty for a given type of mineral and the amount of the accompanying mineral exploited in the calculation period.
4. By way of an ordinance, the Council of Ministers shall specify the rates of the royalties referred to in paragraph 2 for particular types of minerals. In establishing the rates of the royalties, the Council of Ministers shall follow the principle that their amounts must not be less than the lower limits of royalty rates and higher than their upper limits.
5. The upper and lower limits of the royalty rates for particular types of minerals shall be set out in an Annex to the Act, subject to paragraphs 6 and 7.
6. The upper and lower limits of the royalty rates for particular types of minerals as set out in an Annex to the Act shall be revised every year on the basis of the mean annual overall index of consumer goods and services as planned in the Budget Act for a given calendar year.
7. On the basis of the index referred to in paragraph 6, the minister responsible for the environment shall publish, by way of a public notice in the Journal of the Government of the Republic of Poland "Monitor Polski", the upper and lower limits of the royalty rates for the next calendar year, rounding them upward to full groszy.
8. The entrepreneur shall calculate the royalty referred to in paragraph 1 on his own every quarter of the year and pay it, without being called on to do so, to the bank accounts of the parties set out in Art. 86.
9. The royalty shall be paid within one month from the end of each quarter of the year. Within the same period, the entrepreneur shall present to the concession authority and the parties set out in Art. 86 copies of the receipts of the payments made as well as information containing data specifying the name of the entrepreneur, deposit, type, the amount of the mineral exploited in a quarter of the year, the rate adopted and the amount of the royalty determined, the name of the commune, and, in the case when the exploitation is conducted within the area of more than one commune, the amounts of the mineral exploited and the amounts of the royalty due to particular communes.
10. If the entrepreneur does not meet the obligation to pay the royalty or to submit the information referred to in paragraph 9, or if the entrepreneur submits questionable information; on the basis of its own findings, the concession authority shall issue a decision in which it shall set the amount of the due royalty, using the rates in effect on the date when the procedure was initiated.
- 10a. In procedure relating to the issue of the decision referred to in paragraph 10, the commune may participate as a party.
11. By way of an ordinance, the minister responsible for the environment shall specify the formats of the forms for providing the information referred to in paragraph 9, taking into account the need for the information to present the detailed data set out in this provision.

## Article 85

1. An entrepreneur who has obtained a concession for activities determined in Art. 15 paragraph 1 subparagraph 1 and 3 shall make the payment arising on:
  - 1) prospecting for or exploration of mineral deposits,
  - 2) non-reservoir storage of substances in the subsurface, including underground mining excavations,
  - 3) disposal of waste in the subsurface, including underground mining excavations.
2. The concession fee referred to in paragraph 1 subparagraph 1 shall constitute the product of the fee rate and the number of square kilometers of the area on which the activity is carried out. The amount of the concession fee and the payment dates and manner shall be set out in the concession. The entrepreneur shall immediately submit the copies of the receipts of payments made to the concession authority and the parties stipulated in Art. 86.
3. The concession fee rate for the activities consisting in prospecting for mineral deposits for particular groups of minerals per square kilometer shall amount to:
  - 1) energy minerals:
    - a) oil, natural gas and coal-bed methane – PLN 100,
    - b) hard coal – PLN 500,
    - c) lignite – PLN 200,
  - 2) metal ores and native metals – PLN 100,
  - 3) chemical minerals – PLN 100,
  - 4) rock minerals (including peat and soddy ores):
    - a) in the land areas – PLN 1,000
    - b) in the maritime areas – PLN 100,
  - 5) groundwater recognized as minerals:
    - a) curative waters and brine – PLN 500,
    - b) thermal waters – PLN 200.
4. The rate of the concession fee for the activity consisting in mineral deposits exploration and jointly in prospecting and exploration of mineral deposits for particular groups of minerals per square kilometer shall amount to:
  - 1) for energy minerals:
    - a) oil, natural gas and coal-bed methane – PLN 200,
    - b) hard coal – PLN 1,000,
    - c) lignite – PLN 500
  - 2) metal ores and native metals – PLN 200,
  - 3) chemical minerals – PLN 1,000,
  - 4) rock minerals (including peat and soddy ores):
    - a) in the land areas – PLN 10,000
    - b) in the maritime areas – PLN 2,500,
  - 5) groundwater recognized as minerals:
    - a) curative waters and brines – PLN 800,
    - b) thermal waters – PLN 500.
5. In the case of a change of the period for which the concession was granted, in the decision amending the concession there again shall be determined the concession fee for the activities consisting in prospecting for or exploration of mineral deposits, applying the rates binding as at the date of commencing the procedure.

6. The concession fee referred to in paragraph 1 subparagraph 2 shall be determined on a quarterly basis as the product of the fee rate and the amount of the substances injected to the subsurface, including underground mining excavations.
7. The concession fee rate referred to in paragraph 6 in the case of storage shall amount to:
  - 1) gaseous substances – 1.51 PLN/thousand cubic meters
  - 2) liquid substances – 3.00 PLN/tonne
  - 3) other substances, not listed in subparagraphs 1 and 2 – 1.50 PLN/tonne
8. The concession fee referred to in paragraph 1 subparagraph 3 shall be determined on a quarterly basis as the product of the fee rate and the number of the waste inserted in the subsurface, including underground mining excavations.
9. The concession fee rate referred to in paragraph 8, shall amount to in the case of disposal of:
  - 1) dangerous waste – 62.17 PLN/tonne,
  - 2) waste other than dangerous – 4.76 PLN/tonne,
  - 3) neutral waste – 3.57 PLN/t.
10. The concession fee rates referred to in paragraph 3, 4, 7 and 9 are subject to an annual revision on the basis of the mean annual overall index of consumer goods and services as planned in the Budget Act for a given calendar year.
11. On the basis of the index referred to in paragraph 10, the minister responsible for the environment shall publish, by way of a public notice in the Journal of the Government of the Republic of Poland “Monitor Polski”, the rates discussed in paragraphs 3,4,7 and 9 for the next calendar year, rounding them upward to full groszy.
12. The concession fees referred to in paragraph 1 subparagraphs 2 and 3 shall be paid within one month of the lapse of each quarter. To the same deadline the entrepreneur shall submit the concession authority and the parties set out in Art. 86 copies of the receipts of payments made as well as the information containing:
  - 1) in the case of non-reservoir storage of substances in the subsurface, including underground mining excavations, the data specifying the name of the entrepreneur, storeroom name, type and number of the substances injected per quarter, the rate applied and the amount of the determined concession fee, the name of the commune, and in the case when the activities set out in Art. 15 paragraph 1 subparagraph 3 are carried out on the territory of more than one commune – amount of the substances inserted as well as the amount of the concession fee falling as at the particular communes,
  - 2) in the case of disposal of waste in the subsurface, including underground mining excavations, the data specifying the name of the entrepreneur, name of the repository, type and number of the waste placed therein per quarter, the rate applied and the amount of the determined concession fee, name of the commune, and in the case when the activities set out in Art. 15 paragraph 1 subparagraph 3 are carried out on the territory of more than one commune – the amount of the waste placed and the concession fee falling as at the particular communes.
13. If the entrepreneur does not meet the obligation to pay the concession fee referred to in paragraph 1 subparagraph 2 or 3 or submit the information referred to in paragraph 12 or if the entrepreneur submits questionable

information; on the basis of its own findings, the concession authority shall issue a decision in which it shall set the amount of the due concession fee, using the rates in effect for the calculation period to which the determined concession fee refers to.

14. By way of an ordinance, the minister responsible for the environment shall specify the formats of the forms for providing the information referred to in paragraph 12, taking into account the need for the information to contain the detailed data set out in this provision.

