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**THE ACT**

of 3 October 2008

**on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments<sup>1)2)</sup>**

(Official Journal of the Laws of 7 November 2008)

**PART I**

**General provisions**

**Chapter 1**

**The scope of application of the Act**

**Article 1**

The Act lays down:

- 1) the principles and procedures to be followed in the matters of:
  - a) the provision of information on the environment and its protection,
  - b) environmental impact assessments,
  - c) a transboundary impact on the environment;
- 2) the principles of public participation in environmental protection;
- 3) the administration authorities competent in the matters referred to in point 1.

**Article 2**

1. The provisions of this Act shall apply subject to the provisions of the Act on the Protection of Confidential Information of 22 January 1999 (Official Journal of the Laws of 2005, No 196, Item 1631, as amended<sup>3)</sup>).

2. Except for Part II, the provisions of the Act shall not apply to the matters regulated by the provisions of the Act of 29 November 2000 on the Nuclear Law (Official Journal of the Laws of 2007, No 42, Item 276; 2008. No 93, Item 583).

**Chapter 2**

**Definitions and general principles**

### Article 3

1. For the purposes of the Act:

- 1) "Public Information Bulletin" shall mean the Public Information Bulletin referred to in the Act of 6 September 2001 on Access to Public Information (Official Journal of the Laws, No 112, Item 1198, as amended<sup>4)</sup>);
- 2) "information intended for the authority" shall mean the information disposed of by third parties on behalf of an administration authority, also including the information which this authority may request from third parties;
- 3) "information held by the administration authority" shall mean the information held by an administration authority, produced by this authority or received by the authority from a third party;
- 4) "integrity of Natura 2000 site" shall mean the integrity of a Natura 2000 site within the meaning of the Nature Conservation Act of 16 April 2004 (Official Journal of the Laws, No 92, Item 880, as amended<sup>5)</sup>);
- 5) "information sheet of a project" shall mean the document which contains the basic information on the proposed project, in particular the data concerning:
  - a) the type, scale and localisation of the project,
  - b) the surface area of the real estate and the built structure occupied and the existing manner of their use as well as the vegetal cover in the real estate,
  - c) the type of technology,
  - d) the possible options of the project,
  - e) the predicted quantities of the water, raw materials, intermediate materials, fuels and energy to be used,
  - f) the measures to protect the environment,
  - g) the types and predicted quantities of the substances or energies released into the environment when using the measures to protect the environment,
  - h) the possible transboundary impact on the environment,
  - i) the areas protected pursuant to the Nature Conservation Act of 16 April 2004 which are situated within the range of a significant impact of a project;
- 6) "Natura 2000 site" shall mean the areas referred to in Article 25 of the Nature Conservation Act of 16 April 2004 and the proposed sites of Community significance included in the list referred to in Article 27 (3) (1) of this Act;
- 7) "assessment of the impact of a project on a Natura 2000 site" shall mean the environmental impact assessment for a project limited to the examination of the impact of the project on a Natura 2000 site;
- 8) "environmental impact assessment for a project" shall mean the procedure for the assessment of the environmental impact of the proposed project, including in particular:
  - a) the verification of the environmental impact report for the project,
  - b) the acquisition of the opinions and approvals required by the Act,
  - c) ensuring the possibility of public participation in the procedure;
- 9) "administration authority" shall mean:
  - a) Ministers, central government administration authorities, Voivodes, other territorial authorities of the government administration acting on their behalf or on their own behalf, the authorities of territorial self-government units,
  - b) other entities where they are designated pursuant to the law or under agreements

- to carry out public tasks relating to the environment and its protection;
- 10) “environmental organisation” shall mean a non-governmental organisation the statutory aim of which is environmental protection;
  - 11) “notification of the public” shall mean:
    - a) the provision of information on the website of the Public Information Bulletin of the authority competent in the matter,
    - b) the provision of information in a customary manner at the seat of the authority which is competent in the matter,
    - c) the provision of information by bill-posting in a customary manner at the location of the proposed project and, in the case of a draft document requiring public participation, in the press with an appropriate range in the light of the type of the document,
    - d) in the case where the seat of the authority competent in the matter is located in the area of a commune other than the commune which is relevant in terms of its location in the light of the subject matter of the procedure, also by a publication in the press or in a customary manner used in the locality or localities which are relevant in the light of the subject matter of the procedure;
  - 12) “land surface” shall mean the land surface within the meaning of the Environmental Protection Act of 27 April 2001 (Official Journal of the Laws of 2008, No 25, Item 150, as amended <sup>6)</sup>);
  - 13) “project” shall mean construction works or other intervention in the environment, consisting of the transformation or change in the use of land, including the extraction of minerals; projects which are connected technologically shall be qualified as one project, also where they are implemented by different entities;
  - 14) “strategic environmental assessment” shall mean the procedure for the assessment of the environmental impact of the effects of the implementation of a policy, strategy, plan or programme, including in particular:
    - a) the approval of the level of detail of the information contained in the environmental impact prognosis,
    - b) the preparation of the environmental impact prognosis,
    - c) the acquisition of the opinions required by the Act,
    - d) ensuring the possibility of public participation in the procedure;
  - 15) “environment” shall mean the environment within the meaning of the Environmental Protection Act of 27 April 2001;
  - 16) “pollution” shall mean pollution within the meaning of the Environmental Protection Act of 27 April 2001;
  - 17) “significant adverse impact on a Natura 2000 site” shall mean the impact on the objectives of the protection of a Natura 2000 site, including in particular the activities which are likely to:
    - a) worsen the state of natural habitats as well as the habitats of flora and fauna for the protection of which the Natura 2000 site has been designated, or
    - b) exert an adverse impact on the species for the protection of which the Natura 2000 site has been designated, or
    - c) worsen the integrity of the Natura 2000 site or its linkages with other sites.
2. For the purposes of the Act, the impact on the environment shall also mean the impact on human health.

#### **Article 4**

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

#### **Article 5**

Every person shall have the right to take part, on the conditions laid down in this Act, in the procedure requiring public participation.

#### **Article 6**

The requirement to seek approval or opinion shall not apply where the authority which conducts the procedure is, at the same time, the authority competent to express its approval or opinion.

#### **Article 7**

The charges referred to in Article 36 (1) of the Act of 14 March 1985 on the State Sanitary Inspectorate (Official Journal of the Laws of 2006, No 122, Item 851, as amended <sup>7)</sup>).shall not be taken for the opinions and approvals of the competent authorities of the State Sanitary Inspectorate which are required by the Act.

### **PART II**

## **The provision of information on the environment and its protection**

### **Chapter 1**

#### **General provisions**

#### **Article 8**

Administration authorities shall be obliged to make available to all persons the information which they hold on the environment and its protection or which is intended for them.

#### **Article 9**

1. Under Article 8, the following information shall be made available concerning:
- 1) the state of elements of the environment, such as air, water, land surface, minerals, climate, landscape and natural areas, including marshes, coastal and sea areas, flora, fauna and fungi, as well as other elements of biodiversity, including genetically modified organisms, and the mutual interactions among these elements;
  - 2) emissions, including those of radioactive waste and the pollutants which affect or may affect the elements of the environment referred to in point 1;

- 3) such measures as administrative measures, policies, legal provisions relating to the environment and water management, plans, programmes and agreements on environmental protection, the actions which affect or may affect the elements of the environment referred to in point 1 as well as the emissions and pollutants referred to in point 2, and the measures and actions designed to protect these elements;
- 4) the reports on the implementation of the legislation on environmental protection;
- 5) cost and benefit analyses and other economic analyses and assumptions used within the framework of the measures and actions referred to in point 3;
- 6) the state of health, safety and living conditions of persons as well as the state of cultural sites and built structures – in the scope where they are affected or may be affected:
  - a) by the state of the elements of the environment referred to in point 1, or
  - b) - through the elements of the environment referred to in point 1 – by the emissions and pollutants referred to in point 2 and the measures referred to in point 3.

2. The information referred to in paragraph 1 shall be provided in verbal, written, visual, aural, electronic or other form.

3. In making available the information referred to in paragraph 1 (2), the administration authority shall also inform, on the request from the entity seeking information, of the place where the data are held concerning the methods for the performance of measurements, including the ways of taking and processing samples and the ways of interpreting the acquired data, which served to generate the information made available, or shall refer to the appropriate reference methods in this scope

### **Article 10**

At the offices of administration authorities, persons shall be designated to provide information on the environment and its protection.

### **Article 11**

In making available the information on the environment and its protection provided by third parties, the administration authority shall indicate its source of origin.

### **Article 12**

1. Information on the environment and its protection shall be made available on a written request for the provision of information, referred to in this part as “request”.

2. The following shall be provided without a written request:

- 1) information which does not have to be retrieved;
- 2) in the case of the occurrence of an elemental disaster, another type of natural disaster, a technological accident referred to in the Act of 18 April 2002 on the State of Elemental Disaster (Official Journal, No 62, Item 558, as amended <sup>8)</sup>), or another direct threat for human health or the environment caused by human activity or natural causes, the information held by the administration authorities or intended for them which may allow the persons likely to suffer as a result of this threat to take action to prevent or minimise the damage arising from this threat.

### **Article 13**

The party requesting information on the environment and its protection shall not be required to demonstrate an interest, in law or in fact.

### **Article 14**

1. The administration authority shall make available information on the environment and its protection without undue delay, at the latest within one month of the date on which the request is received.

2. The period referred to in paragraph 1 may be extended up to two months due to the degree of complexity of the matter. In such a case the provisions of Article 35 (5) and Article 36 of the Administrative Procedure Code shall apply, respectively.

3. The documents the data on which are placed in the publicly accessible registers referred to in Article 21 (1) shall be made available on the day when the request is submitted.

4. The information referred to in Article 12 (2) (2) shall be made available on the day when the request is submitted.

5. Where a request for making information available has been refused, paragraphs 1 and 2 shall apply, respectively.

### **Article 15**

1. Information on the environment and its protection shall be made available in the manner and form specified in the request, unless the technical means at the disposal of the administration authority do not allow for the information to be provided in the manner and form specified in the request.

2. Where information on the environment and its protection cannot be made available in the manner or form specified in the request, the administration authority shall notify in writing the party seeking information within 14 days of the date of receipt of the request about the reasons for its inability to make the information available in accordance with the request and shall indicate how and in what form the information may be provided.

3. Where the party seeking information does not submit a request in the manner or form indicated in the notification referred to in paragraph 2 within 14 days of the date of receipt of the notification, the administration authority shall issue a decision refusing to make information available in the manner or form specified in the request.

## **Chapter 2**

### **Refusal to provide information**

### **Article 16**

1. The administration authority shall not make available the information on the environment and its protection where the information concerns:

- 1) the individual data gathered in the statistical surveys of the public statistical system

and protected by the statistical confidentiality referred to in Act on Public Statistics of 29 June 1995 (Official Journal of the Laws, No 88, Item 439, as amended <sup>9)</sup>);

- 2) the matters which are sub judice, or subject to disciplinary or criminal enquiry, where the disclosure of the information could disturb the course of the proceedings;
- 3) matters which are covered by the copyrights referred to in the Act of 4 February 1994 on the Copyright and Related Rights (Official Journal of the Laws of 2006, No 90, Item 631, as amended <sup>10)</sup>), or the patent rights referred to in the Act of 30 June 2000 on the Right of Industrial Ownership (Official Journal of the Laws of 2003, No 119, Item 1117, as amended <sup>11)</sup>), where making it available could violate these rights;
- 4) the personal data referred to in the Act of 29 August 1997 on the Protection of Personal Data (Official Journal of the Laws of 2002, No 101, Item 926, as amended <sup>12)</sup>), concerning third parties, where making it available could violate the regulations on the protection of personal data;
- 5) documents or data supplied by third parties where these parties have been under no obligation to do so and, since such obligation could not be imposed on them, they supplied them on a voluntary basis, making the reservation that they shall not be made available;
- 6) documents or data the disclosure of which could pose a threat for the environment or the environmental security of a given country;
- 7) information of commercial values, including technological data, supplied by third parties and covered by the secret of an undertaking, where making such information available could worsen the competitive position of these parties and they have submitted a justified request for this information be excluded from disclosure;
- 8) projects likely to have a significant effect on the environment carried out on closed sites for which a procedure with public participation, in accordance with Article 79 (2), is not conducted;
- 9) the defence and security of the State.

2. The refusal to approve the request to exclude information from the provision referred to in paragraph 1 (7) shall be made in the form of a decision.

### **Article 17**

The administration authority may refuse to disclose information on the environment and its protection where:

- 1) it would require the provision of documents or data in the course of completion;
- 2) it would require the provision of documents or data intended for internal communication;
- 3) the request is manifestly impossible to meet;
- 4) the request is formulated in too general a manner.

### **Article 18**

The provisions of Article 16 (1) (1) and (4-8) shall not apply where the information concerns:

- 1) the amounts and types of particulate matter or gases emitted into the air and the place where they are emitted;
- 2) the quality, composition and amounts of wastewater discharged into waters or to

- land and the place where it is discharged;
- 3) the types and amounts of the waste generated and the place where it is generated;
  - 4) the levels of noise emissions;
  - 5) the levels of the electromagnetic fields emitted.

### **Article 19**

1. In refusing to make information available pursuant to Article 17 (1), the administration authority shall give the name of the authority responsible for the preparation of a given document or data and inform of the expected date of their completion.

2. Where the request concerns information which the administration authority does not hold, this authority shall immediately, but not later than within 14 days of the receipt of the request:

- 1) forward the request to the administration authority which holds the requested information and inform thereof the party which has made the request; the provision of Article 65 (1), the second sentence, of the Administrative Procedure Code shall apply, respectively;
- 2) return the request to the party which has made the request, where it is impossible to identify the authority referred in subparagraph 1.

3. Where the request is formulated in too general a manner, the administration shall immediately, but not later than within 14 days of the date when the request is received, invite the party which has made the request to complement the request, providing the relevant explanations, and shall, in particular, inform the party of the possibility of using the publicly accessible registers referred to in Article 21 (1). The complementation of the request shall not exclude the possibility of refusal to disclose information pursuant to Article 17 (4).

### **Article 20**

1. The refusal to make available information on the environment and its protection shall be made in the form of a decision.

2. The provisions of the Act of 30 August 2002 on the Law of the Proceedings before Administrative Courts (Official Journal of the Laws, No 153, Item 1270, as amended <sup>13)</sup>) shall apply to the complaints considered within the procedure for the provision of information on the environment and its protection, with the qualification that:

- 1) the files shall be submitted and the response to the complaint shall be given within 15 days of the date of receipt of the complaint;
- 2) the complaint shall be considered within 30 days of the date of receipt of the files, along with the response to the complaint.

3. In the case of refusal to disclose information pursuant to Article 16 (1), subparagraphs 4, 5 or 7, the provisions of Article 22 of the Act of 6 September 2001 on Access to Public Information shall apply.

## **Chapter 3**

### **Publicly accessible registers and the electronic dissemination of information**



## Article 21

1. The data on documents containing information on the environment and its protection shall be placed in publicly accessible registers.

2. The publicly accessible registers shall contain the data concerning:

- 1) decisions to refuse to make available the information referred to in Article 20 (1);
- 2) the draft documents referred to in Articles 46 and 47 and draft amendments to these documents before they are subjected to the procedure involving public participation;
- 3) the information on the resignation from the conduct of the strategic environmental assessment referred to in Article 48 (1);
- 4) the information on the determination that the strategic environmental assessment referred to in Article 47 has to be conducted;
- 5) the opinions referred to in Article 54 (1);
- 6) the documents referred to in Articles 46 and 47, along with the summary referred to in Article 55 (3), after they have been adopted;
- 7) environmental impact prognoses;
- 8) the decisions referred to in Article 63 (1)-(2);
- 9) requests for the issue of decisions and decisions on the environmental conditions;
- 10) requests for the issue of decisions and decisions referred to in Article 72 (1), issued for projects which may have a significant impact on the environment;
- 11) the decisions referred to in Article 79 (2);
- 12) the decisions referred to in Article 90 (1);
- 13) requests for the issue of decisions and decisions referred to in Article 96 (1), issued for projects which may have a significant impact on a Natura 2000 site, for which the assessment of the impact of a project on a Natura 2000 site has been carried out;
- 14) the decisions referred to in Article 97 (1);
- 15) the decisions referred to in Article 98 (1);
- 16) the environmental impact reports for projects;
- 17) follow-up analyses;
- 18) the decisions referred to in Article 108 (1) (1);
- 19) the notifications referred to in Article 109 (1) and Article 113 (3);
- 20) the documents referred to in Article 118;
- 21) the decisions and documents referred to in Article 120 (1);
- 22) the results of environmental studies;
- 23) in the scope of the Environmental Protection Act of 27 April 2001:
  - a) the drafts – before they are subjected to the public participation procedure – of:
    - the national environmental policy,
    - Voivodship, county and local environmental protection programmes,
    - air protection programmes,
    - programmes for the protection of the environment against noise,
    - internal and external emergency plans,
  - b) the national environmental policy,
  - c) Voivodship, county and local environmental protection programmes,
  - d) ecophysiological studies,
  - e) air protection programmes,

- f) requests for the issue of decisions and the decisions concerning the reclamation of contaminated soil or earth where the contamination occurred before 30 April 2007 or was caused by an activity which ceased before 30 April 2007,
  - g) registers containing information on areas exposed to land mass movements and areas where these movements occur,
  - h) the acoustic maps referred to in Article 118 (1) of that Act,
  - i) programmes for the protection of the environment against noise,
  - j) the notifications referred to in Article 152 (1) of that Act,
  - k) requests for the grant of permits and permits:
    - integrated permits,
    - for the release of gases or dust into the air,
    - water-law permits for the discharge of wastewater into waters or to land,
    - waste generation,
  - l) the approvals referred to Article 211 (3a) of that Act,
  - m) environmental audits,
  - n) safety reports and the decisions referred to in Article 259 (1) of that Act,
  - o) the registers of dangerous substances referred to in Article 267 (1) of that Act,
  - p) internal and external emergency plans,
  - q) the records referred to in Article 286 (1) of that Act,
  - r) decisions on the amount, the postponement of the payment, the reduction and annulment of the payment of the fees for the use of the environment or administrative fines,
  - s) requests for the establishment of the compliance programme referred to in Article 426 (1) of that Act;
- 24) in the scope of the Nature Conservation Act of 16 April 2004:
- a) draft conservation plans and draft plans of protection measures developed for forms of nature conservation,
  - b) requests for the issue of permits and permits for activities subject to prohibitions or restrictions relating the protected species referred to in Article 56 (1)-(2) of that Act,
  - c) permits to carry across the state border plants and animals of the species subject to restrictions under the provisions of the European Union law as well as their recognisable parts and derivative products,
  - d) phytosanitary certificates for the exports of living plants of the species referred to in letter c) which come from cultivation,
  - e) permits for the operation of a botanical garden, a zoological garden or an animal rehabilitation centre,
  - f) requests for the issue of permits and permits for the removal of trees and shrubs,
  - g) decisions on the amounts of administrative fines for:
    - damage to green areas, trees or shrubs caused by the incorrect performance of earthworks or the use of mechanical or technical equipment as well as the application of chemical agents in a manner harmful for vegetation,
    - removal of trees or shrubs without the required permit,
    - damage caused by the incorrect care of trees, shrubs or green areas,
  - h) permits for imports, keeping, breeding/cultivating, multiplication and sales in the country of plants, animals and fungi of alien species which when released into the natural environment may threaten the native species or natural habitats;

- 25) in the scope of the Waste Act of 27 April 2001 (Official Journal of the Laws of 2007, No 39, Item 251, No 88, Item 587; 2008, No 138, Item 865):
  - a) requests for the issue of decisions to approve a hazardous waste management programme and decisions to approve this programme as well as information on the waste generated and the method for handling the waste generated,
  - b) requests for the issue of permits and permits for the conduct of activities in the scope of waste collection, transport, recovery or disposal,
  - c) documents drawn up for the purposes of waste records;
- 26) the reports referred to in Article 24 (1) of the Act of 11 May 2001 on the Corporate Obligations in the Scope of Managing Certain Types of Waste and on the Product and Deposit Charges (Official Journal of the Laws of 2007, No 90, Item 607);
- 27) in the scope of the Act of 13 September 1996 on the Keeping of Cleanliness and Order in Communes (Official Journal of the Laws of 2005, No 236, Item 2008; 2006, No 144, Item 1042) – requests for the issue of permits and permits for the collection of municipal waste from real-estate owners;
- 28) in the scope of the Water Act of 18 July 2001 (Official Journal of the Laws of 2005, No 239, Item 2019, as amended <sup>14)</sup>) - requests for the issue of permits and the water permits for water abstraction as well as decisions ordering the removal of trees and shrubs;
- 29) in the scope of the Act of 20 July 1991 on the Inspectorate for Environmental Protection (Official Journal of the Laws of 2007, No 44, Item 287, as amended <sup>15)</sup>) - registers of major accidents and the register of direct risks of damage to the environment and damage to the environment;
- 30) the registers referred to in Articles 34, 40, 50 and 56 of the Act of 22 June 2001 on Genetically Modified Organisms (Official Journal of the Laws of 2007, No 36, Item 233);
- 31) decisions setting out the detailed conditions for the abstraction of minerals referred to in Article 10 (2) of the Act of 27 July 2001 Amending the Geological and Mining Act (Official Journal of the Laws, No 110, Item 1190);
- 32) the environmental statements referred to in the Act of 12 March 2004 on the National Eco-Management and Audit Scheme (EMAS) (Official Journal of the Laws, No 70, Item 631; 2005, No 175, Item 1462; 2007, No 93, Item 621);
- 33) in the scope of the Act of 22 December 2004 on the Air Emission Allowance Trading Scheme for Greenhouse Gases and Other Substances (Official Journal of the Laws, No 281, Item 2784):
  - a) draft national allocation plans concerning emission allowances,
  - b) permits for the participation in the Community emission allowance trading scheme or in the national emission allowance trading scheme,
  - c) verified annual reports,
  - d) decisions to impose a fine for the absence of emission allowances,
  - e) information on Joint Implementation projects and Clean Development Mechanism projects;
- 34) in the scope of the Geological and Mining Act of 4 February 1994 (Official Journal of the Laws of 2005, No 228, Item 1947, as amended <sup>16)</sup>):
  - a) concessions for prospecting for and exploration of mineral deposits, extraction of minerals from deposits, open storage of substances and landfill of waste in rock formations, including underground mine galleries,

- b) data contained in the register of the mining areas,
  - c) information sheets for mineral deposits referred to in the regulations issued pursuant to Article 50 (1) (2) (a) of that Act,
  - d) geological survey documentation of the closed mining plants;
- 35) in the scope of the Act of 13 April 2007 on the Prevention and Remedying of Damage to the Environment (Official Journal of the Laws, No 79, Item 493; 2008, No 138, Item 865):
- a) requests for the issue of decisions and the decisions referred to in Article 13 (3), Article (15) (1) and Article 17 (2) of that Act,
  - b) the decisions referred to in Article 24 (7) of that Act.
3. The data on other documents containing information on the environment and its protection may also be placed in publicly accessible registers.

### **Article 22**

1. The administration authorities which are competent in the matters referred to in Article 21 (2) shall be obliged to keep publicly accessible registers.
2. The publicly accessible registers of data on the documents referred to in 21 (2) (16)-(17) shall also be kept by the administration authorities which are competent to conduct the procedure within which or as a result of which these documents are drawn up.

### **Article 23**

1. The publicly accessible registers shall be kept in electronic form. The administration authority obliged to keep the register shall make it available in the Public Information Bulletin.
2. The Minister responsible for the environment shall lay down, by way of a Regulation, the format, content and layout of a publicly accessible register, with a view to ensuring the transparency of the register and the easy retrieval of the information contained in it and including the names of the documents placed in it, the places and dates of their issue, the places where they are kept and the reservations concerning the information which must not be made available.

### **Article 24**

1. The information:
  - 1) in the scope of the Environmental Protection Act of 27 April 2001, concerning:
    - a) the classification of the zones referred to in Article 88 (2) and Article 89 (1) of that Act,
    - b) the results of the measurements referred to in Article 90 (1) of that Act,
    - c) the air protection programmes referred to in Article 91 (3) and (5) of that Act,
    - d) the short-term action plans referred to in Article 92 (1) of that Act,
    - e) the results of the testing referred to in Article 109 (2) of that Act,
    - f) the areas referred to in Article 110a (1) of that Act,
    - g) the acoustic maps referred to in Article 118 (1) of that Act,
    - h) the areas referred to in Article 118 (6) of that Act,

- i) the programmes for the protection of the environment against noise referred to in Article 119 (1) of that Act,
  - j) the results of the measurements referred to in Article 123 (2) of that Act,
  - k) the areas referred to in Article 124 of that Act,
  - l) the results of the measurements referred to in Article 175 (1)-(3) of that Act,
  - m) the acoustic maps referred to in Article 179 (1) of that Act,
  - n) the emissions and water abstraction as collected in the Voivodship database on the use of the environment referred to in Article 286a (1) of that Act,
- 2) concerning waste generation and management as collected in the Voivodship database referred to in Article 37 (6) of the Waste Act of 27 April 2001,
  - 3) concerning the results of the testing referred to in Article 155a of the Water Act of 18 July 2001
- shall be made available through computer-based communications systems, in particular using electronic databases.

2. The information contained in electronic databases shall be made available in the Public Information Bulletin managed by the entities referred to on paragraph 3.

3. The electronic databases shall be managed by:

- 1) the Voivodship Marshal – in the scope of the information referred to in paragraph 1 (1) (c) (d), (g) and (i) and paragraph 1 (2);
- 2) the head of the county administration - in the scope of the information referred to in:
  - a) paragraph 1 (1) (e) and (f),
  - b) paragraph 1 (1) (g) and (i) – in the case of the areas referred to in Article 117 (2) (1) and Article 117 (3) of the Environmental Protection Act of 27 April 200;
- 3) the Voivodship Inspector for Environmental Protection - in the scope of the information referred to in paragraph 1 (1) (a), (b), (j)-(l) and (n) as well as paragraph 1 (3);
- 4) the manager of a road, railway line or an airfield - in the scope of the information referred to in paragraph 1 (1) (h) and (m);
- 5) the manager of a road, railway line, tramway line, airfield or port - in the scope of the information referred to in paragraph 1 (1) (l).

4. The task of the Voivodship Marshal referred to in paragraph 3 (1) shall be a task within the scope of the government administration.

5. With a view to ensuring access to the information referred to in paragraph 1, the Minister responsible for the environment shall lay down, by way of a Regulation:

- 1) the manner of the provision of the information,
- 2) the minimum scope of the information to be made available;
- 3) the form of the provision of the information;
- 4) the frequency of updating the information made available.

## **Article 25**

1. In the Public Information Bulletin, the following shall also be provided:

- 1) by the Minister responsible for the environment:
  - a) in the scope of the Environmental Protection Act of 27 April 2001:
    - the national environmental policy referred to in Article 15 (1) of that Act,
    - the report on the implementation of the national environmental policy referred to in Article 16 of that Act,

- b) in the scope of the Waste Act of 27 April 2001:
  - the national waste management plan,
  - the report on the implementation of the national waste management plan,
- c) information on the national and Community regulations and international environmental agreements as well as the reports on the implementation of these regulations and agreements where such reports are available,
- d) environmental agreements,
- e) in the scope of the Act of 22 June 2001 on Genetically Modified Organisms:
  - the Register of the Contained Use of GMOs referred to in Article 34 of that Act,
  - the Register of the Deliberate Release of GMOs into the Environment referred to in Article 40 of that Act,
  - the Register of GMO Products referred to in Article 50 (1) of that Act,
  - the Register of Exports and Transit of GMO Products from and through the territory of the Republic of Poland referred to in Article 56 of that Act,
- f) in the scope of the Water Act of 18 July 2001:
  - the national urban wastewater treatment programme referred to in Article 43 (3) of that Act,
  - the report on the implementation of the national urban wastewater treatment programme referred to in Article 43 (4) of that Act;
- 2) by the General Director for Environmental Protection – the database on environmental impact assessments and strategic environmental assessments;
- 3) by the Chief Inspector for Environmental Protection:
  - a) the National Pollutant Release and Transfer Register referred to in Article 236a (1) of the Environmental Protection Act of 27 April 2001,
  - b) the reports on the state of the environment in Poland referred to in Article 25b of the Act of 20 July 1991 on the Inspectorate for Environmental Protection;
- 4) by the Voivodship Marshal:
  - a) in the scope of the Environmental Protection Act of 27 April 2001:
    - the Voivodship environmental protection programmes referred to in Article 17 (1) of that Act,
    - the reports on the implementation of the Voivodship environmental protection programmes referred to in Article 18 (2) of that Act,
    - the air protection programme program referred to in Article 91 (1) of that Act,
    - the short-term action plan referred to in Article 92 (1) of that Act,
    - the programmes for the protection of the environment against noise referred to in Article 119 (1) of that Act,
  - b) in the scope of the Waste Act of 27 April 2001:
    - the register of the permits granted for waste generation and management referred to in Article 37 (6) of that Act,
    - the Voivodship waste management plan,
    - the report on the implementation of the Voivodship waste management plan;
- 5) by the Director of the Regional Water Management Board – the acts of local law referred to in Article 92 (2) of the Water Act of 18 July 2001;
- 6) by the Voivodship Commandant of the State Fire Service – the register of dangerous substances referred to in Article 267 (1) of the Environmental Protection Act of 27 April 2001;
- 7) by the head of the county administration:

- a) in the scope of the Environmental Protection Act of 27 April 2001:
  - the county environmental protection programmes referred to in Article 17 (1) of that Act,
  - the reports on the implementation of the county environmental protection programmes referred to in Article 18 (2) of that Act,
  - the programmes for the protection of the environment against noise referred to in Article 119 (1) of that Act,
- b) in the scope of the Waste Act of 27 April 2001:
  - the county waste management plan,
  - the report on the implementation of the county waste management plan;
- 8) by the head of the local administration and the mayor of a town/city:
  - a) in the scope of the Environmental Protection Act of 27 April 2001:
    - the local environmental protection programmes referred to in Article 17 (1) of that Act,
    - the reports on the implementation of the local environmental protection programmes referred to in Article 18 (2) of that Act;
  - b) in the scope of the Waste Act of 27 April 2001:
    - the local waste management plan,
    - the report on the implementation of the local waste management plan.

## **Chapter 4**

### **Charges**

#### **Article 26**

1. No charge shall be taken for retrieving and examining, on the premises of the administration authority, the documents enumerated in a publicly accessible register.

2. The administration authority shall collect charges, in the amounts corresponding to the related justified costs, for retrieving information, transforming the information into the form indicated in the request for making it available, making copies of documents or data and their forwarding.

3. The charges referred to in paragraph 2, when collected by an administration authority:

- 1) of the government sector of public finance – shall constitute the revenues of the State budget;
- 2) of the self-government sector of public finance - shall constitute the own revenues of the territorial self-government units.

4. The charges referred to in paragraph 2 shall not be collected where the request has been submitted by an administration authority.

#### **Article 27**

1. The highest unit rates of the charges referred to in Article 26 (2) shall amount to:

- 1) 10 PLN for retrieving information, where up to ten documents have to be retrieved; this charge shall be increased by not more than 1 PLN for each additional document, where the provision of information requires the retrieval of more than ten documents;

- 2) 3 PLN for each information-technology data carrier for transforming the information into the form indicated in the request;
- 3) for making copies of documents or data in the 210 mm x 297 mm (A4) format:
  - a) 0.60 PLN for one page of a black and white copy,
  - b) 6 PLN for one page of a coloured copy.

2. A charge shall be taken for forwarding copies of documents or data by post in the amount collected for the shipment of a given type and a given postal category as set out in the existing price list of general postal services offered by a public operator within the meaning of the provisions of the Postal Law of 12 June 2003 (Official Journal of the Laws of 2008, No 189, Item 1159), with an additional charge of:

- 1) not more than 4 PLN – for a copy of documents or data in the form of a printout or a duplicated copy;
- 2) not more than 10 PLN – for a copy of documents or data on an information-technology data carrier provided by the party which has made the request for information.

### **Article 28**

The Minister responsible for the environment, in agreement with the Minister responsible for public finance, shall define, by way of a Regulation:

- 1) the detailed rates of the charges referred to in Article 26 (2),
  - 2) the coefficients to differentiate the rates of the charges referred to in Article 26 (2),
  - 3) the manner of calculating the charges referred to in Article 26 (2), taking into account the transformation of the information into the form indicated in the request,
  - 4) the date and manner of paying the charges referred to in Article 26 (2)
- taking into account the need to ensure that such charges must not impede access to information.

## **PART III**

### **Public participation in environmental protection**

#### **Chapter 1**

#### **General provisions**

### **Article 29**

All persons shall have the right to submit comments and suggestions in the course of a procedure requiring public participation.

### **Article 30**

The administration authorities competent to issue decisions or to draw up the draft documents for which the provisions of this Act or other Acts require that the possibility of public participation should be ensured, respectively, prior to the adoption of these decisions or their modification as well as prior to the adoption of these documents or



their modification.

### **Article 31**

The provisions of Articles 16-20 shall apply, respectively, to the conduct of procedures requiring public participation.

### **Article 32**

The provisions of Part VIII of the Administrative Procedure Code shall not apply to comments and suggestions submitted in the course of procedures requiring public participation.

## **Chapter 2**

### **Public participation in decision making**

### **Article 33**

1. Prior to the issue and modification of decisions requiring public participation, the administration authority competent to issue such decisions shall provide the public without an undue delay with information concerning:

- 1) the launch of the environmental impact assessment for a project;
- 2) the initiation of the procedure;
- 3) the subject matter of the decision which has to be issued in the matter;
- 4) the authority competent to issue decisions or the authorities competent to provide opinions and grant approvals;
- 5) the possibilities of becoming acquainted with the necessary documentation of the case and the place where it is available for review;
- 6) the possibility of submitting comments and suggestions;
- 7) the manner and place for submitting comments and suggestions, providing, at the same time, for a 21-day period for their submission;
- 8) the authority competent for handling comments and suggestions;
- 9) the date and place of the administrative hearing open to the public referred to in Article 36, where it is to be conducted;
- 10) the procedure for the transboundary impact on the environment, where it is conducted.

2. The necessary documentation of the case as referred to in paragraph 1 (5) shall include:

- 1) the request for the issue of a decision, along with the required enclosures;
- 2) the following as required by the regulations:
  - a) the decisions of the authority competent to issue the decision,
  - b) the positions of the other authorities where their positions are available in the period for the submission of comments and suggestions.

#### **Article 34**

Comments and suggestions may be submitted:

- 1) in written form;
- 2) verbally to be recorded in the minutes;
- 3) using the means of electronic communications without the need to secure them with the safe electronic signature referred to in the Act of 18 September 2001 on the Electronic Signature (Official Journal of the Laws, No 130, Item 1450, as amended<sup>17</sup>).

#### **Article 35**

The comments or suggestions submitted after the expiry of the period referred to in Article 33 (1) (7) shall not be considered.

#### **Article 36**

The administration authority competent to issue the decision may conduct an administrative hearing open to the public. The provision of Article 91 (3) of the Administrative Procedure Code shall apply, respectively.

#### **Article 37**

The authority which conducts the procedure:

- 1) shall consider comments and suggestions;
- 2) in the justification of the decision, irrespective of the requirements under the Administrative Procedure Code, shall provide information on public participation in the procedure and the manner in which the comments and suggestions submitted in relation to public participation have been considered and the extent to which they have been used.

#### **Article 38**

The authority competent to issue the decisions shall inform the public that the decision has been issued and about the possibilities of becoming acquainted with its content.

### **Chapter 3**

#### **Public participation in the preparation of documents**

#### **Article 39**

1. The authority which prepares a draft document requiring public participation shall provide the public without an undue delay with information concerning:

- 1) the launch of the preparation of the draft document and its subject matter;
- 2) the possibilities of becoming acquainted with the necessary documentation of the

- case and the place where it is available for review;
- 3) the possibility of submitting comments and suggestions;
  - 4) the manner and place for submitting comments and suggestions, providing, at the same time, for at least 21-day period for their submission;
  - 5) the authority competent for handling comments and suggestions;
  - 6) the procedure for the transboundary impact on the environment, where it is conducted.

2. The necessary documentation of the case as referred to in paragraph 1 (2) shall include:

- 1) the assumptions of the document or its draft;
- 2) the enclosures and the positions of the other authorities required by the regulations where their positions are available in the period for the submission of comments and suggestions.

#### **Article 40**

Comments and suggestions may be submitted:

- 1) in written form;
- 2) verbally to be recorded in the minutes;
- 3) using the means of electronic communications without the need to secure them with the safe electronic signature referred to in the Act of 18 September 2001 on the Electronic Signature.

#### **Article 41**

The comments or suggestions submitted after the expiry of the period referred to in Article 39 (1) (4) shall not be considered.

#### **Article 42**

The authority which prepares a draft document requiring public participation shall:

- 1) consider comments and suggestions;
- 2) enclose with the adopted document the justification containing information on public participation in the procedure and the manner in which the comments and suggestions submitted in relation to public participation have been considered and the extent to which they have been used.

#### **Article 43**

The authority which prepares a draft document requiring public participation shall inform the public that the document has been adopted and about the possibilities of becoming acquainted with its content along with as well as with:

- 1) the justification referred to in Article 42 (2);
- 2) the summary referred to in Article 55 (3) – in the case of the documents referred to in Articles 46 and 47.

## **Chapter 4**

### **The rights of environmental organisations**

#### **Article 44**

1. The environmental organisations which, referring to their statutory objectives, inform of their wish to take part in a specific procedure requiring public participation shall take part therein with the rights of a party. The provision of Article 31 (4) of the Administrative Procedure Code shall not apply.

2. An environmental organisation shall have the right to appeal a decision issued in a procedure requiring public participation where this is justified by the statutory objectives of this organisation, including the case where it did not take part in a specific procedure requiring public participation conducted by a first instance authority; the submission of the appeal shall be tantamount to the declaration of its willingness to take part in this procedure. The organisation shall take part in the review procedure with the rights of a party.

3. An environmental organisation shall have the right to file a complaint with the administrative court against a decision issued in a procedure requiring public participation where this is justified by the statutory objectives of this organisation, including the case where it did not take part in a specific procedure requiring public participation.

4. An environmental organisation can file a complaint against a refusal to let it take part in the procedure.

#### **Article 45**

1. Environmental organisations, the subsidiary units of local self-governments, communities, worker councils, volunteer fire service units and trade unions may co-operate with administration authorities in the field of environmental protection.

2. Trade unions and worker councils may establish internal environmental commissions and appoint non-governmental inspectors for environmental protection in order to organise and conduct non-governmental environmental inspections at their workplaces.

3. Administration authorities may assist environmental organisations in their activities in the field of environmental protection.

## **PART IV**

### **Strategic environmental assessment**

#### **Chapter 1**

#### **Documents requiring the conduct of a strategic environmental assessment**

## **Article 46**

A strategic environmental assessment shall be required for:

- 1) a draft concept of national spatial planning policy, a draft study on the conditions and directions of local spatial development, draft spatial development plans and draft regional development strategies;
- 2) draft policies, strategies, plans or programmes in the fields of industry, energy, transport, telecommunications, water management, waste management, forestry, agriculture, fisheries, tourism and land use, drawn up or adopted by the administration authorities, setting out a framework for the subsequent implementation of projects likely to have a significant impact on the environment;
- 3) draft policies, strategies, plans or programmes other than those listed in points 1 and 2 the implementation of which is likely to have a significant impact on a Natura 2000 site, where they are not directly related to the protection of the Natura 2000 site or do not result from such protection.

## **Article 47**

The conduct of a strategic environmental assessment shall also be required in the case of draft documents other than those in Article 46, where in agreement with the relevant authority referred to in Article 57, the administration authority which prepares the draft document states that they set out a framework for the future implementation of projects likely to have a significant impact on the environment and that the implementation of the provisions of these documents may cause a significant impact on the environment.

## **Article 48**

1. The authority which prepares the draft documents referred to in Article 46 (2) may decide, in agreement with the competent authorities referred to in Articles 57 and 58, not to carry out a strategic environmental assessment where it determines that the implementation of the provisions of a given document would not have a significant impact on the environment.

2. The decision not to carry out the strategic environmental assessment referred to in paragraph 1 may apply only to draft documents which make slight modifications to the provisions of the already adopted documents or draft documents concerning areas within the limits of one commune.

3. The decision not to carry out the strategic environmental assessment referred to in paragraph 1 shall require a justification containing information on the factors referred to in Article 49.

4. The authority which prepares the draft documents referred to in Article 46 (2) shall inform the public without an undue delay of its decision not to carry out the strategic environmental assessment referred to in paragraph 1.

## **Article 49**

In deciding to not carry out a strategic environmental assessment as referred to in Article 48 (1) or when determining the need to carry out such an assessment as referred to in Article 47, the following factors shall be taken into account:

- 1) the character of the activities envisaged in the documents referred to in Articles 46 and 47, in particular:
  - a) the extent to which the document sets out a framework for the future implementation of projects in terms of the situation, type and magnitude of these projects,
  - b) the linkages with the activities envisaged in other documents,
  - c) their usefulness for integrating the environmental aspects, in particular when they support sustainable development, and for implementing the Community law in the field of environmental protection,
  - d) the linkages with the problems of environmental protection;
- 2) the nature and magnitude of the impact on the environment, in particular:
  - a) the probability of the occurrence, duration, range, frequency and reversibility of impacts,
  - b) the probability of the occurrence of cumulative or transboundary impacts,
  - c) the probability of the occurrence of risks for human life or danger for environment;
- 3) the characteristics of the area affected by the environmental impact, in particular for:
  - a) areas with special natural features or of importance for cultural heritage, which are sensitive to impacts, the existing exceedances of environmental quality standards or intensive land use,
  - b) forms of nature protection within the meaning of the Nature Conservation Act of 16 April 2004 or areas subject to protection pursuant to international law.

#### **Article 50**

The conduct of a strategic environmental assessment shall also be required in the case where the already adopted document referred to in Articles 46 or 47 is modified.

### **Chapter 2**

#### **Environmental impact prognosis**

#### **Article 51**

1. The authority which prepares the draft document referred to in Articles 46 or 47 shall make an environmental impact prognosis.
2. An environmental impact prognosis shall:
  - 1) contain:
    - a) information on the content, the main objectives of the draft document and its linkages with other documents,
    - b) information on the methods applied in making the prognosis,
    - c) proposals for the methods envisaged for the analysis of the effects of the implementation of the draft document and the frequency of its conduct,
    - d) information on the possible transboundary impact on the environment,
    - e) a summary in a non-technical language;
  - 2) identify, analyse and assess:
    - a) the existing state of the environment and the possible changes in this state if the provisions of the draft document are not implemented,

- b) the state of the environment in areas to be affected by the expected significant impact,
  - c) the existing environmental problems which are relevant from the point of view of the implementation of the draft document, in particular those relating to the areas protected pursuant to the Nature Conservation Act of 16 April 2004,
  - d) the objectives of environmental protection established at international, Community and national levels which are relevant for the draft document and the ways in which these objectives and other environmental problems have been taken into account during the preparation of the document,
  - e) the envisaged significant impacts, including direct and indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative impacts on the purposes and object of the protection of a Natura 2000 site, the integrity of this site and also on the environment, in particular on:
    - biodiversity,
    - humans,
    - fauna,
    - flora,
    - water,
    - air,
    - land surface,
    - landscape,
    - climate,
    - natural resources,
    - cultural heritage,
    - property
    - taking into accounts the interactions among these elements of the environment and those among the impacts on these elements;
- 3) present:
- a) measures to prevent, reduce or offset in terms of nature compensation the adverse impacts on the environment which may result from the implementation of the draft document, in particular, on the purposes and object of the protection of a Natura 2000 site and the integrity of this site,
  - b) taking into account the objectives and geographical range of the document as well the purposes and object of the protection of a Natura 2000 site and the integrity of this site - measures alternative to those contained in the draft document, along with a justification for their choice, and a description of the methods applied for the assessment resulting in this choice, or the explanation of the absence of alternative measures, including an indication of difficulties encountered as a result of inadequate techniques or gaps in current knowledge.

## **Article 52**

1. The information contained in the environmental impact prognosis referred to in Article 51 (2) shall be developed in accordance with the state-of-the-art knowledge and assessment methods and matched to the content and level of detail of the draft document and the stage of adoption of this document in the process of preparing draft documents related to this document.

2. The environmental impact prognosis referred to in Article 51 (1) shall take into account the information contained in the environmental impact prognoses made for other, already adopted documents related to the document which is the object of the procedure.

3. The Minister who is responsible for construction, spatial economy and housing, in agreement with the Minister responsible for the environment and the Minister responsible for health, may define by way of a Regulation the additional requirements which must be met by the environmental impact prognosis for draft local land-use plans, considering the special needs of spatial planning at local level and taking into account:

- 1) the form wherein the prognosis shall be made;
- 2) the scope of issues which shall be identified and assessed in the prognosis;
- 3) the territorial range of the prognosis;
- 4) the types of documents containing information which shall be taken into account in the prognosis.

### **Article 53**

The authority which prepares the draft document referred to in Articles 46 or 47 shall obtain the approvals of the competent authorities referred to in Articles 57 and 58 for the scope and level of detail of the information required in the environmental impact prognosis. The approvals shall be obtained within 30 days of the date of receipt of the request for approval.

## **Chapter 3**

### **The provision of opinion, public participation and the adoption of the document**

### **Article 54**

1. The authority which prepares the draft document referred to in Articles 46 or 47 shall make it, along with the environmental impact prognosis, subject to the opinion of the competent authorities referred to in Articles 57 and 58. The competent authorities shall issue their opinions within 30 days of the date of receipt of the request for their opinion.

2. The authority which prepares the draft document shall ensure the possibility of public participation, pursuant to the provisions of Part III, Chapters 1 and 3, in the strategic environmental assessment.

3. The rules of submitting comments and suggestions and providing opinions on draft land-use plans and studies on the conditions and directions of local spatial planning shall be defined by the provisions of the Act of 27 March 2003 on Spatial Planning and Development (Official Journal of the Laws, No 80, Item 717, as amended<sup>18)</sup>).

### **Article 55**

1. The authority which prepares the draft document referred to in Articles 46 or 47 shall take into account the findings of the environmental impact prognosis and the



opinions of the authorities referred to in Articles 57 and 58 and consider the comments and suggestions submitted as a result of public participation.

2. The draft document referred to in Articles 46 or 47 must not be adopted, unless the premises referred to in Article 34 of the Nature Conservation Act of 16 April 2004 occur, where the strategic environmental assessment indicates that it may have a significant adverse effect on a Natura 2000 site.

3. A written summary containing a justification of the choice of the adopted document in relation to the alternatives considered as well as the information on the manner in which the following has been taken into account and to what extent it has been used shall be enclosed with the adopted document:

- 1) the findings of the environmental impact prognosis;
- 2) the opinions of the competent authorities referred to in Articles 57 and 58;
- 3) the submitted comments and suggestions;
- 4) the results of the procedure relating to the transboundary environmental impact, where it has been conducted;
- 5) proposals for the methods and frequency of monitoring the effects of the implementation of the provisions of the document.