#### **Article 85a**

1. If a mineral is exploited without the required concession or in flagrant violation of its conditions, by way of a decision, the competent authorities shall establish for the party conducting this activity a royalty in the amount of 80 times the royalty rate for a given type of mineral, multiplied by the amount of the mineral thus exploited, using the rates in effect on the date when the procedure was initiated.
2. The authorities competent for establishing the royalties referred to in paragraph 1 shall be:
  - 1) for exploitation without the required concession:
    - a) of the minerals referred to in Art. 5, paragraph 2a – the minister responsible for the environment,
    - b) of the other minerals – the competent county administrator,
  - 2) for mineral exploitation in flagrant violation of the conditions of the concession – the competent concession authority.
3. If an activity other than referred to in paragraph 1 is conducted without the required concession or in flagrant violation of its conditions, by way of a decision, the competent authorities shall establish a royalty in the following amount:
  - 1) for prospecting for or exploration of mineral deposits without the required concession, for each square kilometer of the area where this activity is conducted – PLN 50,000, with each commenced square kilometer counted as a whole kilometer,
  - 2) for prospecting for or exploration of mineral deposits in flagrant violation of the conditions of the concession – three times the amount of the charge for this activity as set out in the concession,
  - 3) for non-reservoir storage of substances in the subsurface, including underground mining excavations, without the required concession – PLN 8,000 for each cubic meter of the space used,
  - 4) for non-reservoir storage of substances or disposal of waste in the subsurface, including underground mining excavations, in flagrant violation of the conditions of the concession – three times the amount of the royalty for this activity as set out in the concession,
  - 5) for a unit (Mg) of waste disposed of in the subsurface, including underground mining excavations, without the required concession – ten times the rate of the royalty set for the disposal of a specific group of waste in the environment; the regulations on waste classification and the royalties for their deposit in the repository shall specify the division into waste groups and unit rates of royalties.

4. The authorities competent to establish the royalties referred to in paragraph 3 shall be as follows:
  - 1) for an activity conducted without the required concession in the scope of:
    - a) prospecting for or exploration of mineral deposits – the county administrator,
    - b) non-reservoir storage of substances or disposal of waste in the subsurface, including underground mining excavations and prospecting for and exploration of mineral deposits in the boundaries of the maritime areas of the Republic of Poland – the minister responsible for the environment,
  - 2) for an activity conducted in flagrant violation of the conditions of the concession in the scope of prospecting for or exploration of mineral deposits, or non-reservoir storage of substances or disposal of waste in the subsurface, including underground mining excavations – the concession authority.

#### **Article 86**

1. Subject to paragraph 2, the concession fees/royalties referred to in Art. 84, 85 and 85a shall constitute in 60% the income of the commune in the territory of which the activities covered by the concession are carried out, and in 40% the income of the National Fund for Environmental Protection and Water Management. If the activities are conducted in the territories of more than one commune, the fees/royalties shall constitute the incomes of these communes; in the cases specified in Art. 84 and Art. 85a, paragraph 1, in proportion to the amount of the mineral exploited, and in the cases specified in Art. 85 and Art. 85a, paragraph 3, in proportion to the size of the space covered by the activities.
2. If the activities referred to in Art. 84, 85 and 85a are conducted within the boundaries of the maritime areas of the Republic of Poland, the due charges shall constitute the income of the National Fund for Environmental Protection and Water Management.

#### **Article 86a**

When a mineral present underneath surface waters is exploited, the entrepreneur paying the royalty shall not pay the charge for special use of waters.

#### **Article 87**

1. The provisions of the Tax Law relating to tax liabilities shall apply, respectively, to the fees/royalties referred to in the provisions of this Chapter, except that the rights of the tax authorities shall be vested in creditors.
2. The creditors shall be, respectively, the commune or the National Fund for Environmental Protection and Water Management.
3. The President of the National Fund for Environmental Protection and Water Management shall be the authority competent to make decisions referred to in paragraph 1 in the part relating to the National Fund for Environmental Protection and Water Management. The minister responsible for the environment shall be the authority of appeal in respect of the first-instance decisions made by the President of the National Fund for Environmental Protection and Water Management.

**PART V**  
**RELATIONS WITH NEIGHBOURS AND LIABILITY FOR DAMAGE**

**Article 88**

1. If another party's real estate, or a part thereof, is necessary to carry out the activities regulated by the Act, the entrepreneur shall be able to demand the restriction of the owner's right to this real estate, or a part thereof, for compensation. If, as a result of a restriction of this right, the real estate, or a part thereof, cannot be used for its former purpose, it shall be subject to buy-out on request of the owner.
2. The restriction of the owner's rights may be established for a definite period of time.

**Article 89**

An entrepreneur shall be authorized to utilize free of charge the mine waters for the needs of the mining plant.

**Article 90**

1. In case of a threat to the safety of human life or health, safety of the mining plant and its operations, as well as to the safety of the public utility facilities in relation to the mining plant operations, the competent mining supervision authority may issue a decision that allows the real estate to be seized for a time necessary to remove the threat and its effects.
2. The decision referred to in paragraph 1 shall specify the real estate subject to the seizure, the purpose of the seizure, as well as the date and duration of the seizure. The decision shall be immediately enforceable.
3. The owner shall be entitled to a compensation for the damage caused as a result of the real estate seizure.

**Article 91**

1. The owner may not object to the threats caused by mining plant operations, if such operations take place in accordance with the rules specified in the Act. They may demand to repair the damage caused by these operations in accordance with provisions of this Act.
2. The provisions of paragraph 1 shall apply, respectively, to other parties endangered by mining plant operations.
3. If the circumstances referred to in paragraphs 1 and 2 do not arise, the entrepreneur shall be responsible for damage according to the rules specified in the Civil Code.

**Article 92**

The damage referred to in Art. 91, paragraphs 1 and 2, shall be rectified pursuant the provisions of the Civil Code, unless the Act provides otherwise.

**Article 93**

1. If the party that caused the damage cannot be identified, the entrepreneur who was authorized at the time that the damage became apparent to exploit the mineral within the boundaries of the mining area, shall be liable for it.

2. If the damage occurred also for reasons other than the mining plant operations, the entrepreneur and other parties shall be liable jointly and severally.
3. The entrepreneur and the parties that professionally perform activities entrusted to them by the entrepreneur shall also be liable jointly and severally.

#### **Article 94**

1. The damage shall be rectified by the restoration of the previous condition.
2. The previous condition may be restored by the provision of land, building facilities, equipment, premises, water or other goods of the same kind.
3. The damage to agricultural and forest lands shall be rectified through reclamation, in accordance with the regulations concerning the protection of these lands.
4. The entrepreneur shall be obliged to restore the previous condition.

#### **Article 95**

1. If it is impossible to restore the previous condition or the costs of such restoration grossly exceed the scale of the damage suffered, the damage shall be rectified by the payment of a compensation.
2. If the party that suffered the damage has incurred expenses to rectify it, the compensation shall be established at the level corresponding to the value of the justified expenses. This provision shall not prejudice the provisions of paragraph 1.
3. In justified cases the compensation may be paid from the collateral established in accordance with Art. 17.

#### **Article 96**

In case of the absence of the entrepreneur liable for the damage or its legal successor, the claims specified in this Part shall be advanced against the State Treasury represented by the competent local mining supervision authority.

#### **Article 97**

1. Disputes regarding the rectification of damage regulated by the provisions of this Part shall be resolved by common courts.
2. Court litigation shall be possible when conciliatory proceedings have been exhausted. The condition of exhaustion of the conciliatory proceedings shall be fulfilled if the entrepreneur has refused to enter into a conciliatory agreement, or if 30 days have elapsed from the time that the party that had suffered the damage advanced the claim against the entrepreneur.
- 2a. The conciliatory agreement referred to in paragraph 2, concluded in a notarial deed act form, shall constitute an execution title in the terms of the Civil Proceedings Code and shall be executed via court enforcement procedures.
3. In the cases referred to in paragraph 1 the plaintiff shall not be obliged to pay the legal costs. The proceedings shall take place at the entrepreneur's cost, unless the claim proves to be clearly groundless.

#### **Article 98**

1. In order to immediately prevent damage or its consequences, a court may order for necessary actions to be undertaken. If the actions are to be taken by the

plaintiff, the court may order the entrepreneur to pay out immediately the necessary amount of money.