4. The authority which prepares the draft document shall submit it, along with the summary referred to in paragraph 3, to the competent authorities referred to in Articles 57 and 58.

5. The authority which prepares the draft document shall be obliged to monitor the effects of the implementation of the adopted document in the scope of its environmental impact, in accordance with the frequency and methods referred to in paragraph 3 (5).

#### **Article 56**

The provisions of this Part shall also apply to the entities preparing draft documents which are not administration authorities.

#### **Article 57**

The authority competent to provide its opinion within strategic environmental assessments shall be:

- 1) the General Director for Environmental Protection – in the case of documents prepared and modified by central government administration authorities;
- 2) the Regional Director for Environmental Protection – in the case of documents other than those mentioned in point 1.

#### **Article 58**

The authority of the State Sanitary Inspectorate competent to provide its opinion and approval within strategic environmental assessments shall be:

- 1) the Chief Sanitary Inspector - in the case of documents prepared and modified by central government administration authorities;
- 2) the Voivodship State Sanitary Inspector - in the case of documents other than those mentioned in points 1 and 3;
- 3) the County State Sanitary Inspector - in the case of local land-use plans.

## **PART V**

### **The assessment of the impact of a project on the environment and a Natura 2000 site**

#### **Chapter 1**

#### **Projects which require the assessment**

##### **Article 59**

1. The conduct of the environmental impact assessment for a project shall be required for the implementation of the following projects which may have a significant impact on the environment:

- 1) a proposed project which may always have a significant impact on the environment;
- 2) a proposed project which may possibly have a significant impact on the environment, where the requirement to carry out the environmental impact assessment for a project has been determined pursuant to Article 63 (1).

2. The implementation of a proposed project other than those defined in paragraph 1 shall require the conduct of the assessment of the impact of a project on a Natura 2000 site, where:

- 1) the project may have a significant impact on a Natura 2000, but it is not directly related to the protection of this site or does not result from such protection;
- 2) the requirement to carry out the assessment of the impact of the project on a Natura 2000 site has been determined pursuant to Article 96 (1).

##### **Article 60**

Taking into account the possible environmental impacts of projects and the factors referred to in Article 63 (1), the Council of Ministers shall lay down, by way a Regulation:

- 1) projects which may always have a significant impact on the environment;
- 2) projects which may possibly have a significant impact on the environment;
- 3) the cases where the modifications made on sites are qualified as the projects referred to in points 1 and 2.

##### **Article 61**

1. The environmental impact assessment for a project shall be conducted within the framework of:

- 1) the procedure to issue a decision on the environmental conditions;
- 2) the procedure to issue the decisions referred to in Article 72 (1) (1) and (10), where the need to carry out the environmental impact assessment for a project has been determined by the authority competent to issue a decision on the environmental conditions and in the case referred to in Article 88 (1).

2. The environmental impact assessment for a project, which is part of the

procedure to issue a decision on the environmental conditions, shall be conducted by the authority competent to issue this decision.

3. The environmental impact assessment for a project, which is part of the procedure to issue the decisions referred to in Article 72 (1) (1) and (10), shall be conducted by the Regional Director for Environmental Protection.

4. The assessment of the impact of a project on a Natura 2000 site referred to in Article 62 (2) shall be conducted within the framework of the procedure to issue the decision referred to in Article 96 (1), where the requirement to carry out the assessment of the impact of the project on a Natura 2000 site has been determined pursuant to Article 97 (1).

5. The assessment of the impact of a project on a Natura 2000 site, which is part of the procedure to issue the decision referred to in Article 96 (1), shall be conducted by the Regional Director for Environmental Protection.

### **Article 62**

1. Within the framework of the environmental impact assessment, the following shall be identified, analysed and assessed:

- 1) the direct and indirect effects of a given project on:
  - a) the environment, human health and the quality of human life,
  - b) property,
  - c) cultural heritage,
  - d) the interaction between the elements referred to in letters a)-c),
  - e) access to mineral deposits;
- 2) the possibilities and ways of preventing and reducing the adverse impact of the project on the environment;
- 3) the required scope of monitoring.

2. Within the framework of the assessment of the impact of a project on a Natura 2000 site, the impacts of projects on Natura 2000 sites shall be identified, analysed and assessed, taking also into account the accumulation of the impact of the project with those of other projects.

### **Article 63**

1. The requirement to carry out the environmental impact assessment for a proposed project which may possibly have a significant effect on the environment shall be determined, by way of a decision, by the authority competent to issue a decision on the environmental conditions, taking into account all the following factors:

- 1) the type and characteristics of the project, considering:
  - a) the scale of the project, the surface area of the land occupied and their mutual proportions,
  - b) the interactions with other projects, in particular the accumulation of the impacts of projects situated in the area affected by the project,
  - c) the use of natural resources,
  - d) emissions and the occurrence of other annoyances,
  - e) the major-accident hazard, taking into account the substances used and the technologies applied;

- 2) the location of the project, taking into account the possible danger for the environment, in particular as a result of the existing land use, the self-cleaning capacity of the environment, the renewal of natural resources, natural and landscape values as well as the conditions of local land-use plans, taking into account:
  - a) wetlands and other areas where groundwater lies at shallow depth,
  - b) coastal areas,
  - c) mountain or forest areas,
  - d) areas covered by protection, including the protective areas of water intakes and the protective areas of inland water reservoirs,
  - e) areas requiring special protection in the light of the occurrence of the species of flora and fauna or their habitats and natural habitats covered by protection, including Natura 2000 sites and the other forms of nature conservation,
  - f) areas where the environmental quality standards have been exceeded,
  - g) areas with landscapes of historic, cultural or archaeological significance,
  - h) the population density,
  - i) areas adjacent to lakes,
  - j) health resorts and the areas under health resort-specific protection;
- 3) the type and magnitude of the possible impact considered in relation to the factors listed in subparagraphs 1 and 2, which result from:
  - a) the range of impact – the geographical area and the size of the population on which the project may have an effect,
  - b) the transboundary nature of the impact of the project on the individual natural elements,
  - c) the levels and complexity of the impact, taking into account the load on the existing technical infrastructure,
  - d) the probability of the impact,
  - e) the duration, frequency and reversibility of the impact.

2. The decision shall also be issued where the authority does not determine the need to carry out the environmental impact assessment for a project.

3. The requirement to carry out the environmental impact assessment for a project shall be determined on an obligatory basis, where the ability to implement the project referred to in paragraph 1 depends on the establishment of a restricted use area within the meaning of the Environmental Protection Act of 27 April 2001.

4. In the decision referred to in paragraph 1, the authority shall set out, at the same time, the scope of the environmental impact report for the project. In this case, the provisions of Article 68 shall apply.

#### **Article 64**

1. The decisions referred to in Article 63 (1)-(2) shall be issued after opinions have been obtained from:

- 1) the Regional Director for Environmental Protection;
- 2) the authority referred to in Article 78, in the case of the projects requiring the decisions referred to in Article 72 (1) (1)-(3), (10), (11) and (13).

2. The authority which seeks the opinions shall submit:

- 1) a request for the issue of a decision on the environmental conditions;
- 2) the information sheet of the project;

3) an excerpt and a drawing from the local land-use plan, where this plan has been adopted, or information on its absence; this shall not apply to the opinion concerning the requirement to carry out the environmental impact assessment for a project in the case of a public road, a railway line of national significance, the projects related to Euro 2012 and the projects requiring concessions for prospecting for and exploration of mineral deposits.

3. Taking into account all the factors referred to in Article 63 (1), the authorities referred to in paragraph 1 shall provide their opinions concerning the need to carry out the environmental impact assessment for the project and, where such a need is identified, concerning the scope of the environmental impact report for the project.

4. The opinion referred to in paragraph 1 shall be provided within 14 days of the date of receipt of the request for the provision of the opinion. The provisions of Article 35 (5) and Article 36 of the Administrative Procedure Code shall apply, respectively.

### **Article 65**

1. The decisions referred to in Article 63 (1)-(2) shall be issued within 30 days of the date of the initiation of the procedure to issue a decision on the environmental conditions. The provisions of Article 35 (5) and Article 36 of the Administrative Procedure Code shall apply, respectively.

2. The decision referred to in Article 63 (1) may be appealed.

3. Irrespective of the requirements under the Administrative Procedure Code, the justifications of the decisions referred to in Article 63 1)-(2) shall contain information on the factors referred to in Article 63 (1), which have been taken into account in issuing the decisions.

## **Chapter 2**

### **The environmental impact report for a project**

#### **Article 66**

1. The environmental impact report for a project shall contain:

- 1) a description of the proposed project, in particular:
  - a) the characteristics of the whole project and the conditions of the site use at the stages of construction and operation,
  - b) the main characteristic features of production processes,
  - c) the envisaged types and quantities of pollutants caused by the operation of the proposed project;
- 2) a description of the natural elements of the environment exposed to the envisaged environmental impact of the proposed project, including the natural elements protected pursuant to the Nature Conservation Act of 16 April 2004;
- 3) a description of cultural heritage sites, protected pursuant to the regulations in the protection and care of cultural heritage sites, existing in the vicinity or within the direct range of the impact of the proposed project;
- 4) a description of the envisaged effects on the environment in the case where the project is not undertaken;

- 5) a description of the options analysed, including:
  - a) the option proposed by the proponent and a reasonable alternative,
  - b) the option which is most favourable for the environment, along with reasons for their choice;
- 6) the determination of the expected environmental impacts of the options analysed, also including the impact in the event of a major industrial accident as well as the possible transboundary impact on the environment;
- 7) the justification for the option proposed by the proponent, indicating its impact on the environment, in particular on:
  - a) human beings, fauna, flora, fungi, natural habitats, water and air,
  - b) the land surface, including land mass movements, climate and landscape,
  - c) property,
  - d) the cultural heritage sites and landscapes covered by the existing documentation, in particular those included in the register or records of cultural heritage sites,
  - e) the interactions between the elements referred to in letters a)-d);
- 8) a description of the prediction methods applied by the proponent and a description of the expected significant environmental effects of the proposed project, including direct, indirect, secondary, cumulative, short-term, medium-term and long-term, permanent and temporary environmental effects caused by:
  - a) the existence of the project,
  - b) the use of environmental resources,
  - c) emissions;
- 9) a description of the measures envisaged to prevent, reduce or offset in terms of nature conservation the adverse effects on the environment, in particular on the purposes and object of the protection of a Natura 2000 site and the integrity of this site;
- 10) for roads which are projects always likely to have a significant effect on the environment:
  - a) an indication of the assumptions for:
    - rescue investigations of the identified cultural heritage sites located within the area of the proposed project which have been discovered in the course of construction works,
    - the programme for the protection of the existing cultural heritage sites against the adverse impact of the proposed project and for the protection of the cultural landscape,
  - b) the analysis and assessment of the possible threats and damage to cultural heritage sites protected pursuant to the regulations on the protection and care of cultural heritage sites, in particular archaeological sites, in the vicinity or within the direct range of the proposed project;
- 11) where the proposed project involves the use of an installation, a comparison of the proposed technology with a technology which meets the requirements referred to in Article 143 of the Environmental Protection Act of 27 April 2001;
- 12) an indication as to whether the project requires the designation of a restricted use area within the meaning of the Environmental Protection Act of 27 April 2001, the delineation of the boundaries of such an area, the imposition of restrictions on the scope of the use of the area and the technical requirements for built structures and their uses; this shall not apply to projects consisting of the construction of a national road;

- 13) the presentation of issues in graphic form;
- 14) the presentation of issues in cartographic form at a scale corresponding to the subject matter and level of detail of the issues analysed in the report and allowing for a comprehensive presentation of the environmental impact analyses carried out for the project;
- 15) the analysis of potential social conflicts in relation to the proposed project;
- 16) the presentation of the proposed monitoring of the impact of the proposed project at the stages of its construction and operation, in particular on the purposes and object of the protection of a Natura 2000 site and the integrity of this site;
- 17) an indication of difficulties caused by technical deficiencies or gaps in current knowledge as encountered in preparing the report;
- 18) a summary of the information contained in the report in a non-technical language for each element of the report;
- 19) the name(s) of the person(s) who has(have) prepared the report;
- 20) the sources of information providing the basis for the report.

2. The information referred to in paragraph 1 (4)-(8) shall include the envisaged effects of the options analysed on the purposes and object of the protection of a Natura 2000 site and the integrity of this site.

3. Where it is found that a transboundary impact on the environment is likely, the information referred to in paragraph 1 (1)-(16) shall include the identification of the impact on the proposed project outside the territory of the Republic of Poland.

4. Where it is necessary to designate a restricted use area for the proposed project, a copy of the land register map which has been certified by the competent authority, with the marked course of the boundaries of the site where it is necessary to designate a restricted use area, shall be enclosed with the report. This shall not apply to projects consisting of the construction of a national road.

5. Where the proposed project involves the use of an installation subject to the requirement to obtain an integrated permit, the environmental impact report for a project shall contain a comparison of the proposed technique with the best available techniques.

6. The environmental impact report for a project shall take into account the impacts of the project at the stages of its implementation, operation or use and closure.

### **Article 67**

Where the environmental impact report for a project is prepared within the framework of the environmental impact assessment for a project which is part of the procedure to issue the decisions referred to in Article 72 (1) (1) and (10), it shall:

- 1) contain the information referred to in Article 66, defined with the level of detail and accuracy corresponding to the data acquired from the building design and other information obtained after the issue of the decision on the environmental conditions and the decisions referred to in Article 72 (1) (2)-(9) and (11)-(13), where they have already been issued for a given project;
- 2) lay down the extent and manner of taking into account the requirements of environmental protection as contained in the decision on the environmental conditions and the decisions referred to in Article 72 (1) (2)-(9) and (11)-(13), where they have already been issued for a given project.

## **Article 68**

1. In defining the scope of the report, the authority shall take into account the current knowledge and research methods as well as the existing technical possibilities and the availability of data.

2. In defining the scope of the report, the authority may – considering the location, character and magnitude of the environmental impact of the project:

- 1) resign from the requirements concerning the content of the report referred to in Article 66 (1) (4), (13), (15) and (16); this shall not apply to public roads and railway lines, which are projects which may always have a significant impact on the environment;
- 2) indicate:
  - a) the types of alternative options which need to be examined,
  - b) the types of impacts and the elements of the environment which require detailed analysis,
  - c) the scope and methods for the assessment.

## **Article 69**

1. In submitting the request for the issue of a decision on the environmental conditions for projects which may always have a significant effect on the environment; instead of the environmental impact report for a project, the applicant may submit the information sheet of the project, along with the request for the definition of the scope of the report.

2. It shall be mandatory to define the scope of the report where the project may have a transboundary impact of environment.

3. The authority shall define the scope of the report by way of a decision. In this case, the provisions of Article 68 shall apply.

4. The authority shall issue a decision to suspend the procedure to adopt a decision on the environmental conditions until the applicant submits the environmental impact report for a project.

## **Article 70**

1. The decision referred to in Article 69 (3) shall be issued after opinions have been obtained from:

- 1) the Regional Director for Environmental Protection;
- 2) the authority referred to in Article 78, in the case of the projects requiring the decisions referred to in Article 72 (1) (1)-(3) and (10)-(13).

2. The authority which seeks the opinions shall submit:

- 1) a request for the issue of a decision on the environmental conditions;
- 2) the information sheet of the project.

3. The opinion referred to in paragraph 1 shall be provided within 14 days of the date of receipt of the documents referred to in paragraph 2. The provisions of Article 35 (5) and Article 36 of the Administrative Procedure Code shall apply, respectively.



4. The decision referred to in Article 69 (3) shall be issued within 30 days of the date of the initiation of the procedure to issue a decision on the environmental conditions; the provisions of Article 35 (5) and Article 36 of the Administrative Procedure Code shall apply, respectively.

### **Chapter 3**

#### **A decision on the environmental conditions**

##### **Article 71**

1. A decision on the environmental conditions shall define the environmental conditions for the implementation of a project.

2. A decision on the environmental conditions shall be required for:

- 1) proposed projects which may always have a significant impact on the environment;
- 2) proposed projects which may possibly have a significant impact on the environment.

##### **Article 72**

1. A decision on the environmental conditions shall be issued prior to obtaining:

- 1) a decision on the construction permit, a decision to approve a construction design and a decision to allow the construction works to resume - issued pursuant to the Construction Act of 7 July 1994 (Official Journal of 2006, No 156, Item 1118, as amended <sup>19)</sup>);
- 2) a decision to permit the demolition of nuclear sites - issued pursuant to the Construction Act of 7 July 1994;
- 3) a decision on the conditions for land development and use - issued pursuant to the Act of 27 March 2003 on Spatial Planning and Development;
- 4) a concession for prospecting for, or exploration of, mineral deposits, for exploitation of minerals from their deposits, for open storage of substances and the landfill of waste in the rock formation, including underground mining excavations – issued pursuant to the Geological and Mining Act of 4 February 1994;
- 5) a decision setting out the detailed conditions for the extraction of a mineral - issued pursuant to the Act of 27 July 2001 Amending the Geological and Mining Act;
- 6) a water-law permit for the execution of water facilities – issued pursuant to the provisions of the Water Act of 18 July 2001;
- 7) a decision which sets out the conditions for the execution of works consisting in water regulation and the construction of flood protection embankments, land amelioration works, construction site drainage systems and other earthworks which change the water regime on sites with special natural values, particularly on sites with concentrations of vegetation with special natural values, sites with landscape and ecological values, the grounds of mass breeding of birds, those with concentrations of protected species and the fish spawning and wintering grounds as well as the sites of ladder-passages and mass migration of fish and other aquatic organisms – issued pursuant to the Nature Conservation Act of 16 April 2004;

- 8) a decision to grant authorisation for a project to consolidate or exchange land - issued pursuant to the Act of 26 March 1982 on Land Consolidation or Exchange (Official Journal of the Laws of 2003, No 178, Item 1749; 2004, No 116, Item 1206; 2006, No 227, Item 1658; 2007, No 64, Item 427);
- 9) a decision on the conversion a forest into agricultural land – issued pursuant to the Forest Act of 28 September 1991 (Official Journal of the Laws of 2005, No 45, Item 435, as amended <sup>20)</sup>);
- 10) a decision on the permit for the implementation of a road investment project - issued pursuant to the Act of 10 April 2003 on the Special Principles of the Preparation and Implementation of Investment Projects in the Scope of Public Roads (Official Journal of the Laws of 2008, No 193, Item 1194);
- 11) a decision to establish the location of a railway line - issued pursuant to the Act of 28 March 2003 on Rail Transport (Official Journal of the Laws of 2007, No 16, Item 94, as amended <sup>21)</sup>);
- 12) a decision to establish the location of a motorway – issued pursuant to the Act of 27 October 1994 on Toll Motorways and the National Road Fund (Official Journal of the Laws of 2004, No 256, Item 2571, as amended <sup>22)</sup>);
- 13) a decision to establish the location of Euro 2012 projects - issued pursuant to the Act of 7 September 2007 on the Preparation of the Final Tournament of the European Football Championships UEFA EURO 2012 (Official Journal of the Laws, No 173, Item 1219; 2008, No 171, Item 1058).

2. The requirement to obtain a decision on the environmental conditions shall not apply in the case of a modification of:

- 1) the decisions referred to in paragraph 1, consisting of:
  - a) the establishment or change of the form or level of the security for claims which may arise as a result of the performance of the activities covered by the decision,
  - b) change in the applicant's data;
- 2) the decisions referred to in paragraph 1 (4)-(5), also consisting of:
  - a) a reduction in the surface area within the boundaries whereof the activities are to be conducted,
  - b) the transfer of the decision to another entity.

3. A decision on the environmental conditions shall be enclosed with the request for the issue of the decisions referred to in paragraph 1 (1)-(13). The request shall be submitted within 4 years of the date that the decision on the environmental conditions becomes final.

4. The period referred to in paragraph 3 may be extended by 2 years, where the proposed project is implemented in stages and the conditions defined in the decision on the environmental conditions have not changed.

5. In the period referred to in paragraphs 3 and 4, one decision on the environmental conditions shall be issued for a given project. One decision on the environmental conditions shall also be issued in the case where for a given project more than one of the decisions referred to in paragraph 1 (1)-(13) are required or where the applicant obtains separate decisions for the individual stages of the implementation of the project.

6. The authority competent to issue the decisions referred to in paragraph 1 (1)-(13) for projects which may have a significant impact on the environment shall inform the public of the decision issued and the possibilities of becoming acquainted with its content and the documentation of the case.

7. Where the project for which a decision on the environmental conditions or the decisions referred to in paragraph 1 (1)-(13) have been issued may have a significant adverse impact on a Natura 2000 site designated after the date of the issue of these decisions, the authorised entity shall submit, within 1 year of the date of the designation of this site, a request for the issue of a decision on the environmental conditions in the scope of the impact on the Natura 2000 site. The provisions of the Act concerning the issue of a decision on the environmental conditions shall apply, respectively, excluding the requirement to seek an opinion from the authority referred to in Article 78.

### **Article 73**

1. The procedure to issue a decision on the environmental conditions shall be initiated on request from the entity which plans to launch the implementation of the project.

2. In the case of a project for which under separate regulations a decision to approve a land consolidation or exchange project is required, the procedure to issue a decision on the environmental conditions shall be initiated ex officio. The environmental impact report for the project or the information sheet of the project shall be prepared by the authority competent to issue the decision.

### **Article 74**

1. The following shall be enclosed with the request for the issue of a decision on the environmental conditions:

- 1) in the case of projects which may always have a significant impact on the environment – the environmental impact report for the project; and in the case where the applicant has applied for the determination of the scope of the report in the procedure pursuant to Article 69 – the information sheet of the project;
- 2) in the case of projects which may possibly have a significant impact on the environment – the information sheet of the project;
- 3) a copy of the land register map certified by the competent authority, covering the envisaged area where the project is to be implemented and covering the site to be affected by the impact of the project;
- 4) in the case of projects requiring the decisions referred to in Article 72 (1), paragraphs 4 or 5, carried out within the boundaries of the space which is not part of a land real estate, instead of the copy of the map referred to in point 3, a situation and altitude map prepared at a scale allowing for the detailed presentation of the course of the boundaries of the area to which the request applies and covering the site to be affected by the impact of the project;
- 5) in the case of projects for which the Regional Director for Environmental Protection is the authority that conducts the procedure – an excerpt and a drawing from the local land-use plan, where this plan has been adopted, or information on its absence; this shall not apply to the request for the issue of a decision on the environmental conditions for a public road, for a railway line of national significance, for the projects related to Euro 2012 and the projects requiring concessions for prospecting for and exploration of mineral deposits;
- 6) an excerpt from the land register covering the envisaged area where the project is to

be implemented and covering the site to be affected by the impact of the project.

2. The environmental impact report for a project and the information sheet of a project shall be submitted in three copies, along with their record in electronic form on information-technology information carriers.

3. Where the number of the parties to the procedure to issue a decision on the environmental conditions is greater than 20, the provision of Article 49 of the Administrative Procedure Code shall apply.

## **Article 75**

1. The authority competent to issue a decision on the environmental conditions shall be:

- 1) the Regional Director for Environmental Protection – in the case of:
  - a) the following projects which may always have a significant impact on the environment:
    - roads,
    - railway lines,
    - overhead power transmission lines,
    - installations for the transport of crude oil, oil products, chemical substances or gas,
    - artificial water reservoirs,
  - b) projects carried out on closed sites,
  - c) projects carried out in marine areas,
  - d) the conversion of a forest which is not the property of the State Treasury into farmland;
- 2) the head of the county administration – in the case of land consolidation, exchange or division;
- 3) the Director of the Regional Directorate of State Forests – in the case of the conversion of a forest which is the property of the State Treasury into farmland;
- 4) the head of the local administration and the mayor of a town/city – in the case of the other projects.