2. If the damage takes the form of disappearance of water or of water becoming unsuitable for use, the entrepreneur shall be obliged to supply free of charge the necessary amounts of water to the party that has suffered the damage until the time that the damage is repaired.
3. In the cases regulated in paragraphs 1 and 2, the provisions of the Civil Proceedings Code relating to injunctive proceedings shall apply, respectively.

#### **Article 99**

The provisions concerning the repair of damage shall apply, respectively, to the prevention of such damage.

#### **Article 100**

The provisions of this Part shall apply, respectively, to the liability for damage caused by the activities regulated by the Act other than mineral exploitation.

## **PART VI GEOLOGICAL ADMINISTRATION AUTHORITIES, STATE GEOLOGICAL SURVEY AND MINING SUPERVISION AUTHORITIES**

### **Chapter 1**

#### **Geological administration authorities and the state geological survey**

#### **Article 101**

The geological administration authorities shall be:

- 1) the minister responsible for the environment, assisted by the Chief Geologist of the Country, being the secretary of state or undersecretary of state in the Office servicing the minister,
- 2) voivodeship marshals, assisted by voivodeship geologists,
- 3) county administrators, assisted by county geologists.

#### **Article 102**

1. Unless a specific provision states otherwise, the scope of activities of the geological administration shall include the fulfillment of the duties specified by the Act, in particular:

- 1) taking decisions that are necessary to ensure compliance with and application of the Act, including granting of concessions,
- 2) exercising supervision and inspection over the realization by an entrepreneur of its rights under the concession,
- 3) supervision over planning and performance of the geological works as well as correctness of geological documentation preparation,
- 4) balancing mineral resources,
  - 4a) conducting the geological works of basic significance for the national economy, in particular for the renewal of the resource base of the country, the identification of the resources of mineral deposits,

- balancing and protection of groundwater resources and environmental protection,
- 5) collection, filing and processing of geological data,
  - 6) geological mapping
  - 7) maintaining the mining areas register,
  - 8) gathering the data on the boreholes made for the purposes for the use of the Earth heat.
2. The minister responsible for the environment may entrust the performance of the tasks referred to in paragraph 1, subparagraph 4a, and paragraph 6 to organizational units established pursuant to separate regulations and also to entrepreneurs in the meaning of Art. 2, paragraphs 2 and 3, of the Act on economic activity of 19 November 1999 (Official Journal No. 101, Item 1178; 2000, No. 86, Item 958 and No. 114, Item 1193; 2001, No. 49, Item 509, No. 67, Item 679 and No. 102/1115), if the scope of their activities includes the performance of geological works.

#### **Article 102a**

1. The duties of the state geological survey taking care of a sustainable development of the country within the scope of geology shall include:
  - 1) administering the central geological archives,
  - 2) managing the central bank of geological and hydro-geological data,
  - 3) preparing materials for the balancing of mineral resources and administering the register of these resources,
  - 4) coordinating geological mapping works and performing pilot works,
  - 5) administering the mining areas register,
  - 6) coordination of the tasks within the scope of geo-diversity protection.
2. The minister responsible for the environment shall entrust carrying out of the tasks of the state geological survey to the Polish Geological Institute.
3. The supervision of the tasks referred to in paragraph 1 shall be carried out by the minister responsible for the environment acting with the assistance of the Chief Geologist of the Country.
4. In the case of non-performance or mal-performance of the tasks of the state geological survey by the Polish Geological Institute, the minister responsible for the environment may entrust their carrying out to the entities stipulated in Art. 102 paragraph 2.

#### **Article 103**

1. The county administrators shall act as the authorities of first instance with respect to the matters belonging to the competence of geological administration, except where a specific matter is reserved for the voivodeship marshals or the minister responsible for the environment.
2. As the first-instance authority, the minister responsible for the environment shall be competent for:
  - 1) approving geological work programmes and acting in the matters set out in Art. 45, paragraphs 1 and 1a, concerning:
    - a) deposits of the basic minerals listed in Art. 5, paragraph 2, subparagraphs 1-3, and paragraph 2a, common minerals accompanying these deposits and curative minerals other than curative waters as assigned to basic minerals pursuant to Art. 5, paragraph 6,
    - b) regional hydro-geological investigations,

- c) identification of the resources of the intakes of brines, thermal and curative waters,
  - d) hydro-geological conditions in relation to the establishment of the protective zones of groundwater reservoirs,
  - e) hydro-geological conditions in relation to the design of drainage systems for exploitation of basic minerals as listed in Art. 5, paragraph 2, subparagraphs 1-3, from deposits and injection of water to the formation,
  - f) hydro-geological and geological-engineering conditions in relation to non-reservoir storage of substances or disposal of waste in the subsurface, including underground mining excavations,
  - g) hydro-geological conditions in relation to the completion, or change in the level of drainage of closed down mining plants, in respect of the basic minerals listed in Art. 5, paragraph 2, subparagraphs 1-3,
  - h) geological-engineering investigation for designing and construction of buildings within the boundaries of the maritime areas of the Republic of Poland, linear investment projects covering more than one voivodeship, water facilities with a damming height in excess of 5 m and power plants with a capacity in excess of 100 MW,
- 2) approving geological work programmes concerning:
- a) regional investigations of the geology structure of the country, including the sea bottom,
  - b) geological mapping works,
  - c) boreholes for exploration of the deep substrate, unconnected with documentation of mineral deposits,
- 3) granting authorizations for a revision of the economic viability criteria for the resources of basic mineral deposits as listed in Art. 5, paragraph 2, subparagraphs 1-3, and paragraph 2a, and curative minerals other than curative waters as assigned to basic minerals pursuant to Art. 5, paragraph 6.
3. As the first-instance authorities, the voivodeship marshals shall be competent for:
- 1) approving geological work programmes and acting in the matters set out in Art. 45, paragraphs 1 and 1a, concerning:
- a) deposits of the basic minerals not listed in paragraph 2, subparagraphs 1, letter a, and common minerals in an area exceeding 2 ha or with the anticipated annual production exceeding 20,000 cubic meters,
  - b) identification of the resources of the points of abstraction of the groundwater, including points of abstraction of natural springs and construction drainage, if the documented resources or the expected capacity exceeds 50 m<sup>3</sup>/h,
  - c) hydro-geological conditions in relation to the design of drainage systems for exploitation of basic minerals not listed in paragraph 2, subparagraph 1, letter a, and for exploitation of common minerals in an area exceeding 2 ha or with the anticipated annual production exceeding 20,000 cubic meters,
  - d) hydro-geological conditions in relation to the completion, or change in the level of drainage of closed down mining plants, in respect of the basic minerals not listed in paragraph 2, subparagraph 1, letter a, and in respect of common minerals in an area exceeding 2 ha or with the anticipated annual production exceeding 20,000 cubic meters,

- e) geological-engineering investigations for the purposes of land use planning at voivodeship level,
  - f) geological-engineering investigations for the purpose of the design and implementation of linear investment projects covering more than one county,
  - g) hydro-geological conditions in relation to designing of investments that could pollute the groundwater – with respect to investments classified as undertakings that could significantly affect the environment, for which the obligation of preparing a report on the undertakings’ effects on the environment stems from the regulations of the environment protection law.
- 2) granting authorizations for a revision of the economic viability criteria for the resources of basic mineral deposits not listed in paragraph 2, subparagraph 1, letter a, and common minerals from deposits in an area exceeding 2 ha or with the anticipated annual production exceeding 20,000 cubic meters.
4. Decisions of the authorities of first instance referred to in paragraph 3, can be appealed to the minister responsible for the environment.

#### **Article 103a**

1. For the purposes of the Act, the county administrators shall also mean the town mayors and city presidents with county rights.
2. The provisions of the Act concerning counties shall also apply to towns or cities with county rights.
3. The county administrators’ duties under the provisions of the Act shall be tasks in the scope of the state administration.
4. (deleted)

#### **Article 103b**

The voivodeships’ self-government duties referred to in article 14 paragraph 2, article 16 paragraph 2 and 3 subparagraph 6, article 31 paragraph 1a subparagraph 2 and article 103 paragraph 3, shall be tasks in the scope of the state administration.

#### **Article 104**

While exercising supervision and inspection, the employees of the geological administration authorities shall have the right to access to all the places where geological works are carried out, and also the right to access to the mining plants, if supervision and inspection are exercised with respect to the performance by an entrepreneur of his rights under the concession. They may also demand access to necessary information, documents as well as explanations.

#### **Article 104a**

1. In exercising supervision and inspection, the geological administration authority:
  - 1) shall order an activity to be stopped or specific measures to be taken in order to restore the environment to its proper state, if it finds that the activity is conducted without a required concession, without an approved geological work programme, or not in compliance with the concession or the approved geological work programme,

- 2) may prohibit the performance of specific activities by the persons referred to in Art. 31, paragraph 1, for a period not exceeding two years, if it finds that these persons demonstrated flagrant neglect or flagrant violation of the law in carrying out these activities.
2. The authority competent in the matters referred to in paragraph 1 shall be, respectively, the authority competent for granting a concession, for approving geological work programmes or ascertaining the qualifications of the persons who perform, supervise or direct geological works.
3. The lodging of an appeal against a decision issued pursuant to paragraph 1 shall not suspend its execution.

#### **Article 105**

With regard to the maritime areas of the Republic of Poland, the geological administration authorities shall undertake the actions specified by the Act, acting in agreement with the authorities of the maritime administration.

#### **Article 105a**

1. If the validity of a decision issued by a geological administration authority is subject to agreement or consultation with another authority, the latter authority shall express its opinion no later than within 14 days of receiving a draft decision.
2. If the authority referred to in paragraph 1 fails to express its opinion, the decision shall be deemed to be approved in the content proposed by the geological administration authority, upon expiry of the term specified in paragraph 1.
3. The provisions of paragraphs 1 and 2 shall apply, respectively, to decisions of the mining supervision authorities.

### **Chapter 2**

#### **Mining supervision authority**

#### **Article 106**

1. The mining supervision authorities shall be:
  - 1) President of the State Mining Authority,
  - 2) directors of the regional mining authorities and specialized mining authorities.
2. Directors of the regional mining authorities and specialized mining authorities shall act as first-instance authorities in the matters within the competence of the mining supervision authorities, unless such matters have been reserved for the competence of the President of the State Mining Authority.

#### **Article 107**

1. The President of the State Mining Authority shall be the central authority of the state administration.
- 1a. The minister responsible for the public administration supervises the President of the State Mining Authority.
2. The President of the State Mining Authority shall be appointed by way of a contest by the Prime Minister as proposed by the minister responsible for the

public administration. The President of the State Mining Authority shall be dismissed by the Prime Minister.

3. The term in office of the President of the State Mining Authority shall be 5 years.
4. After his term in office has expired, the President of the State Mining Authority shall fulfill his duties until the new President of the State Mining Authority takes over this position.
5. The term in office of the President of the State Mining Authority shall expire in the event of his dismissal or decease.
6. (deleted)
7. The Vice-Presidents of the State Mining Authority shall be appointed and dismissed by minister responsible for the public administration on the application of the President of the State Mining Authority.
8. In particular, the President of the State Mining Authority shall:
  - 1) be the authority competent in individual matters considered in an administrative procedure in the scope provided for by the provisions of the Act,
  - 2) perform the function of a higher-level authority, in the meaning of the Administrative Proceedings Code, with respect to the directors of the regional mining authorities and specialized mining authorities and exercise supervision over their activities,
  - 3) appoint special commissions to present a comprehensive opinion on the state of identification and control of natural and technical hazards in mining plants and threats to general safety associated with mining plant operations,
  - 4) collect and file geological-survey documentation of the closed down mining plants in the archives of the survey documentation in the State Mining Authority and makes this documentation available on the principles and in the manner set out in separate regulations,
  - 5) carries out publishing operations in relation to:
    - a) Official Journal of the State Mining Authority,
    - b) publications within the scope of mining, including the monthly “Work safety and environment protection in the mining industry” of the State Mining Authority.
9. In fulfilling his duties, the President of the State Mining Authority shall be assisted by the State Mining Authority working under his direct management.
10. By way of an ordinance, the minister responsible for the public administration shall grant a statute to the State Mining Authority laying down its internal organization structure.

#### **Article 108**

1. The territorial authorities of state administration reporting to the President of the State Mining Authority shall be the directors of the regional mining authorities and specialized mining authorities.
2. The directors and deputy directors referred to in paragraph 1 shall be appointed and dismissed by the President of the State Mining Authority.
3. In fulfilling their duties, the directors of the regional mining authorities and specialized mining authorities shall be assisted by regional mining authorities and specialized mining authorities, under their direct management.

4. By way of an ordinance, the minister responsible for the public administration shall establish and dissolve the regional mining authorities and specify their seats and territorial competence, in accordance with the territorial division of the country as set out in separate regulations.
5. By way of an ordinance, the minister responsible for the public administration may establish and dissolve specialized mining authorities that take over some areas of activity of mining offices and specify their names, competence and seats.
6. The organization and the rules of operation of the regional mining authorities and specialized mining authorities shall be specified by the President of the State Mining Authority.

#### **Article 109**

1. Unless a specific provision states otherwise, the mining supervision authorities exercise supervision and inspection over mining plant operations, and in particular over:
  - 1) work safety and health, and fire safety,
  - 2) mine rescue,
  - 3) management of mineral deposits during their exploitation,
  - 4) environmental protection, including damage prevention,
  - 5) mining plant construction and closing down, including land reclamation and development of post-mining areas.
- 1a. The mining supervision authorities shall monitor carrying out by the entrepreneurs the obligations related with the environment protection, stipulated by the legal regulations on the environment protection and by the decision determining the conditions for environment usage in relation to the mining plant operation.
2. Mining supervision authorities shall grant, by way of an administrative decision, authorizations for:
  - 1) setting in operation of particular facilities, machinery and equipment in a mining plant as set out in the regulations issued pursuant to Art. 78, paragraph 1,
  - 2) the usage of blasting agents in the mining plants,
  - 3) storage and use of blasting equipment in mining plants.
- 2a. The authorities competent for issuing the permits for purchase and storage of the blasting agents in the mining plants shall be determined by the provisions of the Act dated 21 June 2002 on explosives assigned for civil usage (Official Journal NO. 177/1007).
3. The provisions of paragraphs 1 and 2a shall apply, respectively, to:
  - 1) non-reservoir storage of substances and disposal of waste in the subsurface, including underground mining excavations.
  - 2) carrying out of geological works.
4. (deleted).

#### **Article 110**

The mining supervision authorities shall exercise supervision and inspection over

- 1) the parties professionally engaged in mine rescue service activities, with regard to these parties' observance of the regulations issued on the basis of Art. 78, paragraph 3,

- 2) the organizational entities engaged in training of the mining plant employees, discussed in Art. 74 paragraph 2, within the scope of fulfilling thereby the conditions stipulated in Art. 74 paragraph 4.

#### **Article 111**

1. In the mining plants there shall be applied the products that:
  - 1) meet the requirements related with the compliance assessment stipulated in separate regulations,
  - 2) have been approved for use in the mining plants, by a way of a decision, by the President of the State Mining Authority, stipulated in the provisions issued on the basis of paragraph 8.
2. The decision as to admitting a product for use in the mining plants, hereinafter referred to as “admission,” shall be issued by the President of the State Mining Authority after ascertaining that the product meets technical requirements.
3. The product, before filing the application for issuing the admission, is subject to examination and an assessment carried out by the units authorized thereto, on the basis of the technical requirements.
4. In the case when the product has been:
  - 1) produced or admitted to the market in accordance with the law in other member state of the EU or in the Republic of Turkey,
  - 2) produced in accordance with the law in the member state of the European Free Trade Association (EFTA) constituting a party of the agreement on the European Economic Area
  - the admission shall be issued on the basis of the documents attached to the application, with the exception of the provisions of paragraph 1 subparagraph 1 and paragraph 2 and 3; refusal to issue an admission shall only be executed in the case of ascertaining that the product does not meet the safety requirements to the extent as shall be ensured by the technical requirements.
5. The President of the State Mining Authority may before issuing an admission, order, by a way of a ruling, to carry out the product testing in the mining plant operations, if special safety and health reasons as well as fire safety in the mining plant operations require so.
6. Admission shall be issued for a specified period of time, not longer than 5 years.
7. The President of the State Mining Authority may repeal or amend the admission, if the product does not meet the technical requirements, affecting the safety level thereof.
8. The Council of Ministers, taking into account the need of ensuring safety of products usage under the hazards conditions occurring in the mining plant operations and the need for simplifying the proceedings with regard to the products discussed in paragraph 4, shall specify by the way of an ordinance:
  - 1) the products, whose usage in the mining plants shall require issuing of an admission,
  - 2) technical requirements for the products,
  - 3) the entities authorized to file applications for issuing an admission,
  - 4) the contents of the application for issuing an admission and the documents which shall be attached thereto,
  - 5) the entities authorized to carry out the testing and product assessment,
  - 6) the marks of admission and the method of marking products therewith,

- 7) the contents of the admission.