2. In the case referred to in paragraph 1 (1) (c), the jurisdiction of the Regional Director for Environmental Protection shall be established for the marine area along the coast in the area of a given Voivodship.

3. In the case of the project referred to in paragraph 1 (4) carried out by the commune, a decision on the environmental conditions shall be issued by the head of the local administration and the mayor of a town/city in whose jurisdiction the project is implemented.

4. In the case of the project referred to in paragraph 1 (4), going beyond the area of one commune, a decision on the environmental conditions shall be issued by the head of the local administration and the mayor of a town/city in whose jurisdiction the largest part of the area where the project to be implemented is located, in agreement with the interested heads of the local administration and mayors of towns/cities.

5. In the case of the project referred to in paragraph 1 (1), going beyond the area of one Voivodship, a decision on the environmental conditions shall be issued by the Regional Director for Environmental Protection in whose jurisdiction the largest part of the area where the project to be implemented is located, in agreement with the

interested Regional Directors for Environmental Protection.

6. In the case of a project carried out partly on a closed site, a decision on the environmental conditions for the entire project shall be issued the Regional Director for Environmental Protection.

7. In the case of a project carried out partly in a marine area, a decision on the environmental conditions for the entire project shall be issued the Regional Director for Environmental Protection.

#### **Article 76**

1. Where irregularities are found in the scope of the issue of a decision on the environmental conditions by the authorities referred to in Article 75 (1) (2)-(4), the General Director for Environmental Protection shall make a submission which may contain, in particular, a request for the ruling that the decision is invalid.

2. In the case of making the submission referred to in paragraph 1, the General Director for Environmental Protection shall have the rights of a party to the administrative proceedings and the proceedings before the administrative court.

3. The provisions of paragraphs 1 and 2 shall apply, respectively, to the rulings of self-government review boards.

#### **Article 77**

1. Where the environmental impact assessment for a project is carried out, prior to the issue of a decision on the environmental conditions the authority competent to issue this decision shall:

- 1) obtain the approval of the Regional Director for Environmental Protection for the conditions for the implementation of the project;
- 2) seek the opinion of the authority referred to in Article 78, in the case of projects which require the decisions referred to in Article 72 (1) (1)-(3) and (10)-(13).

2. The authority which seeks the approval or the opinion referred to in paragraph 1, shall submit:

- 1) a request for the issue of a decision on the environmental conditions;
- 2) the environmental impact report for the project;
- 3) an excerpt and a drawing from the local land-use plan, where this plan has been adopted, or information on its absence; this shall not apply to the approvals and opinions for a public road, for a railway line of national significance, for the projects related to Euro 2012 and the projects requiring concessions for prospecting for and exploration of mineral deposits.

3. The approval referred to in paragraph 1 (1) shall be granted by way of a decision.

4. In the decision referred to in paragraph 3, the Regional Director for Environmental Protection shall:

- 1) approve the implementation of the project and set out the conditions for its implementation;
- 2) present his position on the need to carry out the environmental impact assessment for a project and the procedure for the transboundary impact on the environment within the framework of the procedure to issue the decisions referred to in Article 72 (1) (1) and (10).

5. In the position referred to in paragraph 4 (2), the Regional Director for Environmental Protection shall state the need to carry out the environmental impact assessment for a project within the framework of the procedure to issue the decisions referred to in Article 72 (1) (1) and (10), taking into account the following factors:

- 1) the data on the project or the natural elements of the environment to be covered by the range of the envisaged environmental impact of the project available at the stage of the issue of a decision on the environmental conditions do not allow for a sufficient assessment of its environmental impact;
- 2) in the light of the type and characteristics of the project and its interactions with other projects, the impacts of projects situated in the area affected by the project may accumulate;
- 3) the project may have an impact on areas requiring special protection in the light of the occurrence of the species of flora and fauna or their habitats and natural habitats covered by protection, including Natura 2000 sites and the other forms of nature conservation.

6. The approvals referred to in paragraph 1 (1) and the opinion referred to in paragraph 1 (2) shall be granted within 30 days of the date of receipt of the documents referred to in paragraph 2. The provisions of Article 35 (5) and Article 36 of the Administrative Procedure Code shall apply, respectively.

7. The provisions of Article 106 (3), (5) and (6) of the Administrative Procedure Code shall not apply to the approvals and opinions referred to in paragraph 1.

### **Article 78**

1. The authority of the State Sanitary Inspectorate competent to provide the opinions referred to in Article 64 (1) (2), Article 70 (1) (2), Article 77 (1) (2) and Article 90 (2) (2) shall be:

- 1) the Voivodship State Sanitary Inspector – in the case of:
  - a) the following projects which may always have a significant impact on the environment:
    - roads,
    - railway lines,
    - overhead power transmission lines,
    - installations for the transport of crude oil, oil products, chemical substances or gas,
    - artificial water reservoirs,
  - b) the other projects which may have a significant impact on the environment, in the scope of the tasks assigned to him in the Act of 14 March of 1985 on the State Sanitary Inspectorate;
- 2) the County State Sanitary Inspector or the Border State Sanitary Inspector – in the case of the other projects which may have a significant impact on the environment, in the scope of the tasks assigned to these authorities in the Act of 14 March of 1985 on the State Sanitary Inspectorate.

2. In the case of projects in the areas of the organisational units subordinated to the Minister of National Defence, the authority competent in the matters referred to paragraph 1 shall be the competent authority of the Military Sanitary Inspectorate.

3. In the case of projects in the areas of the organisational units subordinated to and

supervised by the Minister responsible for internal affairs, the authority competent in the matters referred to paragraph 1 shall be the competent authority of the State Sanitary Inspectorate of the Ministry of Internal Affairs and Administration.

4. Where the competent authorities of the State Sanitary Inspectorate do not provide the opinions referred to in Article 64 (1) (2), Article 70 (1) (2), Article 77 (1) (2) and Article 90 (2) (2), respectively, by the date referred to in Article 64 (4), Article 70 (3), Article 77 (6) and Article 90 (6), this shall be regarded as the absence of objections.

#### **Article 79**

1. Prior to the issue of a decision on the environmental conditions, the authority competent to issue the decision shall ensure the possibility of public participation in the procedure within the framework of which the environmental impact assessment for a project is carried out.

2. By way of a decision, the authority which conducts the procedure may exclude the application of the provisions of Parts III and VI in the case of projects carried out on closed sites, where the application of these provisions may adversely affect the purposes of the defence and security of the State.

#### **Article 80**

1. Where the environmental impact assessment has been carried out for a project, the competent authority shall issue a decision on the environmental conditions, taking into account:

- 1) the results of the approvals and opinions referred to in Article 77 (1);
- 2) the findings of the environmental impact report for the project;
- 3) the results of the public participation procedure;
- 4) the results of the procedure for the transboundary environmental impact, where it has been conducted.

2. The competent authority shall issue a decision on the environmental conditions after it has determined that the location of the project is consistent with the provisions of the local land-use plan, where this plan has been adopted. This shall not apply to a decision on the environmental conditions issued for a public road, for a railway line of national significance, for the projects related to Euro 2012 and for the projects requiring concessions for prospecting for and exploration of mineral deposits.

#### **Article 81**

1. Where the environmental impact assessment for a project indicates the desirability of the implementation of the project in an option other than the one proposed by the applicant, the authority competent to issue a decision on the environmental conditions shall, with the applicant's consent, indicate in its decision the option authorised for implementation or, in the absence of the applicant's consent, shall refuse to authorise the implementation of the project.

2. Where the environmental impact assessment for a project indicates that the project may have a significant adverse impact on a Natura 2000 site, the authority competent to issue a decision on the environmental conditions shall refuse to authorise

the implementation of the project, unless the premises referred to in Article 34 of the Nature Conservation Act of 16 April 2004 occur.

## Article 82

1. In a decision on the environmental conditions issued after the environmental impact assessment has been carried out for a project, the competent authority shall:

- 1) define:
  - a) the type and place of the implementation of the project,
  - b) the conditions for the use of the area at the stages of the implementation and operation or use of the project, with particular consideration given to the need to protect special natural values, natural resources and cultural heritage sites and to reduce the annoyances for the adjacent areas,
  - c) the requirements of environmental protection which must be taken into account in the documentation required for the issue of the decisions referred to in Article 72 (1) (1)-(13), in particular in the construction permit, in the case of the decisions referred to in Article 72 (1) (1) and (10),
  - d) the requirements to prevent the effects of industrial accidents, in the case of projects classified as plants which represent major-accident hazards within the meaning of the Environmental Protection Act of 27 April 2001,
  - e) the requirements to reduce the transboundary impact on the environment in the case of projects for which the procedure for the transboundary impact on the environment has been carried out;
- 2) where the environmental impact assessment for a project indicates the need to:
  - a) perform nature compensation – state the need to perform such compensation,
  - b) prevent, reduce and monitor the environmental impact of a project – impose the obligation to carry out these actions;
- 3) in the case referred to in Article 135 (1) of the Environmental Protection Act of 27 April 2001 – state the need to establish a restricted use area;
- 4) present his position on the need to carry out the environmental impact assessment for a project and the procedure for the transboundary impact on the environment within the framework of the procedure to issue the decisions referred to in Article 72 (1) (1) and (10);
- 5) may impose on the applicant the requirement to present a follow-up analysis, setting out its scope and the date of its presentation.

2. In the position referred to in paragraph 1 (4), the competent authority shall state the need to carry out the environmental impact assessment for a project within the framework of the procedure to issue the decisions referred to in Article 72 (1) (1) and (10), taking into account in particular the following factors:

- 1) the data on the project available at the stage of the issue of a decision on the environmental conditions do not allow for a sufficient assessment of its environmental impact ;
- 2) in the light of the type and characteristics of the project and its interactions with other projects, the impacts of projects situated in the area affected by the project may accumulate;



3) the project may have an impact on areas requiring special protection in the light of the occurrence of the species of flora and fauna or their habitats or natural habitats covered by protection, including Natura 2000 sites and the other forms of nature conservation.

3. A description of the characteristics of the project shall be an enclosure to a decision on the environmental conditions.

### **Article 83**

1. The follow-up analysis referred to in Article 82 (1) (5) shall compare the findings contained in the environmental impact report for a project and in the decision on the environmental conditions, in particular the findings concerning the envisaged nature and the scope of the environmental impact of the project and the proposed prevention measures, with the real environmental impact of the project and the measures taken to reduce it.

2. Where the follow-up analysis indicates the need to designate a restricted use area for the project, a copy of the land register map which has been certified by the competent authority, with the marked course of the boundaries of the site where it is necessary to designate a restricted use area, shall be enclosed with the analysis.

### **Article 84**

1. Where the environmental impact assessment has not been carried out for a project, in the decision on the environmental conditions the competent authority shall state that there is no need to carry out environmental impact assessment for the project.

2. A description of the characteristics of the project and the information sheet of the project shall be enclosures to the decision on the environmental conditions.

### **Article 85**

1. A decision on the environmental conditions shall require a justification.

2. Irrespective of the requirements under the Administrative Procedure Code, the justification of a decision on the environmental conditions shall contain:

- 1) in the case where the environmental impact assessment has been carried out for a project:
  - a) information on the conducted procedure requiring public participation and the manner in which the comments and suggestions submitted in relation to public participation have been considered and the extent to which they have been used,
  - b) information on the manner in which the following has been considered and the extent to which it has been used:
    - the findings of the environmental impact report for the project,
    - the approvals by the Regional Director for Environmental Protection and opinions of the authority referred to in Article 78,
    - the results of the procedure for the transboundary environmental impact, where it has been conducted,
  - c) the justification of the position referred to in Article 82 (1) (4);
- 2) where the environmental impact assessment for a project has not been carried out,

information on the factors referred to in Article 63 (1), taken into account when stating that there is no need to carry out the environmental impact assessment for the project.

3. The authority competent to issue a decision on the environmental conditions shall inform the public of the decision issued and the possibilities of becoming acquainted with its content and the documentation of the case, including the approval obtained from the Regional Director for Environmental Protection and the opinion of the authority referred to in Article 78.

#### **Article 86**

A decision on the environmental conditions shall be binding for the authority which issues the decisions referred to in Article 72 (1) (1)-(13).

#### **Article 87**

The provisions of this Part shall apply, respectively, in the case of a modification of a decision on the environmental conditions.

### **Chapter 4**

#### **The repeated conduct of the environmental impact assessment for a project**

#### **Article 88**

1. The environmental impact assessment for a project within the framework of the procedure to issue the decisions referred to in Article 72 (1) (1) and (10) shall also be conducted:

- 1) on the request of the entity which plans to undertake the project, submitted to the authority competent to issue the decision;
- 2) where the authority competent to issue the decision finds that changes have been made to the request for the issue of the decision in relation to the requirements set out in the decision on the environmental conditions.

2. In the case referred to in paragraph 1 (1), the entity which plans to undertake the project shall submit, along with the request for the conduct of the environmental impact assessment for the project, the environmental impact report for the project. The provisions of Articles 69 and 70 shall apply, respectively.

3. In the case referred to in paragraph 1 (2), the authority competent to issue the decision shall provide, by way of a decision, for the requirement to prepare the environmental impact report, defining, at the same time, the scope of the report; a complaint may be filed against this decision.

4. The authority shall issue a decision to suspend the procedure to adopt a decision until the environmental impact assessment for the project has been finished.

5. The environmental impact report for the project shall be submitted in three copies, along with their record in electronic form on information-technology information carriers.

## **Article 89**

1. Having obtained the environmental impact report for a project, the authority competent to issue the decisions referred to in Article 72 (1) (1) and (10) shall submit a request to the Regional Director for Environmental Protection for the approval of the conditions for the implementation of the project.

2. The authority which seeks the approval shall submit:

- 1) a request for the issue of the decision referred to in Article 72 (1) (1) and (10);
- 2) a decision on the environmental conditions;
- 3) the environmental impact report for the project.

## **Article 90**

1. After the environmental impact assessment for a project has been carried out, the Regional Director for Environmental Protection shall issue a decision to approve the conditions for the implementation of the project.

2. Prior to the issue of the decision referred to in paragraph 1, the Regional Director for Environmental Protection shall submit a request to:

- 1) the authority competent to issue the decisions referred to in Article 72 (1) (1) and (10) to ensure the possibility of public participation in the procedure under Articles 33-36 and 38;
- 2) the authority referred to in Article 78 to provide its opinion.

3. The authority competent to issue the decisions referred to in Article 72 (1) (1) and (10) shall forward to the Regional Director for Environmental Protection the comments and suggestions submitted by the public and the minutes of the administrative hearing open to the public, where it has been conducted.

4. The Regional Director for Environmental Protection shall consider the comments and suggestions referred to in paragraph 3.

5. In seeking the opinion referred to in paragraph 2 (2), the Regional Director for Environmental Protection shall submit the documents referred to in Article 89 (2).

6. The opinion referred to in paragraph 2 (2) shall be provided within 30 days of the date of receipt of the request for the provision of the opinion. The provisions of Article 35 (5) and Article 36 of the Administrative Procedure Code shall apply, respectively.

7. The Regional Director for Environmental Protection shall issue the decision referred to in paragraph 1 within 45 days of the date of receipt of the documents referred to in Article 89 (2). The provisions of Article 35 (5) and Article 36 of the Administrative Procedure Code shall apply, respectively.

8. The provisions of Article 106 (3), (5) and (6) of the Administrative Procedure Code shall not apply to the decision referred to in paragraph 1.

## **Article 91**

1. The decision referred to in Article 90 (1) shall require a justification.

2. Irrespective of the requirements under the Administrative Procedure Code, the justification of the decision shall contain:

- 1) information on the conducted procedure requiring public participation and the manner in which the comments and suggestions submitted in relation to public

- participation have been considered and the extent to which they have been used;
- 2) information on the manner in which the following has been considered and the extent to which it has been used:
    - a) the findings of the environmental impact report for the project,
    - b) the findings contained in the opinion referred to in Article 90 (2) (2),
    - c) the results of the procedure for the transboundary environmental impact, where it has been conducted.

### **Article 92**

The decision referred to in Article 90 (1) shall be binding for the authority competent to issue the decisions referred to in Article 72 (1) (1) and (10).

### **Article 93**

1. The competent authority shall issue the decisions referred to in Article 72 (1) (1) and (10), taking into account the conditions for the implementation of the project set out in:

- 1) the decision on the environmental conditions;
- 2) the decision referred to in Article 90 (1).

2. In the decisions referred to in Article 72 (1) (1) and (10), the competent authority may:

- 1) impose on the applicant the obligations to:
  - a) prevent the effects of industrial accidents, in the case of projects classified as plants which represent major-accident hazards within the meaning of the Environmental Protection Act of 27 April 2001,
  - b) reduce the transboundary impact on the environment in the case of projects for which the procedure for the transboundary impact on the environment has been carried out;
- 2) impose on the applicant the obligation to present a follow-up analysis, setting out its scope and the date of its presentation;
- 3) in the case referred to in Article 135 (1) of the Environmental Protection Act of 27 April 2001 – state the need to establish a restricted use area, where this need has not been identified in the decision of the environmental conditions;
- 4) modify the requirements referred to in Article 82 (1) (1) (c), where the need for such modification has been found in the environmental impact assessment for the project.

3. In the decisions referred to in Article 72 (1) (1) and (10), where the environmental impact assessment indicates the need to:

- 1) carry out nature compensation - the competent authority shall state the need to carry out such compensation;
- 2) prevent, reduce and monitor the environmental impact of the project – the competent authority shall impose the obligation to carry out these measures.

4. Where the environmental impact assessment for a project indicates that the project may have a significant adverse impact on a Natura 2000 site, the authority competent to issue the decisions referred to in Article 72 (1) (1) and (10) shall refuse to authorise the implementation of the project, unless the premises referred to in Article 34 of the Nature Conservation Act of 16 April 2004 occur.

## **Article 94**

1. The follow-up analysis referred to in Article 93 (2) (2) shall compare the findings contained in the environmental impact report for a project and in the decisions referred to in Article 72 (1) (1) and (10), in particular the findings concerning the envisaged nature and the scope of the environmental impact of the project and the proposed prevention measures, with the real environmental impact of the project and the measures taken to reduce it.

2. Where the follow-up analysis indicates the need to establish a restricted use area for the project, a copy of the land register map which has been certified by the competent authority, with the marked course of the boundaries of the site where it is necessary to establish a restricted use area, shall be enclosed with the analysis.

## **Article 95**

1. The decisions referred to in Article 72 (1) (1) and (10) shall require a justification.

2. The justification of the decisions shall also contain the information on the manner in which the conditions for the implementation of the project as defined in:

- 1) decisions on the environmental conditions; and
- 2) the decision referred to in Article 90 (1)

have been considered and applied

3. The authority competent to issue the decision shall inform the public of the decision issued and the possibilities of becoming acquainted with the documentation of the case, including the approval obtained from the Regional Director for Environmental Protection and the opinion of the authority referred to in Article 78.

## **Chapter 5**

### **The assessment of the impact of a project on a Natura 2000 site**

## **Article 96**

1. The authority competent to issue the decision required prior to the launch of a project other than a project likely to have a significant impact on the environment which is not directly related to the protection of a Natura 2000 site or does not result from such protection shall be obliged to consider, prior to the issue of this decision, whether the project may possibly have a significant impact on a Natura 2000 site.

2. The decisions referred to in paragraph 1 shall include in particular:

- 1) the decisions referred to in Article 72 (1) (1)-(13);
- 2) a concession other than the one referred to in Article 72 (1) (4) – issued pursuant to the Geological and Mining Act of 4 February 1994;
- 3) a water-law permit other than the one referred to in Article 72 (1) (6) – issued pursuant to the Water Act of 18 July 2001;
- 4) a permit to remove trees and shrubs – issued pursuant to the Nature Conservation Act of 16 April 2004;
- 5) a permit to build and use artificial islands, structures and facilities in Polish sea areas – issued pursuant to the Act of 21 March of 1991 on the Marine Areas of the

Republic of Poland and on the Maritime Administration (Official Journal of the Laws of 2003, No 153, Item 1502, as amended <sup>23)</sup>).

3. Where the authority referred to in paragraph 1 recognises that a project other than a project likely to have a significant impact on the environment which is not directly related to the protection of a Natura 2000 site or does not result from such protection may potentially have a significant impact on a Natura 2000 site, it shall issue a decision to impose the obligation to submit the following to the Regional Director for Environmental Protection who is competent in terms of jurisdiction:

- 1) a request for the issue of the decision referred to in paragraph 1;
- 2) the information sheet of the project;
- 3) a copy of the land register map certified by the competent authority, covering the envisaged area where the project is to be implemented and covering the site to be affected by the impact of the project;
- 4) in the case of projects requiring the decisions referred to in Article 72 (1), subparagraphs 4 or 5, carried out within the boundaries of the space which is not part of a land real estate, instead of the copy of the map referred to in point 3, a situation and altitude map prepared at a scale allowing for the detailed presentation of the course of the boundaries of the area to which the request applies and covering the site to be affected by the impact of the project;
- 5) an excerpt and a drawing from the local land-use plan, where this plan has been adopted, or information on its absence; this shall not apply to a public road, a railway line of national significance, the projects related to Euro 2012 and the projects requiring concessions for prospecting for and exploration of mineral deposits and open storage of substances in the ground.

### **Article 97**

1. Having received the documents referred to in Article 96 (3), taking into account all the factors referred to in Article 63 (1) with respect to the impact of a project on a Natura 2000 site, in particular the integrity and consistency of these sites and taking into account the accumulation of the impact of the project with those of other projects, the Regional Director for Environmental Protection shall lay down, by way of a decision, the obligation to carry out the assessment of the impact of the project on a Natura 2000 site.

2. The decision referred to in paragraph 1 shall be issued where it is found that a project may have a significant impact on a Natura 2000.

3. In the decision referred to in paragraph 1, the Regional Director for Environmental Protection shall impose the requirement for the submission, in two copies, along with their record in electronic form on information-technology data carriers, of the report on the impact of the project on a Natura 2000 site and define the scope of this report. In this case, the provisions of Article 68 shall apply.

4. The scope of the report on the impact of the project on a Natura 2000 site shall be limited to the determination of the impact of the project on the Natura 2000 site.

5. Where it is found that the project will not have significant impact on a Natura 2000 site, the Regional Director for Environmental Protection shall provide, by way of a decision, that there is no need to carry out the assessment of impact of the project on a Natura 2000 site.

6. The decisions referred to in paragraphs 1 and 5 shall be issued within 14 days of

the date of receipt of the documents referred to in Article 96 (3). The provisions of Article 35 (5) and Article 36 of the Administrative Procedure Code shall apply, respectively.

7. A complaint may be filed against the decision referred to in paragraph 1.

8. Irrespective of the requirements under the Administrative Procedure Code, the justification of the decision referred to in paragraph 1 shall contain information on the factors referred to in Article 63 (1).

9. The provisions of Article 106 (3), (5) and (6) of the Administrative Procedure Code shall not apply to the decision referred to in paragraph 5.

### **Article 98**

1. After the assessment of the impact of a project on a Natura 2000 site has been carried out, the Regional Director for Environmental Protection shall issue a decision to approve the conditions for the implementation of the project in the scope of the impact of the project on the Natura 2000 site.

2. The Regional Director for Environmental Protection shall approve the conditions for the implementation of the project where:

- 1) the assessment of the impact of the project on the Natura 2000 site indicates that the project will not have a significant adverse impact on this site;
- 2) the assessment of the impact of the project on the Natura 2000 site indicates that the project may have a significant adverse impact on this site and, at the same time, the premises referred to in Article 34 of the Nature Conservation Act of 16 April 2004 occur.

3. Where the assessment of the impact of the project on the Natura 2000 site indicates that the project may have a significant adverse impact on this site and where the premises referred to in Article 34 of the Nature Conservation Act of 16 April 2004 do not occur, the Regional Director for Environmental Protection shall refuse to approve the conditions for the implementation of the project.

4. Prior to the issue of the decision referred to in paragraph 1, the Regional Director for Environmental Protection shall submit a request to the authority referred to in Article 96 (1) to ensure the possibility of public participation in the procedure under Articles 33-36 and 38, forwarding the report on the impact of the project on the Natura 2000 site to this authority.

5. The authority referred to in Article 96 (1) shall forward the comments and suggestions submitted by the public and the minutes of the administrative hearing open to the public, where it has been conducted, to the Regional Director for Environmental Protection.

6. The Regional Director for Environmental Protection shall consider the comments and suggestions referred to in paragraph 5.

7. The Regional Director for Environmental Protection shall issue the decision referred to in paragraph 1 within 45 days of the date of the report on the impact of the project on the Natura 2000 site. The provisions of Article 35 (5) and Article 36 of the Administrative Procedure Code shall apply, respectively.

8. The provisions of Article 106 (3), (5) and (6) of the Administrative Procedure Code shall not apply to the decision referred to in paragraph 1.

## **Article 99**

1. The decision referred to in Article 98 (1) shall require a justification.
2. Irrespective of the requirements under the Administrative Procedure Code, the justification of the decision shall contain:
  - 1) information on the conducted procedure requiring public participation and the manner in which the comments and suggestions submitted in relation to public participation have been considered and the extent to which they have been used;
  - 2) information on the manner in which the findings contained in the report on the impact of the project on the Natura 2000 site have been considered and the extent to which they have been used.

## **Article 100**

The decision referred to in Article 98 (1) shall be binding for the authority competent to issue the decisions referred to in Article 96 (1).

## **Article 101**

1. The competent authority shall issue the decision referred to in Article 96 (1), taking into account the conditions for the implementation of the project set out in the decision referred to in Article 98 (1).

2. In the decision referred to in Article 96 (1), the competent authority may:

- 1) impose on the applicant the obligation to reduce the transboundary impact on the environment in the case of projects for which the procedure for the transboundary impact on the environment has been carried out;
- 2) in the case of the decision referred to in Article 72 (1) (1) - impose on the applicant the obligation to present a follow-up analysis, setting out its scope and the date of its presentation.

3. In the decision referred to in Article 96 (1), where the assessment of the impact of the project on a Natura 2000 site indicates the need to:

- 1) carry out nature compensation - the competent authority shall state the need to carry out such compensation;
- 2) prevent, reduce and monitor the environmental impact of the project – the competent authority shall impose the obligation to carry out these measures.

4. Where the environmental impact assessment for the project indicates that the project may have a significant adverse impact on a Natura 2000 site, the authority competent to issue the decision referred to in Article 96 (1) shall refuse to authorise the implementation of the project, unless the premises referred to in Article 34 of the Nature Conservation Act of 16 April 2004 occur.

## **Article 102**

The follow-up analysis referred to in Article 101 (2) (2) shall compare the findings contained in the environmental impact report for the project and in the decision referred to in Article 72 (1) (1), in particular the findings concerning the envisaged nature and the scope of the impact of the project on a Natura 2000 site and the proposed prevention measures, with the real impact of the project on the Natura 2000 site and the measures



taken to reduce it.

### **Article 103**

1. The decision referred to in Article 96 (1) shall require a justification.
2. The justification of the decision shall also contain the information on the manner of in which the conditions for the implementation of the project as defined in the decision referred to in Article 98 (1) have been considered and applied.

## **PART VI**

### **The procedure for the transboundary impact on the environment**

#### **Chapter 1**

#### **General provisions**

### **Article 104**

1. Where it is found that a significant transboundary impact on the environment may originate in the territory of the Republic of Poland, as a result of:

- 1) the implementation of proposed projects covered by:
  - a) a decision on the environmental conditions,
  - b) the decisions referred to in Article 72 (1) (1) and (10), where the environmental impact assessment has not been carried out for a project within the procedure to issue a decision on the environmental conditions,
- 2) the implementation of the draft policies, strategies, plans or programmes referred to in Articles 46 or 47

- the procedure for the transboundary impact on the environment shall be carried out.

2. The procedure for the transboundary impact on the environment shall also be carried out on the request of another Member State of the European Union, whose territory may be affected by a project or the implementation of the draft document referred to in Articles 46 or 47.

### **Article 105**

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

### **Article 106**

1. The provisions of this Part shall apply, respectively, in the case where the decisions referred to in Article 104 (1) (1) are annulled, modified or found to be invalid.

2. The provisions of this Part shall apply, respectively, in the case where the already adopted documents referred to in Article 104 (1) (2) are modified.

3. In the case of the procedure for the transboundary impact on the environment

conducted with the participation of States which are not the Member States of the European Union, the provisions of this Part shall apply inasmuch as this is provided for by an international agreement and inasmuch as the agreement does not provide otherwise.

### **Article 107**

The provisions of Articles 16-20 shall apply to the procedure for the transboundary impact on the environment.

### **Chapter**

### **The procedure for the transboundary impact on the environment which originates in the territory of the Republic of Poland in the case of projects**

### **Article 108**

1. Where it finds that that a significant transboundary impact on the environment may arise as a result of the implementation of a proposed project, the administration authority competent to issue the decisions referred to in Article 104 (1) (1), which carries out the environmental impact assessment for the project, shall:

- 1) issue a decision to conduct the procedure for the transboundary impact on the environment, setting out the scope of the documentation indispensable for this procedure to be carried out and imposing on the applicant the obligation to prepare such documentation, in the language of the country in whose territory the project may have its impact;
- 2) immediately inform the General Director for Environmental Protection that the proposed project may have a transboundary impact on the environment and forward the information sheet of the project to him;
- 3) submit to the General Director for Environmental Protection:
  - a) a request for the issue of the decision referred to in Article 104 (1) (1),
  - b) the decision referred to in Article 63 (1), where it has been issued, along with the opinions referred to in Article 64 (1),
  - c) the environmental impact report for the project.

2. The decision referred to in paragraph 1 (1) shall be issued within 14 days of the date of receipt of the request for the issue of the decision referred to in Article 104 (1) (1).

3. A complaint may be filed against the decision referred to in paragraph 1 (1).

4. The documentation referred to in paragraph 1 (1) shall mean:

- 1) the information sheet of the project;
- 2) the request for the issue of the decision referred to in Article 104 (1) (1);
- 3) the decision referred to in Article 63 (1), where it has been issued, along with the opinions referred to in Article 64 (1);
- 4) the part of the environmental impact report for the project which enables the State whose territory may be affected by the project to assess the possible significant transboundary impact on the environment.

## **Article 109**

1. Having acquired information that a proposed project may have a transboundary impact on the environment, the General Director for Environmental Protection shall immediately inform thereof the State whose territory may be affected by the project, informing it of the decision which is to be issued for this project and of the authority competent to issue it and enclosing the information sheet of the project.

2. In his notification of the possible transboundary impact on the environment, the General Director for Environmental Protection shall propose a date for the State referred to in paragraph 1 to reply whether it is interested in participation in the procedure for the transboundary impact on the environment.

3. Where the state referred to in paragraph 1 it is interested in participating in the procedure for the transboundary impact on the environment, the General Director for Environmental Protection shall:

- 1) in agreement with the administration authority which conducts the environmental impact assessment procedure, agree with this State the dates of the stages of the procedure, taking into account the need to enable the competent authorities and the public of this State to participate in the procedure;
- 2) forward to this State:
  - a) a request for the issue of the decision referred to in Article 104 (1) (1),
  - b) the decision referred to in Article 63 (1), where it has been issued, along with the opinions referred to in Article 64 (1),
  - c) the environmental impact report for the project.

## **Article 110**

1. Via the General Director for Environmental Protection, the administration authority which carries out the environmental impact assessment for a project shall hold consultations with the State in whose territory the project may have its impact. The consultations shall concern the measures to eliminate or reduce the transboundary impact on the environment.

2. Where he deems it purposeful in the light of the importance or intricacy of the case, the General Director for Environmental Protection may take over the conduct of the consultations referred to in paragraph 1.

3. The General Director for Environmental Protection shall participate in the consultations referred to in paragraph 1, whereas the administration authority which carries out the environmental impact assessment shall participate in the consultations referred to in paragraph 2.

## **Article 111**

1. The comments and suggestions concerning the information sheet of the project submitted by the State participating in the procedure for the transboundary impact on the environment shall be considered in issuing the decisions referred to in Article 63 (1) and Article 69 (3).

2. The comments and suggestions submitted by the State participating in the procedure for the transboundary impact on the environment, including the results of the

consultations referred to in Article 110, shall be considered and used in issuing the decisions.

3. The decisions referred to in Article 104 (1) (1) shall not be issued before the conclusion of the procedure for the transboundary impact on the environment.

### **Article 112**

The General Director for Environmental Protection shall forward without undue delay the decision referred to in Article 104 (1) (1) to the State which participates in the procedure for the transboundary impact on the environment.

## **Chapter 3**

### **The procedure for the transboundary impact on the environment which originates in the territory of the Republic of Poland in the case of draft policies, strategies, plans and programmes**

### **Article 113**

1. Where it finds that that a significant transboundary impact on the environment may arise as a result of the implementation of the document referred to in Articles 46 or 47, the administration authority which prepares the draft of this document shall immediately inform the General Director for Environmental Protection that the effects of the implementation of this document may have a transboundary impact on the environment and forward the draft document to him, along with the environmental impact prognosis.

2. The draft document and the environmental impact prognosis, in the part which will enable the State whose territory may be affected by the implementation of the project to assess the possible significant transboundary impact on the environment, shall be prepared in the language of that State.

3. Having acquired information that the draft document referred to in Articles 46 or 47 may have a transboundary impact on the environment, the General Director for Environmental Protection shall immediately inform thereof the State whose territory may be affected by the implementation of the draft document, enclosing this draft document with this notification, along with the environmental impact prognosis.

4. In his notification of the possible transboundary impact on the environment, the General Director for Environmental Protection shall propose a date for the State referred to in paragraph 3 to reply whether it is interested in participation in the procedure for the transboundary impact on the environment.

### **Article 114**

Where the state referred to in Article 113 (3) notifies that it is interested in participating in the procedure for the transboundary impact on the environment, the General Director for Environmental Protection shall, in agreement with the administration authority which conducts the strategic environmental assessment, agree with this State

the dates of the stages of the procedure for the transboundary impact on the environment, taking into account the need to enable the competent authorities and the public of this State to participate in the procedure.

#### **Article 115**

1. Via the General Director for Environmental Protection, the administration authority which carries out the strategic environmental assessment shall hold consultations with the State in whose territory the implementation of the draft document referred to in Article 46 or 47 may have its impact. The consultations shall concern the measures to eliminate or reduce the transboundary impact on the environment.

2. Where he deems it purposeful in the light of the importance or intricacy of the case, the General Director for Environmental Protection may take over the conduct of the consultations referred to in paragraph 1.

3. The General Director for Environmental Protection shall participate in the consultations referred to in paragraph 1, whereas the administration authority which carries out the strategic environmental assessment shall participate in the consultations referred to in paragraph 2.

#### **Article 116**

1. The results of the consultations referred to in Article 115 shall be considered prior to the adoption of the document referred to in Articles 46 or 47.

2. The document referred to in Articles 46 or 47 shall not be issued before the conclusion of the procedure for the transboundary impact on the environment.

#### **Article 117**

The General Director for Environmental Protection shall forward the document referred to in Articles 46 or 47, along with the summary referred to in Article 55 (3), to the State which participates in the procedure for the transboundary impact on the environment.

### **Chapter 4**

#### **The procedure in the case of an impact which originates abroad**

#### **Article 118**

Having received documents containing information on:

- 1) a project undertaken outside the territory of the Republic of Poland the implementation whereof may have an environmental impact in its territory,
  - 2) a draft document prepared outside the territory of the Republic of Poland the effects of the implementation whereof may have an environmental impact in its territory,
- the General Director for Environmental Protection shall immediately forward it to the

Regional Director for Environmental Protection who is competent in respect of the area which may be affected by the possible transboundary impact on the environment.

#### **Article 119**

1. Having found that it is justified to launch the procedure for the transboundary impact on the environment, the Regional Director for Environmental Protection shall make available for review in the Polish language the documents referred to in Article 118, in the scope necessary to analyse the project or the environmental effects of the implementation of the document. The provisions of Part III, Chapters 2 and 3, shall apply respectively.

2. The Regional Director for Environmental Protection shall prepare the draft position on the project or the draft document the implementation whereof may have its impact on the environment in the territory of the Republic of Poland and submit it to the General Director for Environmental Protection.

3. The General Director for Environmental Protection shall notify the State which undertakes the project or prepares the draft document the implementation whereof may have its impact on the environment in the territory of the Republic of Poland of the position on the project or the draft document, respectively.

#### **Article 120**

1. Having obtained from the State which undertakes the project or prepares the draft document the implementation whereof may have its impact on the environment in the territory of the Republic of Poland the decision concerning this project or the already adopted document, the General Director for Environmental Protection shall immediately notify thereof the Regional Director for Environmental Protection who is competent in respect of the area which may be affected by the possible transboundary impact on the environment.

2. The Regional Director for Environmental Protection shall provide the public with information on, respectively, the decision or the document referred to in paragraph 1 and on the possibilities of becoming acquainted with their contents.

### **PART VII**

#### **The General Director for Environmental Protection and the Regional Directors for Environmental Protection**

##### **Chapter 1**

##### **General provisions**

#### **Article 121**

1. The General Director for Environmental Protection shall be a central government

administration authority established to carry out the tasks referred to in Article 127 (1).

2. The General Director for Environmental Protection shall be subordinated to the Minister responsible for the environment.

#### **Article 122**

1. The General Director for Environmental Protection shall carry out his tasks with the assistance of the General Directorate for Environmental Protection which shall be a State budget-supported body.

2. The organisation of the General Directorate for Environmental Protection shall be laid down by the statute conferred by way of a Regulation by the Prime Minister on request from the Minister responsible for the environment.

3. In conferring the statute, the scope of the activities of the General Directorate for Environmental Protection shall be taken into account.

#### **Article 123**

1. The Regional Director for Environmental Protection shall be a non-integrated government administration authority competent to carry out the tasks referred to in Article 131 (1) in the area of the Voivodship.

2. In the cases laid down in the Act, the Regional Director for Environmental Protection shall issue acts of local law in the form of Regulations.

#### **Article 124**

1. The Regional Director for Environmental Protection shall carry out his tasks with the assistance of the Regional Directorate for Environmental Protection, which shall be a State budget-supported body, and in cooperation with the directors of landscape parks or complexes of landscape parks.

2. The Regional Director for Environmental Protection shall carry out his tasks in the scope of nature conservation with the assistance of the Voivodship Nature Conservator who shall be the Deputy of the Regional Director for Environmental Protection.

3. The organisation of the Regional Directorate for Environmental Protection shall be laid down by the statute conferred by way of a Regulation by the Minister responsible for the environment on request from the General Director for Environmental Protection.

4. In conferring the statute, the scope of the activities of the Regional Directorate for Environmental Protection shall be taken into account.

#### **Article 125**

1. Where it is necessary in the light of the special needs of the General Directorate for Environmental Protection or the Regional Directorates for Environmental Protection, respectively, members of the corps of the civil service employed in them may be transferred between these offices, keeping the right to the previous remuneration, where the remuneration at the new work position is lower than the remuneration they had the right thereto previously.

2. A civil servant may be transferred to another locality in the case referred to in paragraph 1 for a period no longer than 2 years. Such transfer may take place at most twice in the course of the duration of the work contract of the civil servant.

3. A civil servant may be transferred in the case referred to in paragraph 1 for a period no longer than 3 months, with the possibility of extending this period once by 3 months as a maximum. Such transfer may take place at most twice in the course of the duration of the work contract of the civil servant.

4. The transfer referred to in paragraph 1 shall not be allowed without the consent of the member of the corps of the civil service who is a pregnant woman or a person who is the sole custodian of a child aged up to 15 and in the case where this is impeded by important personal or family reasons related to the member of the corps of the civil service.

5. The transfer referred to in paragraph 1 shall be made by:

- 1) the Chief of the Chancellery of the Prime Minister on request from the General Director for Environmental Protection – with respect to a civil servant;
- 2) the employer who is to employ the civil servant, in agreement with the employer who has employed the civil servant to date.

6. When transferred to another office in another locality, a member of the corps of the civil service shall have the right to an apartment provided by the office to which the member of the corps of the civil service has been transferred or an allowance to cover the hire cost of a dwelling to be paid out in the transfer period, where:

- 1) the member of the corps of the civil service shall or his/her spouse have no apartment or residential house in the locality to which he/she is transferred;
- 2) the employee is transferred to a locality at a large distance from the previous place of residence of the employee.

7. When transferred to another office in another locality, a member of the corps of the civil service shall also have the right to:

- 1) a single allowance transfer:
  - a) for a period no longer than a month - at the level of a monthly remuneration,
  - b) for a period longer than a month - at the level of a remuneration for three months;
- 2) the reimbursement of the costs of the travel of the member of the corps of the civil service and the members of his/her family related to the transfer and also the reimbursement of the costs of the transport of their property;
- 3) a leave related to the transfer for a total period of 3 days.

8. In agreement with the Minister responsible for labour, the Minister responsible for the environment shall lay down, by way of a Regulation:

- 1) the distance between the previous place of residence of the member of the corps of the civil service and the locality to which he/she is transferred that is the condition for the provision of an apartment or the reimbursement of the hire costs of a dwelling, set out taking into account the commuting-related travel opportunities;
- 2) the surface area of the apartment provided to a member of the corps of the civil service or the manner of calculating the maximum level of the hire costs of a dwelling, taking into account the family situation of the member of the corps of the civil or considering the average hire costs of apartments in the locality to which he/she is transferred and the requirement for the reasonable management of budget resources;
- 3) the maximum level of the reimbursement of the costs of travel and property transport



related to the transfer and the manner of calculating the benefits referred to in paragraph 7 (1) and (2), taking into account the need to compensate for the costs of the transfer to another locality;

- 4) the manner of the award and payment of the benefits referred to in paragraphs 6 and 7, with a view to ensuring the efficient course of the award and payment of these benefits.

## **Chapter 2**

### **The General Director for Environmental Protection**

#### **Article 126**

1. The General Director for Environmental Protection shall be appointed by the Prime Minister from among persons who are members of the State personnel resource, on request from the Minister responsible for the environment. The Prime Minister shall recall the General Director for Environmental Protection.

2. On request from the General Director for Environmental Protection, the Minister responsible for the environment shall appoint the Deputies of the General Director for Environmental Protection from among persons who are members of the State personnel resource. The Minister responsible for the environment shall recall the Deputies of the General Director for Environmental Protection.

#### **Article 127**

1. The tasks of the General Director for Environmental Protection shall include:

- 1) the participation in the implementation of the policy on environmental protection in the scope of nature conservation and the control of the investment process;
- 2) the control of the liability for the prevention and remedying of damage to the environment;
- 3) the collection of data and the preparation of information on the Natura 2000 network and other protected areas as well as on environmental impact assessments;
- 4) the cooperation with the competent environmental authorities of other States, international organisations and the European Commission;
- 5) the cooperation with the Chief Nature Conservator and the State Nature Conservation Council in the matters of nature conservation;
- 6) the cooperation with the authorities of territorial self-government units in the matters of environmental impact assessments and nature conservation;
- 7) the participation in strategic environmental assessments;
- 8) the participation in the procedures for the transboundary impact on the environment;
- 9) the performance of the tasks related to the Natura 2000 referred to in the Nature Conservation Act of 16 April 2004;
- 10) the performance of tasks related to the participation of the organisation in the eco-management and audit scheme (EMAS) on the principles and in the scope set out by the Act of 12 March 2004 on the National Eco-Management and Audit Scheme (EMAS);
- 11) the cooperation with non-governmental organisations.

2. The General Director for Environmental Protection may request the State Nature Conservation Council to provide its opinion in the scope of the matters of nature conservation within its competence.

3. The General Director for Environmental Protection shall play the functions of a higher-order authority within the meaning of the Administrative Procedure Code with respect to the Regional Directors for Environmental Protection.

### **Article 128**

The General Director for Environmental Protection shall manage a database on environmental impact assessments and strategic environmental assessments, including data on the documentation prepared within the framework of these procedures.

### **Article 129**

1. The authorities competent to carry out the environmental impact assessment for a project and a strategic environmental assessment shall be obliged to submit every year to the General Director for Environmental Protection, by the end of March, information on the environmental impact assessments conducted and the strategic environmental assessments which is necessary to manage the database referred to in Article 128, including data on the documentation prepared within the framework of these assessments, for the previous year.

2. The Minister responsible for the environment shall lay down, by way of a Regulation, the scope of the information referred to in paragraph 1, with a view to meeting the need to monitor environmental impact assessments and strategic environmental assessments.

## **Chapter 3**

### **The Regional Directors for Environmental Protection**

### **Article 130**

1. The General Director for Environmental Protection shall appoint the Regional Directors for Environmental Protection from among persons who have graduated from university-level studies at a faculty providing qualifications for carrying out the tasks set out in the Act and have held for at least 5 years a managerial position in the scope of environmental protection. The General Director for Environmental Protection shall recall the Regional Directors for Environmental Protection.

2. On request from the Regional Director for Environmental Protection, the General Director for Environmental Protection shall appoint the Deputies of the Regional Director for Environmental Protection from among persons who have graduated from university-level studies at a faculty providing qualifications for carrying out the tasks set out in the Act and have held for at least 5 years a managerial or independent position in the scope of environmental protection. The General Director for Environmental Protection shall

recall the Deputies of the Regional Director for Environmental Protection.

3. The Regional Nature Conservator shall be a graduate from university-level studies at one of the following faculties:

- 1) biology;
- 2) geography;
- 3) geology;
- 4) forestry;
- 5) environmental protection;
- 6) agriculture;
- 7) landscape architecture;
- 8) animal husbandry;
- 9) horticulture.

### **Article 131**

1. The tasks of the Regional Director for Environmental Protection shall include:

- 1) the participation in strategic environmental assessments;
- 2) the conduct of environmental impact assessments or the participation in these assessments;
- 3) the creation and liquidation of forms of nature conservation pursuant to the Nature Conservation Act of 16 April 2004;
- 4) the protection and management of Natura 2000 sites and other forms of nature conservation, on the principles and in the scope set out by the Nature Conservation Act of 16 April 2004;
- 5) the issue of decisions pursuant to the Nature Conservation Act of 16 April 2004;
- 6) the conduct of procedures and the performance of other tasks referred to in the Act of 13 April 2007 on the Prevention and Remedying of Damage to the Environment;
- 7) the provision of data to the database referred to in Article 128;
- 8) the performance of tasks related to the participation of the organisation in the eco-management and audit scheme (EMAS) on the principles and in the scope set out by the Act of 12 March 2004 on the National Eco-Management and Audit Scheme (EMAS);
- 9) the cooperation with the authorities of territorial self-government units in the matters of environmental impact assessments and nature conservation;
- 10) the cooperation with non-governmental organisations.

2. The Regional Director for Environmental Protection may request the Regional Nature Conservation Council to provide its opinion in the scope of the matters of nature conservation within its competence.

## **Chapter 4**

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

## **Article 132**

1. The National Environmental Impact Assessment Commission, hereinafter referred to as the “National Commission”, shall be a body to provide opinion and advice to the General Director for Environmental Protection in the scope of environmental impact assessments.

2. The Chairman of the National Commission, the Deputies of the Chairman, Secretary and members of the National Commission, with their number varying between 40 and 60, shall be appointed and recalled by the General Director for Environmental Protection from among representatives of science, practice and environmental organisations.