#### **Article 112**

While exercising supervision and inspection, employees of the mining supervision authorities shall have the right to:

- 1) access to:
  - a) mining plants,
  - b) the seats, facilities and equipment of parties professionally engaged in mine rescue operations,
  - c) the seats, facilities and equipment of the organizational units engaged in training of the employees of mining plants, discussed in Art. 74 paragraph 2,
- 2) necessary information, equipment and documents,
- 3) demand explanations in the scope of competence of the mining supervision authorities under the Act.

#### **Article 113**

1. While exercising supervision and inspection, the mining supervision authority:
  - 1) shall order the elimination of irregularities that arose as a result of violation of the regulations regarding mining plant operations, particularly if these irregularities pose risk to safety of a mining plant, of its employees, to general safety, or to the environment,
  - 2) in case of direct threat to a mining plant, to its employees, to general safety, or to the environment, may wholly or partly halt the operations of this plant or of its equipment, as well as order taking necessary preventive measures,
  - 3) may prohibit, for a period not exceeding two years, the performance of specific functions associated with mining plant operations by the persons referred to in Art. 68, paragraph 1 and Art. 70 paragraph 1 or performance of specific activities by the persons referred to in Art. 75a paragraph 1, if it finds that these persons grossly violate the work discipline and order, in particular the obligations specified by the Act and the regulations issued on the basis of the Act.
  - 4) (deleted).
2. Lodging of an appeal with regard to the decision issued on the basis of paragraph 1 subparagraphs 1-3 shall not suspend its execution.

#### **Article 114**

1. In case of danger or the occurrence of an accident in a mining plant, the mining supervision authority may determine the facts and causes of the danger.
2. In the cases referred to in paragraph 1, the mining supervision authority shall exercise supervision over the rescue operations, and if it recognizes that these operations are conducted improperly, it may demand the replacement of the manager of the operations or take over the command of the operations.

#### **Article 115**

1. When performing the duties connected with supervision and inspection over mining plant operations, the competent mining supervision authority may

examine the correctness of the technical solutions used, or planned to be implemented, by the entrepreneur.

2. At the request of the competent mining supervision authority, the entrepreneur shall be obliged to check the correctness of the solutions referred to in paragraph 1 in the manner specified by the authority.
3. The costs of the activities referred to in paragraph 2 shall be borne by the entrepreneur, unless the request to carry them out was groundless.

#### **Article 116**

If the mining supervision authority determines that the concession terms have been violated, it shall immediately notify the concession authority about this fact.

#### **Article 117**

1. In case of the competence of other authorities of supervision and inspection coinciding with the competence of the mining supervision authorities, subject to the provision of paragraph 2, the issue of a decision regarding a mining plant shall require consent of the competent authority of the state mining supervision.
2. With regard to the maritime areas of the Republic of Poland, Art. 105 shall apply, respectively.

#### **Article 117a**

The President of the State Mining Authority constitutes the body specialized in the inspection of products introduced for marketing under the terms of the Act dated 30 August 2002 on compliance assessment system (Official Journal No. 166/1360, of 2003 No. 80/718, No. 130/1188, No. 170/1652 and No. 229/2275 and of 2004 No. 70/631, No. 92/881 and No. 93/896 and 899) within the scope of the products assigned for use in the mining plants.

#### **Article 117b**

The employees authorized by the President of the State Mining Authority to carry out inspections of the products introduced for marketing have the right to assess the seats, facilities and equipment of the entrepreneurs producing, importing or introducing for marketing such products, as well as to the mining plants and the seats, facilities and equipment of the entities listed in Art. 112, as well as the right to access the necessary documents and demand information and explanations. The authorized employees may demand information also from the entities notified within the scope of the testing related with the products under inspections.

### **PART VII PENAL PROVISIONS**

#### **Article 118**

1. Who, without the required concession, or in violation of the terms specified in it, carries out an activity in the field of:
  - 1) prospecting for or exploration of mineral deposits,
  - 2) exploitation of minerals from deposits,
  - 3) non-reservoir storage of substances or disposal of waste in the subsurface, including underground mine excavations,
  - 4) (deleted),
  - 5) (deleted)

- and causes considerable damage to property  
- shall be liable to imprisonment for up to 3 years.
2. If the perpetrator of the deed referred to in paragraph 1 causes direct danger of serious damage to property  
- he shall be liable to a fine, limitation of freedom or imprisonment for up to 2 years.
  3. If the perpetrator unintentionally commits the deed specified in paragraph 1 or paragraph 2,  
- he shall be liable to a fine, limitation of freedom or imprisonment for up to one year.

#### **Article 119.**

Who carries out activities without the required concession, or in violation of the terms specified in it, in the field of:

- 1) prospecting for or exploration of mineral deposits,
  - 2) exploitation of minerals from deposits,
  - 3) non-reservoir storage of substances or disposal of waste in the subsurface, including underground mining excavations,
  - 4) (deleted),
  - 5) (deleted),
- shall be liable to the penalty of an arrest or a fine.

#### **Article 119a**

Who exploits a mineral against the prohibition stipulated in Art. 15 paragraph 4  
- shall be liable to a fine.

#### **Article 120**

Who conducts, supervises or manages geological works without having the qualifications required to do that  
- shall be liable to a fine.

#### **Article 121**

Who, against the obligations:

- 1) allows persons who do not have the required qualifications to participate in geological works,
  - 2) conducts geological works without an approved geological work programme or discordantly with this plan,
  - 2a) carries out geological works without the notification referred to in Art. 33 paragraph 4,
  - 3) does not inform the competent authorities about an intention to undertake geological works,
- shall be liable to a fine.

#### **Article 122**

1. Who violates in a mining plant the injunctions or prohibitions contained in the regulations issued on the basis of Article 78, concerning the hazards of fire, bounces, gases, dusts, waters, associated with the movement of people in a shaft or with the purchase, storage and use of explosives and the blasting equipment in mining plants  
- shall be liable to an arrest or a fine.

2. Who carries out mining plant operations without an approved operations plan or discordantly with this plan, or who does not prepare this plan when prescribed, shall be liable to the same penalty.
3. If the perpetrator unintentionally commits the offense specified in paragraph 1 or 2
  - he shall be liable to a fine.
4. Who:
  - 1) violates injunctions or prohibitions other than those specified in paragraph 1, as contained in ordinances issued on the basis of Art. 78, or injunctions or prohibitions specified in Art. 73, Art. 75, paragraph 1, Art. 76 and Art. 80,
  - 2) does not fulfill the duty to train a mining plant employee in safety rules and requirements,
  - 3) admits to the conduct of the works that require special qualifications a person who does not have such qualifications,
    - shall be liable to a fine.

#### **Article 123**

A manager of mining plant operations who does not fulfill the obligation specified in Art. 77, paragraph 3  
 - shall be liable to an arrest or a fine.

#### **Article 124**

1. A mining plant employee who, after noticing a threat to people or to mining plant operations, or after noticing damage to, or irregularity in the operation of, mining plant equipment, fails to immediately warn the people directly endangered and does not inform about the danger the people managing or supervising the operations
  - shall be liable to an arrest or a fine.
2. Who, in spite of a duty, does not take the measures available in order to eliminate danger in a mining plant shall be liable to the penalty specified in paragraph 1.
3. If the perpetrator unintentionally commits the offense specified in paragraph 1 or 2
  - he shall be liable to a fine.

#### **Article 125**

Who performs the functions of management or supervision of mining plant operations or other functions in the mining plant operations or the functions discussed in art. 75a paragraph 1, without the qualifications required by the Act  
 -shall be liable to a fine.

#### **Article 126**

Who does not fulfill his duties pertaining to the preparation, updating and possession of the geological-survey documentation required in a mining plant, or in the scope of current keeping of the register of the deposit resources  
 - shall be liable to a fine.

#### **Article 126a**

Who fails to implement decisions of a mining supervision authority concerning:

- 1) the elimination of irregularities arising from violation of regulations on mining plant operations, or
- 2) the stopping, wholly or partly, of the operations of a mining plant or its equipment and taking of necessary preventive measures in the light of direct danger to the plant, its employee, general safety or the environment, or
- 3) the prohibition on the performance of specific activities by persons who have violated the obligations under the Act and the regulations issued pursuant to the Act,
- 4) (deleted)
  - shall be liable to a fine.

#### **Article 126b**

Who does not fulfill their obligation to establish the fund for the closing down of a mining plant and to collect resources in the fund  
- shall be liable to a fine.

#### **Article 126c**

Who does not execute the decision issued by the geological administration authority concerning:

- 1) halting the activities or taking stipulated activities in order to restore the environment the proper state, in the case of carrying out activities without the required concession, without approved geological work programme or against the concession or the approved geological work programme or
- 2) the prohibition to carry out the activities by the persons, referred to in Art. 31 paragraph 1, who carried out the activities with a gross infringement of the law  
- shall be liable to a fine.

#### **Article 127**

A judgement in the matters specified in Art. 119 – 126c shall follow the principles and the procedure specified in the Misdemeanor Procedure Code.

#### **Article 128**

(deleted)

## **PART VIII INTERIM AND FINAL PROVISIONS**

### **Chapter 1**

#### **Amendments to existing regulations**

#### **Article 129**

The following amendments shall be made to the Civil Code:

- 1) in Art. 143, in the second sentence, the words “and minerals” shall be deleted;
- 2) in Art. 267, §2 shall now read:  
“§ 2. However, a land user may build and operate new equipment for mineral exploitation in compliance with the provisions of the Geological and Mining Law.”

#### **Article 130**

In the Misdemeanor Procedure Code, “Part XIII. Misdemeanor courts attached to the authorities of the mining administration” shall be deleted.

### **Article 131**

The following amendments shall be made to the Act Concerning the Organization of Misdemeanor Courts of 20 May, 1971 (Official Journal No. 12, Item 118; 1972, No. 49, Item 312; 1974, No. 24, Item 142; 1975, No. 16, Item 91; 1982, No. 45, Item 291; 1989, No. 35, Item 192; 1990, No. 43, Item 251; 1991, No. 32, Item 131):

- 1) in Art. 2, in § 1, points 3 and 6 shall be deleted;
- 2) in Art. 6, § 2 shall be deleted;
- 3) in Art. 8, § 2 shall be deleted.

### **Article 132**

The following amendments shall be made to the Water Law of 24 October 1974 (Official Journal No. 38, Item 230; 1980, No. 3, Item 6; 1983, No. 44, Item 201; 1989, No. 26, Item 139, No. 35, Item 192; 1990, No. 34, Item 198, No. 39, Item 222; 1991, No. 32, Item 131, No. 77, Item 335; 1993, No. 40, Item 183):

- 1) in Art. 12, paragraph 1 shall now read:

“1. A regional organ of the general government administration may permit plants to store building materials and equipment on waterside grounds, in return for compensation, as well as grant access to water and measurement equipment and to navigation marks, if this is necessary in order to make, install, maintain and operate the equipment and marks.”;
- 2) in Art. 44, paragraph 2, the first sentence shall now read:

“2. Decisions in the matters pertaining to the obligation to transfer water surpluses shall be made by the authority competent to issue a water permit for water abstraction.”;
- 3) Art. 45 shall now read:

“Art. 45. 1. The provisions of the Act shall apply to mine water use.  
2. The provisions of this Law shall apply to the exploitation of waters assigned pursuant to the Geological and Mining Law to brines, curative and thermal waters.”;
- 4) in Art. 53, paragraph 2, subparagraph 6, the words “gravel, sand and other materials as well as” shall be deleted.

### **Article 133**

The following amendments shall be made to the Act on the Protection and Management of the Environment of 31 January 1980 (Official Journal No. 3, Item 6; 1983, No. 44, Item 201; 1987, No. 33, Item 180; 1989, No. 26, Item 139, No. 35, Item 192, 1990, No. 34, Item 198, No. 39, Item 222, 1991, No. 77, Item 335, No. 101, Item 444; 1993, No. 40, Item 183):

- 1) Art. 54a shall be added, reading:

“Art. 54a. Non-reservoir disposal of dangerous waste in mine excavations shall be prohibited.”;
- 2) in Art. 87b, paragraph 2, the words “revenues from the royalties and concession fees in the amount specified by the Mining Law and the Geological Law.” shall be replaced with the words “revenues from the royalties and fines referred to in Art. 84, 85 and 128 of the Geological and Mining Law.”;
- 3) in Art. 88c, after paragraph 1, paragraph 1a shall be added, reading:

“1a. The resources collected from the royalties and the fines referred to in Art. 83, 84 and 128 of the Geological and Mining Law shall be allocated to financing of the tasks specified in Art. 87b, paragraph 2, in the form of a subsidy.

Allocation of the resources for financing of geological works shall require consultation with the Minister of the environment protection, natural resources and forestry, while in respect of the financing of the needs of mining - consultation with the Minister of industry and trade, as well as with the President of the State Mining Authority.”.

#### **Article 134**

The following amendments shall be made to the Act on the Protection of Agricultural and Forest Lands of 26 March, 1982 (Official Journal No. 11, Item 79; 1984, No. 35, Item 185; 1988, No. 24, Item 169; 1990, No. 34, Item 198; 1991, No. 101, Item 444, No. 103, Item 446, No. 114, Item 494):

- 1) in Art. 4, subparagraph 8 shall be deleted;
- 2) in Art. 7, paragraph 1 shall now read:
  - “1. Allocation of lands for non-agricultural or forest uses may be made only within the framework of local land use plans.”;
- 3) Art. 24 shall be deleted.

#### **Article 135**

The following amendments shall be made to the Act on Land Management and Real Estate Expropriation of 29 April 1985 (Official Journal of 1991, No. 30, Item 127, No. 103, Item 446, No. 107, Item 464; 1993, No. 47, Item 212, No. 131, Item 629):

- 1) in Art. 8:
  - a) subparagraph 2 shall now read:
    - “2) mining protective areas – shall require, in case of the absence of a local land use plan of this land, consultation with the authority competent to grant a concession for mineral exploitation.”;
  - b) subparagraph 3 shall be deleted;
- 2) Art. 71 shall be deleted.

#### **Article 136**

The following amendments shall be made to the Act on Economic Activity of 23 December 1988 (Official Journal No. 41, Item 324; 1990, No. 26, Item 149, No. 86, Item 504; 1991, No. 31, Item 128, No. 41, Item 179, No. 73, Item 321, No. 105, Item 452, No. 106, Item 457, No. 107, Item 460; 1993, No. 28, Item 127, No. 47, Item 212, No. 134, Item 646):

in Art. 11

- 1) paragraph 1, subparagraph 1 shall now read:
  - “1) prospecting for, exploration and exploitation of the minerals as well as mineral raw materials contained in mining waste arising on the mining activities and deposit enriching processes, non-reservoir storage of substances in the subsurface and disposal of waste in underground mine excavations,”;
- 2) paragraph 3 shall now read:
  - “3. The rules of granting the concession referred to in paragraph 1, subparagraph 1, shall be specified in the provisions of the Geological and Mining Law.”.