3. The tasks of the National Commission shall include in particular:

- 1) the provision of its opinion in the matters submitted by the General Director for Environmental Protection in relation to his powers under the Act;
- 2) the monitoring of the functioning of the system of environmental impact assessments and the presentation of its opinions and suggestions, including those relating to the development of methodology and training programmes in the scope of environmental impact assessments;
- 3) the provision of its opinions on draft legal acts relating to the system of environmental impact assessments;
- 4) the co-operation with the Regional Environmental Impact Assessment Commissions.

4. On request from the Regional Director for Environmental Protection, the General Director for Environmental Protection may request the National Commission to provide its opinion in the matters within the competence of the Regional Director for Environmental Protection.

## **Article 133**

1. The Regional Environmental Impact Assessment Commissions, hereinafter referred to as the “Regional Commissions”, shall be bodies to provide opinion and advice to the Regional Directors for Environmental Protection in the scope of environmental impact assessments.

2. The Chairman of the Regional Commission, the Deputy of the Chairman, the Secretary and members of the Commission, with their number varying between 20 and 40, shall be appointed and recalled by the Regional Director for Environmental Protection from among representatives of science, practice and environmental organisations.

3. The tasks of the Regional Commissions shall include, in particular:

- 1) the provision of its opinion in the matters submitted by the Regional Director for Environmental Protection in relation to his powers under the Act;
- 2) the presentation of its opinions and suggestions relating to the development of training programmes in the scope of environmental impact assessments;
- 3) the co-operation with the National Commission and other Regional Commissions.

4. On request from the head of the county administration, the Regional Director for Environmental Protection may request the Regional Commission to provide its opinion in the matters within the competence of the head of the county administration in the scope of environmental impact assessments.

#### **Article 134**

1. The expenses related to the activities of the National Commission and the Regional Commissions shall be covered from the part of the State budget which is managed by the Minister responsible for the environment.

2. The General Director for Environmental Protection or the Regional Directors for Environmental Protection, respectively, shall ensure office services for the National Commission and the Regional Commissions.

#### **Article 135**

The members of the National Commission and the Regional Commissions and the experts invited to their sessions who do not reside in the locality where the sessions are held and take part in a session shall be entitled to per diem allowances and the reimbursement of the costs of travel and accommodation on the principles set out in the regulations on the levels of the allowances due to staff in relation to domestic duty trips and the principles of establishing their amounts.

#### **Article 136**

The Minister responsible for the environment shall lay down, by way of a Regulation:

- 1) the detailed manner of the functioning of the National Commission and the Regional Commissions,
  - 2) the organisation of the Commissions,
  - 3) the rules of procedure of the Commissions
- with a view to ensuring the correct fulfilment of their statutory tasks by these Commissions.

### **PART VIII**

#### **Amendments to the existing provisions, transitional and final provisions**

##### **Chapter 1**

#### **Amendments to the existing provisions**

#### **Article 137**

In the Act of 20 July 1991 on the Inspectorate for Environmental Protection (Official Journal of the Laws of 2007, No 44, Item 287, as amended <sup>24)</sup>), Article 19 shall become:

"Article 19 In the procedure to lay down the conditions for the development and use of land concerning a project which may have a significant impact on the environment as referred to in the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments (Official Journal of the Laws, No 199, Item 1227) and to set out the location of motorways and expressways, the Voivodship Inspector

for Environmental Protection shall have the rights of a party to the administrative proceedings and the proceedings before the administrative court where he requests to participate in the proceedings."

### **Article 138**

In the Forest Act of 28 September 1991 (Official Journal of the Laws of 2005, No 45, Item 435, as amended <sup>25)</sup>), Article 5a shall become:

"Article 5a The General Director for Environmental Protection may entrust the Director of the Regional Directorate of State Forests with the performance of tasks beyond the area of his activity which are related to the implementation of a plan of protective tasks or a nature conservation plan for a Natura 2000 site."

### **Article 139**

In the Geological and Mining Act of 4 February 1994 (Official Journal of the Laws of 2005, No 228, Item 1947, as amended <sup>26)</sup>), in Article 103 (3) (1), letter g) shall become:

"g) the hydrogeological conditions in relation to the design of investment projects which may pollute groundwater – for investment projects classified as projects likely to have a significant impact on the environment for which it is obligatory to carry out the environmental impact assessment for a project under the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments (Official Journal of the Laws, No 199, Item 1227);".

### **Article 140**

In the Construction Act of 7 July 1994 (Official Journal of 2006, No 156, Item 1118, as amended <sup>27)</sup>), the following amendments shall be made:

1) in Article 20 (1), paragraph 1 shall become:

"1) the preparation of a construction design in a manner consistent with the provisions of a decision on the conditions for land development and use, the decision on environmental conditions referred to in Article 71 (1) of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments (Official Journal of the Laws, No 199, Item 1227) or the permit referred to in Articles 23 and 23a of the Act of 21 March of 1991 on the Marine Areas of the Republic of Poland and on the Maritime Administration (Official Journal of the Laws of 2003, No 153, Item 1502, as amended <sup>28)</sup>), the requirements of the Act, regulations and the principles of technical knowledge;"

2) in Article 28, paragraph 4 shall be added:

"4. The provisions of paragraphs 2 and 3 shall not apply in the procedure concerning the construction permit which requires public participation in accordance with the provisions of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments. In this case,

- the provisions of Article 44 of the Act referred to in the first sentence shall apply.";
- 3) in Article 29:
- a) in paragraph 1, subparagraph 12 shall become:
- "12) temporary built structures which are not fixed permanently to the ground and destined for demolition or transfer to another place at a date laid down in the notification referred to in Article 30 (1), but no later than 120 days after the date of the launch of the construction defined in the notification;"
- b) paragraph 3 shall be added:
- "3. A construction permit shall be required for projects likely to have a significant impact on the environment as well as projects likely to have a significant adverse impact on a Natura 2000 site which are not directly related to the protection of this site or do not result from such protection, within the meaning of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments.";
- 4) in w art. 30:
- a) in paragraph 1:
- the introduction to the enumeration shall become:
- "The following shall be notified to the competent authority, subject to Article 29 (3):"
- in subparagraph 3, letter c) shall be repealed,
- b) paragraph 5a shall be repealed;
- 5) in Article 32:
- a) in paragraph 1, subparagraph 1 shall become:
- "1) the conduct of the environmental impact assessment for a project or the assessment of the environmental impact of a project on a Natura 2000 site, where it is required by the provisions of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments;"
- b) paragraph 3 shall become:
- "3. The provision of paragraph 2 shall not apply to the cases where the position shall be expressed by way of a decision, the grant of approval and the provision of opinion within the environmental impact assessment for a project or the assessment of the environmental impact of a project on a Natura 2000 site.";
- 6) in Article 33:
- a) in paragraph 2, subparagraph 1 shall become:
- "1) four copies of the construction design, along with opinions, approvals, permits and other documents required by special regulations and the certificate referred to in Article 12 (7), valid for the date of the preparation of the design; this shall not apply to the grant of approval and the provision of opinion within the environmental impact assessment for a project or the assessment of the environmental impact of a project on a Natura 2000 site;"
- b) in paragraph 4, subparagraph 5 shall become:
- "5) permits, the approvals or opinions of other authorities as well as other

documents required by special regulations; this shall not apply to the grant of approval and the provision of opinion within the environmental impact assessment for a project or the assessment of the environmental impact of a project on a Natura 2000 site;"

7) w art. 35:

a) in paragraph 1, subparagraph 1 shall become:

"1) the consistency of the construction design with the provisions of the local land-use plan or the decision on the conditions for land development and use in the absence of a local land-use plan as well as the requirements of environmental protection, in particular those set out in the decision on the environmental conditions referred to in Article 71 (1) of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments;"

b) after paragraph 6, paragraph 6a shall be added:

"6a. The provision of paragraph 6 shall not apply to the construction permit issued for a project subject to the environmental impact assessment for a project or the assessment of the environmental impact of a project on a Natura 2000 site.";

8) in Article 38:

a) paragraph 1 shall become:

"1. The competent authority shall immediately forward the decision on the construction permit to the head of the local administration, the mayor of a town/city or the authority which has issued the decision on the conditions for land development and use, the decision on the environmental conditions referred to in Article 71 (1) of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments, or the permit referred to in Articles 23 and 23a of the Act of 21 March of 1991 on the Marine Areas of the Republic of Poland and on the Maritime Administration."

b) paragraph 4 shall become:

"4. The provisions of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments shall indicate the cases where the information on the issued decisions on the construction permit shall be provided to the public and where the data on these decisions shall be placed in publicly accessible registers.";

9) in Article 49, after paragraph 4, paragraph 4a shall be added:

"4a. The decisions referred to in Article 4 may be issued after the prior conduct of the environmental impact assessment for a project or the assessment of the environmental impact of a project on a Natura 2000 site, where it is required by the provisions of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments.";

10) in Article 71, paragraph 4a shall be repealed.



### **Article 141**

In the Act of 21 August 1997 on the Protection of Animals (Official Journal of the Laws of 2003, No 106, Item 1002, as amended <sup>29)</sup>), in Article 33, paragraph 1b shall become:

"1b. Where the General Director for Environmental Protection or the Regional Director for Environmental Protection has issued a permit to kill animals covered by species-specific protection, they may be killed using hunting weapons by the persons authorised to use such weapons."

### **Article 142**

In the Act of 4 September 1997 on the Areas of Government Administration (Official Journal of the Laws of 2007, No 65, Item 437, as amended <sup>30)</sup>), in Article 28, paragraph 2 shall become:

"2. The Chief Inspector for Environmental Protection and the General Director for Environmental Protection shall be subordinated to the Minister responsible for the environment."

### **Article 143**

In the Act of 5 June 1998 on the Voivodship Government Administration (Official Journal of the Laws of 2001, No 80, Item 872, as amended <sup>31)</sup>), in the Annex to the Act, after point 7, point 7a shall be added:

"7a) the Regional Directors for Environmental Protection".

### **Article 144**

In the Environmental Protection Act of 27 April 2001 (Official Journal of the Laws of 2008, No 25, Item 150, as amended <sup>32)</sup>), the following amendments shall be made:

- 1) in Article 1, points 2 and 3 shall be repealed;
- 2) in Article 2, paragraph 1 shall become:
  - "1. The provisions of this Act shall not apply to the matters regulated by the provisions of nuclear legislation.";
- 3) in Article 3:
  - a) points 10c, 11a and 19 shall be repealed,
  - b) after point 38, points 38a-38c shall be added:
    - "38a) "domestic wastewater" shall mean wastewater from residential settlements, collective dwellings and public buildings which originates from the human metabolism or household activities as well as wastewater of similar composition which originates from these buildings;
    - 38b) "urban wastewater" shall mean domestic wastewater or the mixture of domestic wastewater with industrial wastewater or rainwater, or melt water, collected by systems serving the local governments to carry out their own tasks in the scope of urban wastewater collection and treatment;
    - 38c) "industrial wastewater" shall mean wastewater which is not domestic

wastewater or rainwater, or melt water, arising in relation to the commercial, industrial, storage, transport or service activities operated by a plant as well as wastewater which is its mixture with the wastewater from another operator, discharged by the collection system of that operator;"

- 4) Articles 9-11 shall be repealed;
- 5) in Article 15, paragraph 3 shall become:

"3. The Minister responsible for the environment shall ensure the possibility of public participation on the principles and in the procedure set out in the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments (Official Journal of the Laws, No 199, Item 1227) in the procedure to prepare a draft national environmental policy.";
- 6) in Article 17, paragraph 4 shall become:

"4. The authority referred to in paragraph 1 shall ensure the possibility of public participation on the principles and in the procedure set out in the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments in the procedure to prepare a draft environmental protection programme.";
- 7) in Title I, in Part IV, Chapter 1 shall be repealed;
- 8) Article 30 shall be repealed;
- 9) in Title I, Parts V and VI shall be repealed;
- 10) in Article 75, paragraph 5 shall become:

"5. The required scope of nature compensation in the case of projects for which the environmental impact assessment for a project was carried out pursuant to the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments shall be laid down by a decision on the environmental conditions and other decisions the issue whereof was preceded by the conduct of the environmental impact assessment for a project.";
- 11) in Article 76, in paragraph 4 the introduction to the enumeration shall become:

"30 days prior to the commissioning of a newly built or rebuilt building structure, a complex of such structures or installations implemented as projects which may have a significant impact on the environment within the meaning of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments, the investor shall be obliged to notify the Voivodship Inspector for Environmental Protection of the planned date:";
- 12) after Article 80b, Article 80c shall be added:

"Article 80c Non-governmental organisations may request the competent administration authorities to take measures to ensure that any advertisements or another type of promotion of a commodity or service cease, where the advertisements or the type of promotion are in contradiction with Article 80.";
- 13) in Article 92, in paragraph 1 the introduction to the enumeration shall become:

"Where there is the risk that the limit values or alert thresholds for substances in ambient air may be exceeded in a given zone, having obtained the opinion of the

competent head of the county administration, the Voivodship Assembly shall lay down, by way of a resolution, a short-term action plan setting out the measures designed to:";

14) in Article 95, paragraph 1 shall become:

"1. In the area where the limit value of a substance in ambient air is exceeded, in respect of a plant which operates an installation classified as a project likely to have a significant impact on the environment within the meaning of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments, the Voivodship Marshal may, by way of a decision, impose on the user of the environment conducting the activity which causes the emissions of the substance into the air the obligation to measure the levels of this substance in ambient air.";

15) in Article 112b, paragraph 1 shall become:

"1. The Minister responsible for the environment shall lay down, by way of a Regulation, the manner of determining the value of the noise index referred to in Article 112a (1) (a), taking into account the need to pursue a long-term noise protection policy, the need to apply noise indices to establish and control the conditions for the use of the environment and the standardisation documents effective in this scope within the meaning of the Act of 12 September 2002 on Standardisation (Official Journal of the Laws, No 169, Item 1386; 2004, No 273, Item 2703; 2005, No 132, Item 1110; 2006, No 170, Item 1217).";

16) in Article 115a, paragraph 6 shall be repealed;

17) in Article 118, paragraph 6 shall become:

"6. "Area exposed to noise" shall mean an area where the permissible noise levels defined by LDWN or LN indices, referred to in Article 113, are exceeded.";

18) in Article 120, paragraph 3 shall be added:

"3. The Voivodship Marshal shall forward the programme for the protection of the environment against noise to the Voivodship Inspector for Environmental Protection immediately after the programme has been adopted by the Voivodship Assembly.";

19) in Article 122a, the existing content shall be denoted as paragraph 1 and paragraph 2 shall be added:

"2. The results of the measurements referred to in paragraph 1 shall be submitted to the Voivodship Inspector for Environmental Protection and the Voivodship State Sanitary Inspector.";

20) in Article 124, the existing content shall be denoted as paragraph 1 and paragraph 2 shall be added:

"2. Sites accessible to the public shall mean all places, except for the places where public access is prohibited or impossible without using technical equipment";

21) in Article 135, paragraphs 1 and 2 shall become:

"1. Where an environmental audit or the environmental impact assessment for a project required by the provisions of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments, or the follow-up analysis indicate that despite the application of available technical, technological and organisational measures the environmental quality standards

cannot be complied with outside the establishment or on another site, a restricted use area shall be established for a wastewater treatment plant, a municipal waste landfill, a composting plant, a transport route, an airfield, a power line and station as well as a radiocommunication, radionavigation or radiolocation installation.

2. The restricted use area for a project which may have a significant impact on the environment within the meaning of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments, or for establishments or other sites where an installation classified as such a project is operated shall be established by the Voivodship Assembly by a resolution.";

22) Article 136d shall become:

"Article136d

1. An industrial zone shall be established, by way of a resolution, by the Voivodship Assembly.
2. The draft of the resolution referred to in paragraph 1 shall be subject to the approval of the Voivodship State Sanitary Inspector and the Regional Director for Environmental Protection.
3. The resolution on the industrial zone shall lay down:
  - 1) the boundaries and area of the industrial zone;
  - 2) the types of activities which are allowed within the industrial zone in the light of the possibility of the occurrence of exceedances of the environmental quality standards or exceedances of the reference values referred to in Article 222.
4. The resolution to establish the industrial zone may set out:
  - 1) certain environmental quality standards or the reference values referred to in Article 222 which may be exceeded in the area of the industrial zone;
  - 2) the conditions for the conduct of activities within the industrial zone of importance for ensuring that the environmental quality standards or the reference values referred to in Article 222 are not exceeded outside its area and in order to protect human life or health, in particular the requirements of the occupational safety and health standards.";

23) in Article 152, after paragraph 7, paragraph 7a shall be added:

"7a. The operator of an installation subject to the requirement for notification in the light of its generation of electromagnetic fields shall also submit the information contained in the notification referred to in paragraphs 1 and 6 to the Voivodship State Sanitary Inspector .";

24) in Article 154, paragraph 2 shall become:

"2. The provisions of Article 188 shall apply, respectively, to the decision referred to in paragraph 1.";

25) in Article 179 (4), subparagraph 1 shall become:

"1) the section of the acoustic map covering the county concerned – to the competent Voivodship Marshal and the head of the county administration.";

26) in Article 181, paragraph 1a shall become:

"1a. On request from the operator of an installation, the environmental authority

- may issue one permit for the installations situated within the area of his jurisdiction.";
- 27) in Article 185, after paragraph 2, paragraph 2a shall be added:  
"2a. The provisions of paragraphs 1 and 2 shall not apply in the procedure to issue an integrated permit and the decision to modify an integrated permit to account for a substantial change in the installation; in this case, the provisions of Article 44 of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments shall apply.";
- 28) in Article 193:  
a) paragraph 4 shall become:  
"4. The decision stating the expiry of a permit shall not be issued where the operator of the installation has obtained a new permit.",  
b) paragraph 5 shall be added:  
"5. The permit shall not expire where the rights and obligations referred to in Article 190 have been transferred or commercial companies have been merged, demerged or transformed pursuant to the provisions of Title IV of the Code of Commercial Companies or the provisions of the Act of 30 August 1996 on Commercialisation and Privatisation (Official Journal of the Laws of 2002, No 171, Item 1397, as amended <sup>33</sup>), or pursuant to other regulations.";
- 29) in Article 202, paragraph 2 shall become:  
"2. The integrated permit shall lay down the emission limit values for gases or dusts released into the air from the installation, irrespective of whether the installation would require, under this Act, a permit for releases of gases or dusts into the air; the provision of Article 224 (3) shall not apply to installations requiring an integrated permit.";
- 30) in Article 208 (4), in subparagraph 2 a full stop shall be replaced by a semicolon and subparagraph 3 shall be added:  
"3) a copy for the request for the issue of the decision or a decision on the environmental conditions referred to in Article 71 (1) of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments, where it has been issued.";
- 31) in Article 211, paragraph 3a shall be repealed ;
- 32) in Article 212, paragraph 1 shall become:  
"1. The Minister responsible for the environment shall keep a register of requests for the issue of integrated permits and the integrated permits issued.";
- 33) Article 218 shall become:  
"Article 218 The administration authority shall ensure the possibility of public participation on the principles and in the procedure set out in the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments in the procedure to issue an integrated permit or a decision to modify an integrated permit to account for a substantial change in the installation.";
- 34) Article 219 shall become:  
"Article 219 Where a significant transboundary impact may affect the

environment in the territory of another Member State of the European Union in the case of a new or substantially changed installation requiring an integrated permit, the provisions of Part VI of in the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments shall apply, respectively, with the qualification that the documentation referred to in Article 108 (1) of that Act shall mean the part of the request for the issue of an integrated permit which will enable the State whose territory may be affected by the the installation requiring such a permit to assess the possible significant transboundary impact on the environment.";

35) in Article 236d, paragraphs 3 and 4 shall become:

"3. The fine shall be paid within 14 days of the date that the decision referred to in paragraphs 1 and 2 becomes final.

4. In the matters of the fines referred to in paragraphs 1 and 2, the provisions of Part III of the Tax Code of 29 August 1997 shall apply, with the qualification that the Voivodship Inspector for Environmental Protection shall exercise the powers of a tax authority.";

36) in Article 238, the introduction to the enumeration shall become:

"The environmental audit of an installation classified as a project which may always have a significant impact on the environment within the meaning of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments shall include:";

37) Article 240 shall become:

"Article 240 Where an adverse impact on the environment may arise from the operation of an installation not classified as a project which may always have a significant impact on the environment within the meaning of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments, the authority competent to impose the obligation to perform the audit shall specify which of the requirements listed in Article 238 shall be met when performing the audit.";

38) in Article 260 (2), subparagraph 3 shall become:

"3) information on existing hazards, the preventive measures taken and on the response measures to be taken in the event of an industrial accident, to be provided to the public and the competent authorities of the State Fire Service, the Voivode, the Voivodship Inspector for Environmental Protection, the Regional Director for Environmental Protection, the head of the county administration, the head of the local administration and the mayor of a town/city;";

39) in Article 281, after paragraph 1, paragraph 1a shall be added:

"1a. The provisions of the Tax Code of 29 August 1997 relating to the charge for a deferred payment shall not apply to the payment of the fees for the use of the environment.";

40) in Article 292, the introduction to the enumeration shall become:

"The user of the environment shall pay fees increased by 500% in the absence of

the required permit for:";

41) in Article 365:

a) paragraph 1 shall become:

"1. By way of a decision, the Voivodship Inspector for Environmental Protection shall stop the use of an installation operated without the required integrated permit.",

b) in paragraph 2, the introduction to the enumeration shall become:

"In the case of a newly built or rebuilt built structure, a complex of such structures or installations related to projects which may have a significant impact on the environment within the meaning of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments, the Voivodship Inspector for Environmental Protection shall stop, by way of a decision:";

42) in Article 367, in paragraph 1, a comma shall be added at the end of subparagraph 2 and subparagraph 3 shall be added:

"3) the user of the environment fails to notify the installation or operates it in a manner inconsistent with the information contained in the notification";

43) in Article 376, in point 4 a comma shall be replaced by a semicolon and points 5 and 6 shall be added:

"5) the General Director for Environmental Protection;

6) the Regional Director for Environmental Protection.";

44) in Article 378:

a) paragraphs 1 and 2 shall become:

"1. The head of the county administration shall be the environmental authority competent in the matters referred to in Article 115a (1), Article 149 (1), Article 150, Article 152 (1), Article 154 (1), Article 178, Article 183, Article 237 and Article 362 (1)-(3).

2. The Regional Director for Environmental Protection shall be competent in the matters of projects and events on closed sites.",

b) paragraphs 2a and 2b shall become:

"2a. The Voivodship Marshall shall be competent in the matters of:

1) projects and events on the site of plants which operate an installation classified as a project which may always have a significant impact on the environment within the meaning of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments;

2) a project which may always have a significant impact on the environment within the meaning of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments, where it is implemented on sites other than those referred to in subparagraph 1.

2b. In establishing the competence of the environmental authorities, installations connected in technological terms which are used by different operators shall be qualified as one installation.",

c) paragraph 4 shall become:

"4. The tasks of the Voivodship self-government referred to in paragraph 2a, Article 91 (1), (3) and (4), Article 92 (1), Article 94 (2), Article 95 (1), Article 96, Article 119 (2), Article 135 (2), Article 162 (3), (6) and (7), Article 426 (2) and (5), Article 428 (1), Article 430 (2), Article 434, Article 435 (3), (5) and (6), Article 437 (1), (2), (4) and (8) and Article 441 (1), (2) and (4) shall be the tasks in the scope of the government administration.";

45) in Title VII, in Part II, Chapter 3 shall be repealed;

46) in Article 413:

a) in paragraph 5, paragraphs 1 and 2 shall become:

"1) the Regional Director for Environmental Protection or his deputy, who is the Regional Nature Conservator, or the Voivodship Inspector for Environmental Protection or his deputy;

2) the Chairman of the Regional Nature Conservation Council or his deputy, or the Chairman of the Regional Environmental Impact Assessment Commission or his deputy;"

b) paragraph 6a shall become:

"6a. The Minister responsible for the environment shall recall the members of the Supervisory Board where they have ceased to perform the functions referred to in paragraph 5 (1)-(4).";

47) in Article 423, paragraph 1 shall become:

"1. The adoption of a compliance programme may be sought by the operator of an existing installation classified as a project always likely to have a significant effect on the environment within the meaning of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments, subject to the requirement to obtain an integrated permit, which belongs to the types of installations indicated in the regulations issued pursuant to Article 425.".

#### **Article 145**

In the Waste Act of 27 April 2001 (Official Journal of the Laws of 2007, No 39, Item 251, No 88, Item 587; 2008, No 138, Item 865), in Article 14, after paragraph 4, paragraph 4a shall be added:

"4a. The Minister responsible for the environment shall ensure the possibility of public participation on the principles and in the procedure set out in the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments (Official Journal of the Laws, No 199, Item 1227) in the preparation of the national waste management plan.".

#### **Article 146**

In the Water Act of 18 July 2001 (Official Journal of the Laws of 2005, No 239, Item 2019, as amended<sup>34)</sup>), the following amendments shall be made:

1) in Article 4:



- a) paragraph 3 shall become:
  - "3. The President of the National Water Management Authority shall play the function of a higher-order authority within the meaning of the Administrative Procedure Code with respect to the Voivodship Marshals and the Directors of the Regional Water Management Boards in the matters set out by the Act.",
- b) after paragraph 3, paragraph 3a shall be added:
  - "3a. The provisions of paragraph 3 shall not apply to the matters referred in Article 72 (3), Article 74b (1) and (4), Article 74c, Article 85 (3), Article 86 (1) and Article 164 (9).",
- c) paragraph 4 shall become:
  - "4. The competent Director of the Regional Water Management Board shall play the function of a higher-order authority within the meaning of the Administrative Procedure Code with respect to the heads of the county administration implementing:
    - 1) tasks within the scope of the government administration as laid down in the Act;
    - 2) the powers of the authority competent to issue a water-law permit.",
- d) after paragraph 4, paragraph 4a shall be added:
  - "4a. Appeals from decisions of the heads of the county administration who implement the tasks referred in paragraph 4 shall be submitted to the Director of the Regional Water Management Board in the jurisdiction whereof a special use of waters is made or activities which require a water-permit or activities which require a decision of the head of the county administration in the scope referred to in paragraph 4 (1) are carried out.";
- e) paragraph 5 shall become:
  - "5. The tasks of the Voivodship Marshal referred to in Article 15 (2) (2), Article 140 (2) and Article 186 (3) shall be the tasks within the scope of the government administration.";
- 2) in Article 4a, point 3 shall become:
  - "3) the establishment of the location of an investment project of public interest and the conditions for site development within the meaning of the Act of 27 March 2003 on the Spatial Planning and Development (Official Journal of the Laws, No. 80, Item 717, as amended <sup>35)</sup>) - for projects requiring the grant of a water-law permit where the authority competent to grant the permit is the Voivodship Marshal or the Director of the Regional Water Management Board.";
- 3) in Article 43:
  - a) paragraph 2a shall become:
    - "2a. After the competent Director of the Regional Water Management Board and the competent Regional Director for Environmental Protection have consented and after an opinion has been given by the local governments concerned, the agglomerations referred to in paragraph 1 shall be designated by the Voivodship Assembly by way of a resolution; where the agglomeration is to consist of areas situated in two or more Voivodships, the Assembly of the Voivodship in the territory whereof the largest part of the agglomeration is to be situated shall be competent to designate the agglomeration.",
  - b) in paragraph 3b, the introduction to the enumeration shall become:

"Every year the Voivodship Marshal shall submit to the Minister responsible for the environment, by 31 March at the latest, a report on the implementation of the national programme for urban wastewater treatment in the Voivodship, containing:",

c) paragraph 3c shall become:

"3c. The head of the local administration or the mayor of the town/city shall submit the information referred to in paragraph 3b for the previous year to the Voivodship Marshal by 28 February at the latest.";

4) in Article 70, paragraph 3a shall become:

"3a. Information shall be retrieved and copies of documents shall be made and forwarded pursuant to the provisions of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments (Official Journal of the Laws, No 199, Item 1227).";

5) Article 85a shall become:

"Article 85a The decisions referred to in Article 82 (3) (3) and Article 85 (4) shall need to be approved by the competent Regional Director of Environmental Protection.";

6) in Article 119:

a) after paragraph 1, paragraph 1a shall be added:

"1a. In preparing the national programme for the aquatic environment, the President of the National Water Management Authority shall ensure the possibility of public participation, on the principles and in the procedure set out in the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments.",

b) after paragraph 3, paragraph 3a shall be added:

"3a. In preparing or updating the plan referred to in Article 113 (1) (2), the President of the National Water Management Authority shall ensure the possibility of public participation, on the principles and in the procedure set out in the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments.",

c) after paragraph 6, paragraph 6a shall be added:

"6a. In preparing or updating the plan referred to in Article 113 (1) (3), the Director of the Regional Water Management Board shall ensure the possibility of public participation, on the principles and in the procedure set out in the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments.",

d) in paragraph 7, the introduction to the enumeration shall become:

"7. In ensuring the active participation of all the stakeholders in the achievement of environmental objectives, in particular in the development, review and updating of the River Basin Management Plans, the President of the National Water Management Authority shall make publicly known, seeking comments in the procedure set out the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in

- Environmental Protection and Environmental Impact Assessments:",
- e) paragraph 8 shall become:
- "8. The President of the National Water Management Authority shall make available the source materials used to draw up the draft River Basin Management Plan on the principles and in the procedure set out in the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments.";
- 7) in Article 120, the existing content shall be denoted as paragraph 1 and paragraph 2 shall be added:
- "2. In setting out the conditions for the use of the waters in a water region and the conditions for the use of the waters in a sub-basin as referred to in Article 113 (1) (4)-(5), the Director of the Regional Board shall ensure the possibility of public participation, on the principles and in the procedure set out in the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments.";
- 8) in Article 134, paragraph 3 shall be added:
- "3. The provisions of paragraph 2 shall apply, respectively, to the takeover of the rights and obligations under a permit for the discharge of industrial wastewater containing substances that are particularly harmful for the aquatic environment into wastewater collection systems which are the property of other entities .";
- 9) in Article 140:
- a) paragraph 1 shall become:
- "1. The authority competent to grant water-law permits, subject to paragraphs 2 and 2a, shall be the head of the county administration, who carries out this task as a task in the scope of the government administration." ,
- b) in paragraph 2:
- subparagraph 1 shall become:
- "1) where the special use of waters, the execution of water facilities or the operation of installations or water facilities are related to the projects or installations referred to in Article 378 (2a) of the Environmental Protection Act of 27 April 2001," ,
- subparagraph 6 shall be repealed,
- c) after paragraph 2, paragraphs 2a and 2b shall be added:
- "2a. Where the special use of waters or the execution of water facilities takes place on closed sites within the meaning of the provisions of the Environmental Protection Act of 27 April 2001, a water-law permit shall be granted by the Director of the Regional Water Management Board.
- 2b. Where the special use of waters or the execution of water facilities is related to a project partly implemented on a closed site within the meaning of the provisions of the Environmental Protection Act of 27 April 2001, a water-law permit for the whole project shall be granted by the Director of the Regional Water Management Board.";
- 10) in Article 142, in point 4 a full stop shall be replaced by a semicolon and point 5 shall be added:
- "5) the charges from the contracts referred to in Article 217 (6).";

11) in Article 186, paragraph 3 shall become:

"3. On the complainant's request, the authority competent to grant a water-law permit and – where the damage does not result from the effects of a water-law permit – the competent Voivodship Marshal shall set the level of the compensation by way of a decision. This decision may not be contested."

#### **Article 147**

In the Act of 27 March 2003 on Spatial Planning and Development (Official Journal of the Laws, No 80, Item 717, as amended <sup>36)</sup>):

1) in Article 11:

a) in point 8, in letter i) a semicolon shall be replaced by a comma and letter j) shall be added:

"j) the Regional Director for Environmental Protection;"

b) point 10 shall become:

"10) announce, in the manner set out in point 1, that the draft study has been made available for public review, at least 14 days before the date of making it available, make this draft available, along with the environmental impact prognosis, for public review for at least 30 days and organise within this period a public debate on the measures adopted in the draft study;"

2) in Article 17 (6), in letter b) a semicolon shall be replaced by a comma and letter c) shall be added:

"c) the Regional Director for Environmental Protection;"

3) in Article 51 (1), subparagraph 3 shall become:

"3) investment projects of public interest on closed sites - the Regional Director for Environmental Protection;"

4) in Article 53 (4):

a) subparagraph 8 shall become:

"8) the Regional Director for Environmental Protection – in the case of areas protected pursuant to nature conservation regulations other those referred to in subparagraph 7;"

b) subparagraph 11 shall become:

"11) the Director of the Regional Water Management Board – for projects which require a water-law permit where the authority competent to issue it is the Director of the Regional Water Management Board;"

#### **Article 148**

In the Act of 10 April 2003 on the Special Principles of the Preparation and Implementation of Investment Projects in the Scope of Public Roads (Official Journal of the Laws of 2008, No 193, Item 1194), the following amendments shall be made:

1) in Article 11a, paragraph 4 shall be added:

"4. A decision on the permit for the implementation of a road investment project may be issued after the prior conduct of the environmental impact assent for the project where it is required by the provisions of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact

- Assessments (Official Journal of the Laws, No 199, Item 1227) ";
- 2) in Article 11d (1), the introduction to the enumeration shall become:  
"The request for the issue of the decision on the permit for the implementation of a road investment project shall contain in particular:";
  - 3) in Article 11f (1), the introduction to the enumeration shall become:  
"A decision on the permit for the implementation of a road investment project shall contain in particular:".

### **Article 149**

In the Act of 12 March 2004 on the National Eco-Management and Audit Scheme (EMAS) (Official Journal of the Laws, No 70, Item 631; 2005, No 175, Item 1462; 2007, No 93, Item 621), the following amendments shall be made:

- 1) Article 2 shall become:  
"Article 2 The national eco-management and audit scheme, hereinafter referred to as the "scheme", shall consist of:
  - 1) the Minister responsible for the environment;
  - 2) the General Director for Environmental Protection;
  - 3) the Regional Directors for Environmental Protection;
  - 4) the Polish Centre for Accreditation;
  - 5) the National Eco-Management Council.";
- 2) after Article 2, Article 2a shall be added:  
"Article 2a The Minister responsible for the environment shall pursue the policy on the development of the scheme and cooperate with the authorities of the European Union in this scope.";
- 3) in Article 3 (1), (4), (6) and (7a), the words "the Minister responsible for the environment" shall be replaced by the words "the General Director for Environmental Protection";
- 4) the words "Voivodship register" used in the different inflectional cases in Article 3 (2) (6), Article 4 (1), (2) and (3), subparagraphs 1 and 2, paragraph 4, subparagraphs 1 and 2, and paragraph 5, and Article 7 (1)-(2) shall be replaced by the words "regional register" used in the correct inflectional cases;
- 5) the word "Voivode" used in the different inflectional cases in Article 3 (7a), Article 4 (2) and Article 7 (1)-(2) shall be replaced by the words "Regional Director for Environmental Protection" used in the correct inflectional cases;
- 6) in Article 4, in paragraphs 1, 4 and 5, the word "Voivode" shall be replaced by the words "Regional Director for Environmental Protection";
- 7) the words "Minister responsible for the environment" used in the different inflectional cases in Article 4 (2) (3) and paragraph 5, and in Article 5 (2) shall be replaced by the words "the General Director for Environmental Protection" used in the correct inflectional cases.

### **Article 150**

In the Nature Conservation Act of 16 April 2004 (Official Journal of the Laws, No

92, Item 880, as amended <sup>37)</sup>):

1) in Article 13, paragraphs 4 and 5 shall become:

"4. By way of an act of local law in the form of a Regulation, the Regional Director for Environmental Protection may introduce fees for the entry into the area of a nature reserve, guided by the need to protect nature.

5. The Regional Director for Environmental Protection shall set out the rates of the fees referred to in paragraph 4, with the qualification that the fee for a single entry into a reserve shall not exceed an amount of 6 PLN, valorised with the predicted mean annual index of the prices of consumer goods and services as adopted in the Budget Act.";

2) in Article 17 (1), subparagraph 1 shall become:

"1) the implementation of projects which may have a significant impact on the environment within the meaning of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments (Official Journal of the Laws, No 199, Item 1227);";

3) in Article 19:

a) after paragraph 1, paragraph 1a shall be added:

"1a. The person who prepares the draft conservation plan referred to in paragraph 1 shall ensure the possibility of public participation on the principles and in the procedure set out in the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments in the procedure to prepare the draft plan.",

b) paragraph 3 shall become:

"3. The provisions of paragraphs 1a and 2 shall apply, respectively, to the modification of the nature conservation plan.",

c) paragraph 6 shall become:

"6. The Regional Director for Environmental Protection shall establish, by way of an act of local law in the form of a Regulation, the conservation plan for the nature reserve within 6 months of the date of receipt of the draft plan. The conservation plan may be modified where this is required by the needs of nature conservation.",

d) after paragraph 6, paragraph 6a shall be added:

"6a. The Voivode shall establish, by way of a Regulation, the conservation plan for a landscape park within 6 months of the date of receipt of the draft plan. The conservation plan may be modified where this is required by the needs of nature conservation.",

e) paragraph 7 shall become:

"7. The conservation plan for a nature reserve situated in the area of more than one Voivodship shall be established jointly, by way of an act of local law in the form of a Regulation, by the Regional Directors for Environmental Protection in whose areas of activity the parts of this reserve are situated.";

4) in Article 24 (1), subparagraph 2 shall become:

"2) the implementation of projects which may have a significant impact on the environment within the meaning of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in

- Environmental Protection and Environmental Impact Assessments;"
- 5) in Article 27 (1), Article 32 (1), Article 38, Article 57 (1), Article 68 (1), Article 75 (4), Article 77 (13), Article 111 (1) and Article 113 (1), the words "Minister responsible for the environment" shall be replaced by the words "General Director for Environmental Protection";
  - 6) in Article 31, Article 58 (1)-(2), Article 67 (1), Article 74 (1), Article 75 (1) and (5), Article 77 (2), (10) (11), Article 113 (4) and Article 121 (2), the words "Minister responsible for the environment" used in the different inflectional cases shall be replaced by the words "General Director for Environmental Protection" used in the correct inflectional cases;
  - 7) in Article 32 (3), Article 35 (3), Article 58 (1), Article 60 (3) and (5), Article 63 (8), Article 76 (3), Article 77 (1) and Article 114 (1) and (2), the word "Voivode" shall be replaced by the words "Regional Director for Environmental Protection";
  - 8) in Article 35 (2a) (2), Article 36 (3), Article 63 (9), Article 68 (1) (5), Article 75 (5), Article 77 (2), (3) and (10), Article 118 (1), Article 122 (1)-(3), Article 126 (3)-(5) and (6) (2) (b), and Article 131 (8) and (11), the word "Voivode" used in the different inflectional cases shall be replaced by the words "Regional Director for Environmental Protection" used in the correct inflectional cases;
  - 9) in Article 60, paragraph 2 shall become:
    - "2. Where the identified or predicted changes in the environment threaten or may threaten the flora, fauna or fungi covered by species-specific protection, having obtained the opinions of the competent Regional Nature Conservation Council and the manager or owner of the land, the Regional Director for Environmental Protection and, for marine areas, the General Director for Environmental Protection shall be obliged to take action to ensure the sustainable preservation of the species, its habitat or refuge, to eliminate the causes of threats and to improve the status of protection of its habitat or refuge.";
  - 10) in Article 91:
    - a) after point 1, point 1a shall be added:

"1a) the General Director for Environmental Protection;"
    - b) after point 2, point 2a shall be added:

"2a) the Regional Director for Environmental Protection;"
  - 11) Article 93 shall be repealed;
  - 12) in Article 95, point 2 shall become:
    - "2) the Regional Nature Conservation Council with the Regional Director for Environmental Protection;"
  - 13) Article 97 shall become:

"Article 97

    1. The members of the Regional Nature Conservation Council, with their number varying between 20 and 30, shall be appointed for a term of 5 years, by way of a Regulation, by the Regional Director for Environmental Protection from among the representatives of science, practice, non-governmental organisations, the State Forest Holding State Forests and the Voivodship Assembly who act for nature conservation.
    2. The Regional Nature Conservation Council shall elect its Chairman and his Deputies from among its members and adopt the rules of procedure.

3. The tasks of the Regional Nature Conservation Council shall include in particular:
    - 1) the assessment of the implementation of tasks in the scope of nature conservation;
    - 2) the provision of its opinion on draft legal acts to be issued by the Regional Director for Environmental Protection;
    - 3) the presentation of suggestions and opinions in the matters of nature conservation;
    - 4) the provision of its opinion on Voivodship development plans and strategies in the scope of nature conservation.
  4. The expenses related to the activities of the Regional Nature Conservation Council shall be covered with the resources of the Regional Director for Environmental Protection.";
- 14) in Article 111, after paragraph 1, paragraph 1a shall be added:
- "1a. The General Director for Environmental Protection shall ensure the possibility of public participation on the principles and in the procedure set out in the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments in the procedure to prepare the draft national strategy for the conservation and sustainable use of biodiversity, along with the draft action programme, referred to in paragraph 1."

#### **Article 151**

In the Act of 22 December 2004 on the Air Emission Allowance Trading Scheme for Greenhouse Gases and Other Substances (Official Journal of the Laws, No 281, Item 2784), Article 17 shall become:

"Article 17 The National Administrator shall ensure the possibility of public participation on the principles and in the procedure set out in the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments Official Journal of the Laws, No 199, Item 1227) in the preparation of the draft national plan referred to in Article 14 (4)."

#### **Article 152**

In the Act of 13 April 2007 on the Prevention and Remedying of Damage to the Environment (Official Journal of the Laws, No 79, Item 493; 2008, No 138, Item 865):

1) in Article 6:

a) in point 2, letter b) shall become:

"b) the natural habitats which belong to the types of habitats laid down in the regulations issued pursuant to Article 26 of the Nature Conservation Act of 16 April 2004,"

b) in point 11, letter a) shall become:

"a) in protected species or protected natural habitats which has a significant adverse impact on the achievement or maintenance of the appropriate status



of conservation of these species or natural habitats, with the qualification that the damage to the protected species or the protected natural habitats shall not include the previously identified impact caused by the activities of the user of the environment in accordance with Article 34 of the Nature Conservation Act of 16 April 2004 or in accordance with the decision on the environmental conditions referred to in Article 71 (1) of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments (Official Journal of the Laws, No 199, Item 1227),";

- 2) in Article 7 (1) and (2) and Article 35 (2), the word "Voivode" shall be replaced by the words "Regional Director for Environmental Protection";
- 3) in Article 7 (3), the word "Voivode" shall be replaced by the words "Regional Director for Environmental Protection";
- 4) after Article 7, Article 7a shall be added:  
"7a. The General Director for Environmental Protection shall be a higher-order authority with respect to the Regional Director for Environmental Protection.";
- 5) after Article 17, Article 17a shall be added:  
"Article 17a In the course of the implementation of remedial measures, the competent environmental authority may decide to resign from them, where:
  - 1) the previously implemented remedial measures guarantee the absence of a significant risk of the occurrence of an adverse impact on human health, protected species, protected natural habitats or waters; and
  - 2) the costs of further remedial measures which would lead to the restoration of the initial status or one resembling such status would be disproportionately high with respect to the environmental benefits achieved."

## **Chapter 2**

### **Transitional and final provisions**

#### **Article 153**

1. Subject to Article 154 (1), the existing provisions shall apply to the cases which have been initiated pursuant to the provisions of the Act amended in Article 144 before the entry into force of this Act, but which have not been completed with a final decision before the date of the entry into force of this Act, with the qualification that the existing competence of:

- 1) the Minister responsible for the environment shall be taken over by the General Director for Environmental Protection;
- 2) the Voivodes, Voivodship Marshals and the Directors of the Maritime Offices shall be taken over by the Regional Directors for Environmental Protection.

2. With respect to the decisions in the cases referred to in paragraph 1, when issued by:

- 1) the Minister responsible for the environment – a request for reconsideration of the case may not be submitted;
  - 2) the Voivodes, Voivodship Marshals, the authorities of the Sanitary Inspectorate, the Directors of the Maritime Offices and the heads of the county administration – a complaint may not be filed.
3. The appeals from the decisions issued by the Voivodes in the matters where their competence has been transferred under this Act to the Regional Directors for Environmental Protection shall be considered by the General Director for Environmental Protection.

#### **Article 154**

1. In the case of the procedures to issue the decisions referred to in Article 72 (1) (1) and (10), initiated before the entry into force of this Act, but not completed with final decisions, the entity which plans to undertake a project may submit the request referred to in Article 88 (1) (1). In this case, the provisions of Article 88 (2) and (4) and Articles 89-95 shall apply.

2. The provisions of Articles 96-103 shall not apply to the projects likely to have a significant impact on a Natura 2000 site that are not directly related to the protection of this site or do not result from such protection, for which a decision on the environmental conditions has been issued prior to the entry into force of this Act.

#### **Article 155**

The provisions of the Act that oblige the entity which plans to undertake a project to obtain a decision on the environmental conditions shall not apply to the entities which have decisions on the environmental conditions issued pursuant to the existing regulations.

#### **Article 156**

With respect to the projects which may possibly have a significant impact on the environment, excluding the projects which may have a significant impact on a Natura 2000 site, the heads of the county administration shall carry out the tasks of the Regional Directors for Environmental Protection, in the scope of the opinion concerning the need to carry out the environmental impact assessment for a project and the scope of the environmental impact report for the project as well as the approval of the conditions for the implementation of the projects which may have a significant impact on the environment, within 1 year of the date of the entry into force of this Act.

#### **Article 157**

When issued prior to the entry into force of this Act, the decisions referred to in Article 115a (1) of the Act amended in Article 144 shall cause legal effects after 6 months elapse from the date when they become final.

### **Article 158**

1. The National Environmental Impact Assessment Commission and the Voivodship Environmental Impact Assessment Commissions established pursuant to Article 394 of the Act amended in Article 144 shall become, respectively, the National Environmental Impact Assessment Commission and the Regional Environmental Impact Assessment Commissions within the meaning of the provisions of this Act.

2. The members of the Commissions referred to in paragraph 1, appointed pursuant to the existing regulations, shall carry out their functions until they are recalled pursuant to the provisions of this Act.

### **Article 159**

1. The Voivodship Nature Conservation Council functioning with the Voivode pursuant to Article 95 (2) of the Act amended in Article 150 shall become the Regional Nature Conservation Council functioning with the Regional Director for Environmental Protection pursuant to Article 95 (2) of the Act amended in Article 150, as worded in this Act.

2. The members of the Voivodship Nature Conservation Council appointed prior to the entry into force of this Act shall carry out their functions until the end of the term for which have been appointed.