#### **Article 137**

The following amendments shall be made to the Act on the Maritime Areas of the Republic of Poland and the Maritime Administration of 21 March 1991 (Official Journal No. 32, Item 131):

1) Art. 33 shall be deleted;

2) Art. 34 shall now read:

“Art. 34. The appropriate provisions of the Geological and Mining Law as well as the regulations pertaining to the protection of the marine environment, safety of navigation and life at sea shall apply to the prospecting for, exploration and exploitation of mineral resources in the Polish maritime areas.”

3) in Art. 42:

a) in paragraph 2, subparagraph 5, the words “to the extent not regulated by provisions of the Mining and Geological Law” shall be added,

b) paragraph 5 shall be added, reading:

“5. The Act shall apply without prejudice to the provisions of the Geological and Mining Law.”.

#### **Article 138**

In the Act on Fire Protection of 24 August 1991 (Official Journal No. 81, Item 351), Art. 44a shall be added, reading:

“Art. 44a. The Act shall apply without prejudice to the provisions of the Geological and Mining Law.”

#### **Article 139**

In the Act on Testing and Certification of 3 April 1993 (Official Journal No. 55, Item 250), Art. 20a shall be added, reading:

“Art. 20a. The Act shall apply without prejudice to the provisions of the Geological and Mining Law.”

### **Chapter 2**

#### **Interim and final provisions**

#### **Article 140**

Except as this Act provides otherwise, the provisions of the Act shall apply to the parties that, as of the day that the Act comes into force, are conducting activities regulated by the Act.

#### **Article 141**

As of the day that the Act comes into force, all prior orders and decisions concerning the establishment of the mining areas which are not covered by the concessions referred to in Art. 142 shall become ineffective.

#### **Article 142**

1. The concessions granted on the basis of the regulations referred to in Art. 158, subparagraphs 1 and 3, shall remain in force.
2. Within one year from the day that the Act comes into force, the parties conducting the activities specified in Art. 15 of the Act shall submit to the

competent concession authorities an assessment of the impact of such activities on the environment, prepared in accordance with the requirements provided for in the regulations on the protection and management of the environment. This provision shall not apply to the parties which submitted such an assessment after 1 January 1992.

3. In particularly justified cases, with approval of the competent authority of the local self-government, a concession authority may exempt from the obligation to prepare the assessment referred to in paragraph 2.
4. Concession authorities shall, within one year and a half from the day that the Act enters into force, adapt the concessions referred to in paragraph 1 to its requirements. In particular, if according to the hitherto regulations there existed no obligation to establish a mining area and a mining protective area, the competent concession authority shall, without delay, supplement the concession in this respect.

#### **Article 143**

The geological documentation, geological investigation plans as well as deposit development plans, approved in accordance with the hitherto regulations, shall remain in force. Authorities competent to approve them may, within one year from the day that the Act comes into force, order their change or supplementing.

#### **Article 144**

Rights to the geological information obtained prior to the day that the Act comes into force in connection with conducting of geological works financed directly or indirectly by the state budget, shall be vested in the State Treasury represented by the minister responsible for the environment.

#### **Article 145**

The costs of preparing of a land use plan for the mining protective area of an entrepreneur, which exploits a mineral from deposit at the day that the Act comes in force shall be borne to the extent of 50% by the entrepreneur and 50% by the competent commune.

#### **Article 146**

Until the time the plans referred to in Art. 53 are adopted, the decisions concerning the establishment of safety pillars as well as the permits for exploitation within the boundaries of these pillars, issued on the basis of the hitherto regulations, shall remain in force.

#### **Article 147**

Within one year from the day that the Act comes into force, a mining plant operations plan shall be prepared, completed or amended, according to the requirements of Art. 64.

#### **Article 148**

The decisions concerning the ascertaining (or approval) of qualifications of persons, issued on the basis of the hitherto regulations, shall remain in force.

#### **Article 149**

All litigation regarding the prevention and repair of mining damage that has not been finished by a final decision by the Commission for Mining Damage at the day that the Act comes into force shall be subject to examination according to the procedure specified in the Act, unless the provisions of the Act provide otherwise.

#### **Article 150**

1. Appeals from decisions of the Commissions for Mining Damage in the cases referred to in Art. 149 shall be transferred to the competent courts as bodies of second instance. The provisions of the Administrative Proceedings Code shall apply, respectively, to the proceedings prior to the transfer of an appeal to the competent court, to the deadline for lodging such appeals, their basis and form.
2. The court to which the appeal was sent may, in justified cases deciding at a non-public sitting, suspend the immediate enforcement of a decision of a Commission for Mining Damage.
3. The President of the State Mining Authority shall be competent in matters of resumption of proceedings, of abrogation, of change, of declaration of invalidity, of declaration that the decision with respect to which the appeal was lodged was issued in violation of the law, as well as of expiry of the final decisions of the Commissions for Mining Damage. If, as a result of this, the case is to be considered again - it shall be subject to transfer to the competent common court.
4. The provisions of the Proceedings Code before administrative courts shall apply in respect of a complaint lodged with the Administrative Court concerning a final decision of a Commission for Mining Damage. In case of abrogation of a decision of a Commission for Mining Damage by this Court, or of declaration of its invalidity, the case shall be examined by the competent common court.
5. The provisions of paragraphs 1-4 shall apply, respectively, to the decisions and orders of a Commission for Mining Damage or of its Chairman.
6. After the Act comes into force, the President of the State Mining Authority shall, in agreement with the Minister of Justice, immediately transfer to the competent courts of first instance the records of the cases hitherto examined by the Commissions for Mining Damage.
7. The provisions of the Civil Proceedings Code shall apply to the enforcement of those final decisions, interim injunctions and settlements in the cases finished before the day that the Act comes into force, with respect to which no administrative enforcement proceedings were initiated.

#### **Article 151**

1. The periods for asserting claims concerning prevention of mining damage as well as concerning their repair, that arose after the abolition of a mining area but prior to the day that the Act comes into force, shall be counted anew from the day of its entry into force.
2. The provision of paragraph 1 shall apply, respectively, if, prior to the day that the Act comes into force, an order was issued against an investor to provide protection against mining damage, in violation of Art. 37 of the Decree referred to in Art. 158, subparagraph 1 of the Act.
3. A party, whose claim concerning prevention of mining damage was finally dismissed by a Commission for Mining Damage with a justification that the mining enterprise does not bear the responsibility on the basis of Art. 50,

paragraph 3, subparagraph 1 of the Decree referred to in Art. 158, subparagraph 1, of the Act, or that Commissions for Mining Damage are not competent to resolve disputes of this kind, may request a renewed examination of this claim within one year from the day that this Act comes into force. The decision of the Commission for Mining Damage shall be considered in this case null and void.

#### **Article 152**

1. If a permission for construction in a mining area, within the boundaries of which no party obtained the right to exploit minerals, issued prior to the day that the Act comes into force, contains an obligation to secure a building against the impact of mining activities, established on the basis of Art. 37, paragraph 1, of the Decree referred to in Art. 158, subparagraph 1, of the Act, the claims concerning the reimbursement of the costs of such securing shall be assertible, according to the principles specified in the Act, against the State Treasury represented by the competent local mining supervision authority.
2. The provisions of paragraph 1 shall apply, respectively, if the obligation to secure was imposed in connection with construction carried out outside the boundaries of a mining protective area.

#### **Article 153**

1. Within three months from of the day of promulgation of the Act, the National Judiciary Council shall present to the President of the Republic of Poland proposals of appointment to regional court judges from among the chairmen of the Commissions for Mining Damage, their deputies, and chairmen of adjudicating groups, submitted by the general assemblies of judges in voivodeship courts as well as by the Minister of Justice - if these persons fulfill the requirements specified in Art. 51, paragraph 1, subparagraphs 1-5 and 7, of the Common Courts Organization Law, and in respect of whom the obstacles referred to in Art. 53 and 54 of that Law do not arise.
2. The employment contract with the chairmen of the Commissions for Mining Damage, their deputies, and chairmen of the adjudicating groups, whose candidacies for the posts of judges were not submitted to the National Judiciary Council, as well as with the chairmen of the Commissions for Mining Damage, their deputies, and chairmen of the adjudicating groups, in respect of whom proposals for their appointment to the posts of judges were not presented by the National Judiciary Council to the President – shall terminate on the basis of Art. 13, paragraph 1, subparagraph 2, of the Act on State Office Employees of 16 September 1982.
3. The administrative and service employees of the Commissions for Mining Damage shall become, as of the day that the Act comes into force, employees of the regional courts appropriate in consideration of their domicile.
4. The chairmen of the Commissions for Mining Damage and their deputies as well as the other appointed employees of the Commission for Mining Damage may, within three months from the day of promulgation of the Act, submit to the President of the State Mining Authority written declarations concerning a refusal to continue the employment. In such a case, their employment contracts shall terminate automatically after a lapse of three months from the day of submission of the declaration, on the last day of a calendar month. The

employees of the Commissions for Mining Damage employed on the basis of contracts of employment may, in the same period, submit notices of termination, or requests for dissolution of the contract by mutual consent, that shall be approved within a period not longer than the notice period valid in such arrangements. A dissolution of an employment contract in accordance with the rules provided in this paragraph shall entail the consequences which the law associates with dissolution of an employment contract by the employer by notice, due to the work establishment liquidation.

#### **Article 154**

As of the day that the Act comes into force, the Minister of Justice shall establish in the Voivodeship Court in Katowice, a separate division for dealing with the cases regarding the matters regulated by the Geological and Mining Law, under the name of "Division of Geological and Mining Cases". The Minister of Justice shall, as required, establish similar divisions in other voivodeship courts.

#### **Article 155**

1. The proceedings in the cases hitherto not finally resolved by the disciplinary commissions of mining offices shall be discontinued.
2. Obliteration of the hitherto imposed disciplinary penalties shall take place by operation of a law after a lapse of 2 years from the day that the decision of the disciplinary commission became final and binding.

#### **Article 156**

The members of the Petty Offenses Commissions at the State Mining Authority and at the regional mining authorities shall become, corresponding to the place of domicile, members of the Petty Offenses Commissions at the regional courts.

#### **Article 157**

1. The cases that prior to the day that the Act comes into force have not been concluded by a judgment of a Petty Offenses Commission at a regional mining authorities shall be transferred to the appropriate Petty Offenses Commission at a regional court.
2. The cases in respect of which appeals were not examined by the Petty Offenses Commission at the State Mining Authority, and the cases in respect of which proceedings are in progress at the commission for adjudicating cases of misdemeanor at the State Mining Authority – shall be transferred to competent regional and voivodeship courts.

#### **Article 157a.**

(deleted)

#### **Article 158.**

The following acts shall lose their force as of the day that the Act comes into force:

- 1) Decree on the Mining Law of 6 May 1953 (Official Journal of 1978, No. 4, Item 12; 1984, No. 35, Item 186; 1987, No. 33, Item 180; 1988, No. 41, Item 324; 1989, No. 35, Item 192; 1990, No. 14, Item 89; 1991, No. 31, Item 128),
- 2) Decree on Mining Offices of 21 October 1954 (Official Journal of 1961, No. 23, Item 114).

- 3) Act on the Geological Law of 16 November 1960 (Official Journal No. 52, Item 303; 1974, No. 38, Item 230; 1988, No. 41, Item 324; 1989, No. 35, Item 192; 1991, No.31, Item 129).

#### Article 159

The Act shall come into force after a lapse of 6 months from the day of promulgation, except for the provisions of Art. 153, paragraphs 1 and 4, that shall come into force after a lapse of 14 days from the day of promulgation.

1)

The Act, within the scope of its regulation, implements the provisions of the following European Communities' directives:

- 1) Directive 92/91/EEC of 3 November 1992 on minimum requirements aimed at improvement of safety and employee health protection in mining plants exploiting minerals via boreholes (eleventh detailed directive under the terms of Art. 16 paragraph 1 of directive 89/391/EEC) (EC Official Journal L 348 dated 28 November 1992);
- 2) Directive 92/104/EEC dated 3 December 1992 on minimum requirements aimed at improvement of safety and employee health protection of the open-pit and underground mining industry (twelfth detailed directive under the terms of Art. 16 paragraph 1 of directive 89/391/EEC (EC Official Journal L 404 dated 31 December 1992);
- 3) Directive 94/22/EC of 30 May 1994 on the terms of granting and application of the permits for prospecting for, exploring and production of hydrocarbon (EC Official Journal L 164 of 30 June 1994).

The data concerning publication of the European Union legal acts, presented in the Act – as at the date of the Republic of Poland accession to the EU – relate to publication of the acts in the EU Official Journal – special edition.

Annex

#### UPPER AND LOWER LIMITS OF ROYALTY RATES for 2005

No	Mineral	Unit	Lower royalty limits (PLN/unit)	Upper royalty limits (PLN/unit)
1	2	3	4	5
1	Alabasters	t	0,93	4,62
2	Amphibolites	t	0,31	1,50
3	Anhydrites	t	1,11	5,49
4	Barites	t	1,67	8,33
5	Basalts	t	0,36	1,76
6	Chalcedonites	t	0,20	0,94
7	Diabases	t	0,23	1,12
8	Dolomites	t	0,27	1,27
9	Gabbros	t	0,31	1,50
10	High-methane natural gas	thousand m <sup>3</sup>	2,29	11,36

1	2	3	4	5
10 a	Hard coal bedded methane	thousand m <sup>3</sup>	0,00	0,00
11	Other natural gas	thousand m <sup>3</sup>	1,02	5,01
12	Gypsums	t	0,47	2,32
13	Refractory and ceramic clays	t	1,05	5,15
14	Gneisses	t	0,28	1,30
15	Granites	t	0,33	1,59
16	Hornfelses	t	0,28	1,30
17	Semiprecious and decorative stones	kg	2,96	14,77
18	Lacustrine chalk	t	0,07	0,21
19	Writing chalk	t	0,22	1,04
20	Quartz	t	0,58	2,79
21	Quartzites	t	0,29	1,39
22	Shales	t	0,38	1,87
23	Magnesites	t	1,48	7,35
24	Marls	t	0,14	0,61
25	Marbles	t	1,12	5,54
26	Melaphyres	t	0,33	1,61
27	Gaizes	t	0,20	0,94
28	Sands and gravels	t	0,18	0,85
29	Sandstones	t	0,23	1,13
30	Porphyries	t	0,23	1,12
31	Crude oil	t	11,99	59,88
32	Zinc and lead ores	t	0,93	4,61
33	Copper ores	t	0,83	4,12
34	Gold ores	g Au (in ore)	0,13	0,58
35	Serpentine marbles	t	0,23	1,12
36	Native sulfur	t	1,19	5,92
37	Syenites	t	0,28	1,30
38	Diatomic rocks	t	1,86	9,25
39	Brines	m <sup>3</sup>	0,76	3,71
40	Rock-salt	t	0,46	2,24
41	Bentonite raw materials	t	0,58	2,79
42	Other clayey raw materials	m <sup>3</sup>	0,74	3,68
43	Kaolin raw materials	t	0,93	4,62
44	Feldspar raw materials	t	0,76	3,71
45	Graywackes	t	0,28	1,30
46	Peats	M <sup>3</sup>	0,23	1,12
47	Curative peats	M <sup>3</sup>	0,76	3,71
48	Travertines	t	0,20	0,94
49	Tufas	t	0,23	1,12
50	Limestones	t	0,23	1,10
51	Lignite	t	0,48	2,35
52	Hard coal	t	0,85	4,24
53	Curative waters	M <sup>3</sup>	0,77	3,77

1	2	3	4	5
54	Thermal waters	M <sup>3</sup>	0,25	0,75
55	Greenstones	t	0,28	1,30
56	Siliceous earth	t	1,86	9,25
57	Conglomerates	t	1,12	5,54
58	Other minerals	t	1,12	5,54