### **Article 160**

1. Immediately after the entry into force of this Act:

- 1) the self-government review boards shall transfer to the President of the National Water Management Authority the files of the cases subject to administrative proceedings underway concerning appeals from the decisions issued by Voivodship Marshals pursuant to the Act amended in Article 146;
- 2) the Voivodes shall transfer to the Directors of the Regional Water Management Boards the files of the cases subject to administrative proceedings underway concerning the decisions issued by the heads of the county administration who carry out the tasks referred to in Article 4 (4) of the Act amended in Article 146, as worded in this Act.
- 3) the Voivodship Marshals shall transfer to the Directors of the Regional Water Management Boards the files of the cases subject to administrative proceedings underway concerning the water-law permits referred to in Article 140 (2a) of the Act amended in Article 146, as worded in this Act;
- 4) the Voivodes shall transfer to the Voivodship Marshals the files of the cases subject to administrative proceedings underway concerning the decisions referred to in Article 186 (3) of the Act amended in Article 146, as worded in this Act;
- 5) the Minister responsible for the environment shall transfer to the General Director for Environmental Protection the files of the cases subject to administrative proceedings underway concerning appeals from the decisions issued by the Voivodes pursuant to the Acts amended in Articles 144 and 152;

- 6) the Minister responsible for the environment shall transfer to the Regional Directors for Environmental Protection the files of the cases subject to administrative proceedings underway concerning the approvals of the conditions for the implementation of projects which may have a significant impact on the environment granted pursuant to the Act amended in Article 144;
  - 7) the Voivodes shall transfer to the Regional Directors for Environmental Protection:
    - a) the files of the cases subject to administrative proceedings underway concerning the approvals of the conditions for the implementation of projects which may have a significant impact on the environment and decisions on the environmental conditions issued pursuant to the Act amended in Article 144,
    - b) the files of the cases subject to administrative proceedings underway concerning the decisions issued by the Voivodes pursuant to the Act amended in Article 152, as worded in this Act;
  - 8) the Voivodship Marshals shall transfer to the Regional Directors for Environmental Protection the files of the cases subject to administrative proceedings underway concerning the approvals of the conditions for the implementation of projects which may have a significant impact on the environment granted pursuant to the Act amended in Article 144;
  - 9) the Directors of the Maritime Offices shall transfer to the Regional Directors for Environmental Protection the files of the cases subject to administrative proceedings underway concerning the approvals of the conditions for the implementation of projects which may have a significant impact on the environment granted pursuant to the Act amended in Article 144.
2. The files of the cases referred to in paragraph 1 shall be transferred on the basis of a bilateral transfer protocol.
3. The protocol referred to in paragraph 2 shall contain:
- 1) a list of the cases transferred, initiated and not completed;
  - 2) a list of the documents transferred.

### **Article 161**

Immediately after the date of the entry into force of this Act, the Voivodes shall transfer to the competent Regional Directors for Environmental Protection:

- 1) the files of the cases concerning the reclamation of contaminated soil, along with the complete documentation in their possession.
- 2) the registers containing information on the areas where exceedances of soil or earth quality standards have been found – which they have received from the heads of the country administration pursuant to the Act amended in Article 152.

### **Article 162**

1. The entries of organisations into the Voivodship register which have been made pursuant to Article 4 (1) of the Act referred to in Article 149 shall become the entries within the meaning of Article 4 (1) of the Act referred to in Article 149, as worded in this Act.

2. The entries of organisations into the national register which have been made

pursuant to Article 3 (3) of the Act referred to in Article 149 shall become the entries within the meaning of Article 3 (3) of the Act referred to in Article 149, as worded in this Act.

3. The Minister responsible for the environment shall transfer to the General Director for Environmental Protection the national register referred to in Article 3 (1) of the Act amended in Article 149, immediately after the date of the entry into force of this Act.

4. The Voivodes shall transfer to the competent Regional Directors for Environmental Protection the Voivodship registers referred to in Article 3 (2) (6) of the Act amended in Article 149, immediately after the date of the entry into force of this Act.

### **Article 163**

1. On the date of the entry into force of this Act, the Voivodship Nature Conservator referred to in Article 93 of the Act amended in Article 150 shall become the Regional Nature Conservator referred to in Article 124 (2) of this Act.

2. As from the date of the publication of this Act, the Voivodship Nature Conservator shall carry out the functions of the Regional Director for Environmental Protection until the Regional Director for Environmental Protection is appointed pursuant to the provisions of this Act, for a period no longer than 6 months from the date of the entry into force of this Act.

3. As from the date of the publication of this Act, the Chief Nature Conservator referred to in Article 92 of the Act amended in Article 150 shall carry out the functions of the General Director for Environmental Protection until the General Director for Environmental Protection is appointed pursuant to the provisions of this Act, for a period no longer than 6 months from the date of the entry into force of this Act.

### **Article 164**

1. As from the date of the entry into force of this Act, the employees of the Voivodship Office who have until that date carried out the tasks and exercised the competence to be transferred to the Regional Director for Environmental Protection and the employees who have provided financial, legal and administrative services for the purposes of these tasks shall become the employees of the Regional Directorate for Environmental Protection, subject to Article 165.

2. Within 7 days of the date of the publication of the Act, the Director General of the Voivodship Office shall be obliged to notify in writing the employees referred to in paragraph 1 of the changes to take place in their work contracts. The provisions of Article 23<sup>1</sup> (4) of the Labour Code shall apply, respectively.

3. The work contracts of the employees referred in paragraph 1 shall expire after 3 months from the date of the entry into force of this Act:

- 1) where within 2 months of the date of the entry into force of this Act new work or salary contracts are not proposed for them; or
- 2) where they refuse to accept the new work or salary contracts within a period no longer than 2 weeks before the expiry of 3 months from date of the entry into force of this Act.

4. The work contract of an employee may be terminated earlier by way of a notice.

5. The provisions of paragraph 2, the second sentence, and paragraphs 3 and 4

shall not apply to the civil servants subject to the provisions of Chapter 4 of the Act of 24 August 2006 on the Civil Service (Official Journal of the Laws, No 170, Item 1218, as amended<sup>38)</sup>).

#### **Article 165**

1. Within 7 days of the date of the publication of this Act, the Voivode shall prepare lists of the names of the employees of the Landscape Park Services of landscape parks or complexes of these parks in the areas whereof Natura 2000 sites have been designated or Natura 2000 sites are planned to be designated who are to become the employees of the Regional Directorate for Environmental Protection.

2. The list referred to in paragraph 1 shall include:

- 1) employees of the Landscape Park Services employed at the positions related to the protection of the environment, nature, landscape, historic and cultural values; and
- 2) the deputy directors of a complex of landscape parks or a landscape park; and
- 3) the director of a complex of landscape parks or a landscape park – after he has given his consent in writing.

3. Within 7 days of the date of the entry into force of this Act, the Voivode shall obtain the approval of the list referred to in paragraph 1 from the Regional Director for Environmental Protection.

4. Within 3 days of the date of the approval of the list referred to in paragraph 1, the Voivode shall be obliged to notify in writing the employees included in the list of the changes to take place in their work contracts.

5. As from 1 January 2009, the employees included in the approved list shall become civil servants employed at the Regional Directorate for Environmental Protection. The provision of Article 231 (4) of the Labour Code shall apply, respectively.

#### **Article 166**

1. As from the date of the entry into force of this Act, the employees of the office that provides services to the Minister responsible for the environment who carry out the tasks and exercise the competence to be transferred to the General Director for Environmental Protection and the employees who provide financial, legal and administrative services for the purposes of these tasks shall become the employees of the General Directorate for Environmental Protection.

2. Within 7 days of the date of the publication of this Act, the Director General of the office that provides services to the Minister responsible for the environment shall be obliged to notify in writing the employees referred to in paragraph 1 of the changes to take place in their work contracts. The provision of Article 231 (4) of the Labour Code shall apply, respectively.

3. The work contracts of the employees referred in paragraph 1 shall expire after 3 months from the date of the entry into force of this Act:

- 1) where within 2 months of the date of the entry into force of this Act new work or salary contracts are not proposed for them; or
- 2) where they refuse to accept the new work or salary contracts within a period no longer than 2 weeks before the expiry of 3 months from date of the entry into force of this Act.

4. The work contract of an employee may be terminated earlier by way of a notice.

5. The provisions of paragraph 2, the second sentence, and paragraphs 3 and 4 shall not apply to the civil servants subject to the provisions of Chapter 4 of the Act of 24 August 2006 on the Civil Service.

#### **Article 167**

1. As from the date of the entry into force of this Act, the competent Regional Director for Environmental Protection shall become the party to the agreements and contracts concerning the tasks and competence to be transferred pursuant to the Act which were concluded earlier by:

- 1) the Voivode,
- 2) the director of a complex of landscape parks or a landscape park.

2. The permits and other decisions issued by the Voivode and the Minister responsible for the environment in the scope of tasks and competence to be transferred pursuant to the Act shall remain valid until the validity terms set out in them expire, unless they are modified or become invalid earlier pursuant to separate regulations.

#### **Article 168**

1. The competent Regional Director for Environmental Protection or the General Director for Environmental Protection, respectively, shall become a party to the court or administrative proceedings underway in the scope of tasks and competence to be transferred pursuant to the Act where a party thereto is the Voivode, the Voivodship Marshal or the Director of the Maritime Office.

2. Unresolved administrative proceedings in the scope of tasks and competence to be transferred pursuant to the Act shall still continue before the authorities which have taken over the tasks and competence.

#### **Article 169**

1. As from the date of the entry into force of this Act, the movables that are the property of the State Treasury at the disposal of the Voivodes which are necessary for the performance of the tasks and the exercise of the competence to be transferred to the Regional Directors for Environmental Protection shall be taken over by the Regional Directors for Environmental Protection.

2. As from the date of the entry into force of this Act, the movables:

- 1) which are the property of the State Treasury at the disposal of the landscape parks or their complexes in the areas whereof Natura 2000 sites have been designated or Natura 2000 sites are planned to be designated, and
- 2) which are necessary for the performance of the tasks by the employees included in the approved list referred to in Article 165 (5)

- shall be taken over by the Regional Directors for Environmental Protection.

3. As from the date of the entry into force of this Act, the real estates:

- 1) which are the property of the State Treasury and are permanently managed by the landscape parks or their complexes in the areas whereof Natura 2000 sites have been designated or Natura 2000 sites are planned to be designated, and

2) which are necessary for the performance of the tasks by the employees included in the approved list referred to in Article 165 (5)

- shall, pursuant to the Act, become on a free of charge basis permanently managed by the competent Regional Directors for Environmental Protection.

4. As from the date of the entry into force of this Act, the movables that are property of the State Treasury at the disposal of the office providing services to the Minister responsible for the environment which are necessary for the performance of the tasks and the exercise of the competence to be transferred to the General Director for Environmental Protection shall be taken over by the General Director for Environmental Protection.

5. Within 7 days of the date of the publication of this Act, the Voivodes shall make lists of the property of the State Treasury referred to in paragraph 1.

6. Within 7 days of the date of the publication of this Act, the directors of landscape parks or complexes of these parks referred to in Article 165 (1) shall make lists of the property of the State Treasury referred to in paragraphs 2 and 3.

7. Within 7 days of the date of the publication of this Act, the Director General of the office providing services to the Minister responsible for the environment shall make a list of the property of the State Treasury referred to in paragraph 4.

#### **Article 170**

The support management units and budget-supported units existing on the date of the entry into force of this Act which have been established by the Voivodes and carry out activities in the scope of nature conservation shall become, respectively, the support management units and budget-supported units of the competent Regional Directors for Environmental Protection.

#### **Article 171**

1. In order to implement the provisions of the Act, the Prime Minister shall, by way of a Regulation, transfer the planned budget revenues and expenses, including remunerations and employment quotas, among the sections, parts and chapters of the State budget, while maintaining the purposes of public resources as set out by the Budget Act.

2. In agreement with the Minister responsible for the environment, the Minister responsible for public finance shall, by way of a Resolution, transfer the planned budget revenues and expenses within Section 41 – the environment among the parts and chapters of the State budget in the scope of the tasks taken over by the General Directorate for Environmental Protection from the office providing services for the Minister responsible for the environment and lay down employment quotas and remuneration levels with a breakdown into the parts and chapters of the State budget, while maintaining the purposes of public resources as set out by the Budget Act.

#### **Article 172**

The existing acts of local law issued pursuant to Article 19 (6) and (7) of the Act amended in Article 150 shall remain in effect until the entry into force of the acts of local



law issued pursuant to Article 19 (6), (6a) and (7) of the Act amended in Article 150, as worded in this Act.

### **Article 173**

1. The existing executive regulations issued pursuant to Article 19 (8), Article 24 (3), Article 30 (3), Article 51 (8), Article 112b and Article 399 of the Act amended in Article 144 and pursuant to Article 4 (3) of the Act amended in Article 149 shall remain in effect until the entry into force of the executive regulations issued pursuant to Article 23 (2), Article 24 (5), Article 28, Article 60 and Article 136 of this Act, pursuant to Article 112b (1) of the Act amended in Article 144 and pursuant to Article 4 (3) of the Act amended in 149, as worded in this Act, for a period no longer than 24 months from the date of the entry into force of this Act.

2. Until the regulations referred to in Article 60 of this Act are issued:

- 1) the projects which may always have a significant impact on the environment referred to in Article 59 (1) (1) of this Act shall be understood to mean the projects which may have a significant impact on the environment and require the preparation of the environmental impact report as laid down in the existing regulations;
- 2) the projects which may possibly have a significant impact on the environment referred to in Article 59 (1) (2) of this Act shall be understood to mean the projects which may have a significant impact on the environment and may be found to require the preparation of the environmental impact report as laid down in the existing regulations.

### **Article 174**

This Act shall enter into force on 15 November 2008, with the exception of Articles 121 and 123 (1) which shall into force on the date of its publication.

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<sup>1)</sup> This Act shall implement within the scope of its regulation the following Directives of the European Communities:

- 1) Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ L 175 of 05.07.1985, p. 40, as amended; OJ, Polish special edition, Chapter 15, Vol. 1, p. 248);
- 2) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206 of 22.07.1992, p. 7, as amended; OJ, Polish special edition, Chapter 15, Vol. 2, p. 102);
- 3) Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ L 197 of 21.07.2001, p. 30; OJ, Polish special edition, Chapter 15, Vol. 6, p. 157);
- 4) Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ L 41 of 14.02.2003, p. 26; OJ, Polish special edition, Chapter 15, Vol. 7, p. 375);

- 5) Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC (OJ L 156 of 25.06.2003, p. 17; OJ, Polish special edition, Chapter 15, Vol. 7, p. 466);
  - 6) Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control (OJ L 24 of 29.01.2008, p. 8).
- 2) This Act shall amend the following Acts: the Act of 20 July 1991 on the Inspectorate for Environmental Protection, the Forest Act of 28 September 1991, the Geological and Mining Act of 4 February 1994, the Construction Act of 7 July 1994, the Act of 21 August 1997 on the Protection of Animals, the Act of 4 September 1997 on the Areas of Government Administration, the Act of 5 June 1998 on the Voivodship Government Administration, the Environmental Protection Act of 27 April 2001, the Waste Act of 27 April 2001, the Water Act of 18 July 2001, the Act of 27 March 2003 on the Spatial Planning and Development, the Act of 10 April 2003 on the Special Principles of the Preparation and Implementation of Investment Projects in the Scope of Public Roads, the Act of 12 March 2004 on the National Eco-Management and Audit Scheme (EMAS), the Nature Conservation Act of 16 April 2004, the Act of 22 December 2004 on the Air Emission Allowance Trading Scheme for Greenhouse Gases and Other Substances and the Act of 13 April 2007 on the Prevention and Remedying of Damage to the Environment.
  - 3) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2006, No 104, Items 708 and 711, No 149, Item 1078, No 218, Item 1592, No 220, Item 1600; 2007, No 25, Item 162; 2008, No 171, Item 1056.
  - 4) Amendments to that Act were published in the Official Journal of the Laws of 2002, No 153, Item 1271; 2004, No 240, Item 2407; 2005, No 64, Item 565, No 132, Item 1110.
  - 5) Amendments to that Act were published in the Official Journal of the Laws of 2005, No 113, Item 954, No 130, Item 1087; 2007, No 75, Item 493, No 176, Item 1238, No 181, Item 1286; 2008, 154, Item 958.
  - 6) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2008, No 111, Item 708, No 138, Item 865, No 154, Item 958, No 171, Item 1056.
  - 7) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2006, No 104, Item 708, No 143, Item 1032, No 170, Item 1217, No 171, Item 1225, No 220, Item 1600; 2007, No 176, Item 1238.
  - 8) Amendments to that Act were published in the Official Journal of the Laws of 2002, No 74, Item 676; 2006, No 50, Item 360, No 191, Item 1410; 2007, No 89, Item 590.
  - 9) Amendments to that Act were published in the Official Journal of the Laws of 1996, No 156, Item 775; 1997, No 88, Item 554, No 121, Item 769; 1998 r. No 99, Item 632, No 106, Item 668; 2001, No 100, Item 1080; 2003, No 217, Item 2125; 2004, No 273, Item 2703; 2005, No 163, Item 1362; 2006, No 170, Item 1217; 2007, No 166, Item 1172.
  - 10) Amendments to the consolidated text of that Act were published in the Official

Journal of the Laws of 2006, No 94, Item 658, No 121, Item 843; 2007, No 99, Item 662, No 181, Item 1293.

- 11) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2004, No 33, Item 286; 2005, No 10, Item 68, No 163, Item 1362, No 167, Item 1398; 2006, No 170, Items 1217 and 1218, No 208, Item 1539; 2007, No 99, Item 662, No 136, Item 958; 2008, No 180, Item 1113.
- 12) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2002, No 153, Item 1271; 2004, No 25, Item 219, No 33, Item 285; 2006, No 104, Items 708 and 711; 2007, No 165, Item 1170, No 176, Item 1238.
- 13) Amendments to that Act were published in the Official Journal of the Laws of 2004, No 162, Item 1692; 2005, No 94, Item 788, No 169, Item 1417, No 250, Item 2118, No 264, Item 2205; 2006, No 38, Item 268, No 208, Item 1536, No 217, Item 1590; 2007, No 120, Item 818, No 121, Item 831, No 221, Item 1650; 2008, No 190, Item 1171.
- 14) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2005, No 267, Item 2255; 2006, No 170, Item 1217, No 227, Item 1658; 2007, No 21, Item 125, No 64, Item 427, No 75, Item 493, No 88, Item 587, No 147, Item 1033, No 176, Item 1238, No 181, Item 1286, No 231, Item 1704.
- 15) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2007, No 75, Item 493, No 88, Item 587, No 124, Item 859; 2008, No 138, Item 865.
- 16) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2006, No 133, Item 934, No 170, Item 1217, No 190, Item 1399, No 249, Item 1834; 2007, No 21, Item 125, No 82, Item 556; 2008, No 138, Item 865, No 154, Item 958.
- 17) Amendments to that Act were published in the Official Journal of the Laws of 2002, No 153, Item 1271; 2003, No 124, Item 1152, No 217, Item 2125; 2004, No 96, Item 959; 2005, No 64, Item 565; 2006, No 145, Item 1050.
- 18) Amendments to that Act were published in the Official Journal of the Laws of 2004, No 6, Item 41, No 141, Item 1492; 2005, No 113, Item 954, No 130, Item 1087; 2006, No 45, Item 319, No 225, Item 1635; 2007, No 127, Item 880.
- 19) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2006, No 170, Item 1217; 2007, No 88, Item 587, No 99, Item 665, No 127, Item 880, No 191, Item 1373, No 247, Item 1844; 2008, No 145, Item 914.
- 20) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2005, No 157, Item 1315, No 167, Item 1399, No 175, Items 1460 and 1462; 2006, No 227, Item 1658, No 245, Item 1775; 2007, No 59, Item 405, No 64, Item 427, No 181, Item 1286; 2008 r. No 163, Item 1011.
- 21) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2007, No 176, Item 1238, No 191, Item 1374; 2008, No 59, Item 359, No 144, Item 902.
- 22) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2004, No 273, Item 2703; 2005, No 155, Item 1297, No 172, Item 1440; 2006, No 12, Item 61; 2007, No 23, Item 136, No 99, Item 666.
- 23) Amendments to the consolidated text of that Act were published in the Official

Journal of the Laws of 2003, No 170, Item 1652; 2004, No 6, Item 41, No 93, Item 895, No 273, Item 2703; 2005, No 203, Item 1683; 2006, No 220, Item 1600, No 249, Item 1834; 2007, No 21, Item 125; 2008, No 171, Item 1055.

- 24) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2007, No 75, Item 493, No 88, Item 587, No 124, Item 859; 2008, No 138, Item 865.
- 25) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2005, No 157, Item 1315, No 167, Item 1399, No 175, Items 1460 and 1462; 2006, No 227, Item 1658, No 245, Item 1775; 2007, No 59, Item 405, No 64, Item 427, No 181, Item 1286; 2008, No 163, Item 1011.
- 26) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2006, No 133, Item 934, No 170, Item 1217, No 190, Item 1399, No 249, Item 1834; 2007, No 21, Item 125, No 82, Item 556; 2008, No 138, Item 865, No 154, Item 958.
- 27) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2006, No 170, Item 1217; 2007, No 88, Item 587, No 99, Item 665, No 127, Item 880, No 191, Item 1373, No 247, Item 1844; 2008, No 145, Item 914.
- 28) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2003, No 170, Item 1652; 2004, No 6, Item 41, No 93, Item 895, No 273, Item 2703; 2005, No 203, Item 1683; 2006, No 220, Item 1600, No 249, Item 1834; 2007, No 21, Item 125; 2008, No 171, Item 1055.
- 29) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2004, No 69, Item 625, No 92, Item 880, No 96, Item 959; 2005, No 33, Item 289, No 175, Item 1462; 2006, No 249, Item 1830.
- 30) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2007, No 107, Item 732, No 120, Item 818, No 173, Item 1218; 2008, No 63, Item 394.
- 31) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2001, No 128, Item 1407; 2002, No 37, Item 329, No 41, Item 365, No 62, Item 558, No 89, Item 804, No 200, Item 1688; 2003, No 52, Item 450, No 137, Item 1302, No 149, Item 1452; 2004, No 33, Item 287; 2005, No 33, Item 288, No 90, Item 757, No 175, Item 1462.
- 32) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2008, No 111, Item 708, No 138, Item 865, No 154, Item 958, No 171, Item 1056.
- 33) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2002, No 240, Item 2055; 2003, No 60, Item 535, No 90, Item 844; 2004, No 6, Item 39, No 116, Item 1207, No 123, Item 1291, No 273, Items 2703 and 2722; 2005, No 167, Item 1400, No 169, Item 1418, No 178, Item 1479, No 184, Item 1539; 2006, No 107, Item 721, No 208, Item 1532; 2008, No 180, Item 1109.
- 34) Amendments to the consolidated text of that Act were published in the Official Journal of the Laws of 2005, No 267, Item 2255; 2006, No 170, Item 1217, No 227, Item 1658; 2007, No 21, Item 125, No 64, Item 427, No 75, Item 493, No 88, Item 587, No 147, Item 1033, No 176, Item 1238, No 181, Item 1286, No 231, Item 1704.
- 35) Amendments to that Act were published in the Official Journal of the Laws of 2004,

No 6, Item 41, No 141, Item 1492; 2005, No 113, Item 954, No 130, Item 1087; 2006, No 45, Item 319, No 225, Item 1635; 2007, No 127, Item 880.

36) Amendments to that Act were published in the Official Journal of the Laws of 2004, No 6, Item 41, No 141, Item 1492; 2005, No 113, Item 954, No 130, Item 1087; 2006, No 45, Item 319, No 225, Item 1635; 2007, No 127, Item 880.

37) Amendments to that Act were published in the Official Journal of the Laws of 2005, No 113, Item 954, No 130, Item 1087; 2007, No 75, Item 493, No 176, Item 1238, No 181, Item 1286; 2008, No 154, Item 958.

38) Amendments to that Act were published in the Official Journal of the Laws of 2006, No 218, Item 1592, No 249, Item 1832; 2007, No 25, Item 162, No 123, Item 847, No 176, Item 1242; 2008, No 157, Item 976.