

Act LIII of 1995
on the General Rules of Environmental Protection

Considering the fact that the natural heritage and environmental values are part of the national wealth, their preservation and conservation and the improvement of their quality are primary conditions from the aspect of the health and quality of life of the biosphere, and of humans in particular; without them, no harmony between human activities and nature can be maintained, neglecting them would pose hazard to the health of present generations, the existence of future generations and the survival of a number of species, therefore, Parliament, in agreement with the Constitution, creates the following Act:

Chapter I
GENERAL PROVISIONS

The Objective of the Act

Section 1

(1) The objective of the Act is to develop a harmonious relationship between humans and their environment, to protect the components and processes of the environment and to provide for the environmental conditions of sustainable development.

(2) In accordance with the principles of predictability and equitable bearing of burdens, the Act creates an adequate framework for the assertion of constitutional rights for a healthy environment, and promotes

a) the reduction of the utilization, loading and pollution of the environment, the prevention of its impairment, and the improvement and restoration of the damaged environment;

b) the protection of human health and the improvement of the environmental conditions of the quality of life;

c) the preservation and conservation of natural resources, and their rational, economical management ensuring the renewal of the resources;

d) the harmony of the other objectives of the state with the requirements of environmental protection;

e) international co-operation in environmental protection;

f) initiatives taken by the public and public participation in the activities aimed at the protection of the environment, thus, in particular, in the exploration of, and acquisition of knowledge about the state of the environment and in the performance of the tasks of government organs and local governments related to the protection of the environment;

g) the co-ordination of the functioning of the economy and social and economic development with environmental requirements;

h) the establishment and development of the institutional background of environmental protection;

i) the establishment and development of a public administration that serves the conservation and preservation of the environment.

The Scope of the Act

Section 2

(1) The scope of the Act shall cover:

a) the living organisms (their communities), and the inanimate components of the environment, as well as the natural and man-made environment thereof;

b) pursuant to the provisions of this Act, the activities that utilize, load, pose hazard to or pollute the environment.

(2) The scope of the Act shall cover those natural persons, legal entities and unincorporated organizations

a) who or which have rights or responsibilities in relation to the environment defined under subsection (1), paragraph a);

b) who or which perform activities under subsection (1), paragraph b) (hereinafter: user of the environment).

(3) The scope of the Act shall cover the performance of environmental tasks arising from international conventions, if the provisions of an international convention does not stipulate otherwise.

Section 3

(1) In harmony with the stipulations of this Act, separate Acts contain provisions, in particular, on:

- a) nuclear energy, and the use of radioactivity,
- b) mining,
- c) energy,
- d) forests,
- e) the development and conservation of the built environment,
- f) arable land,
- g) fishing,
- h) transport, broken down to various sectors thereof,
- i) the prevention of disasters and the overcoming the consequences thereof,
- j) regional development,
- k) wildlife management,
- l) water management,
- m) waste,
- n) hazardous substances.

(2) In agreement with this Act, separate acts contain provisions for the preservation of biodiversity and the habitats of plants and animals, for the preservation and restoration of areas, formations and facilities with scientific, cultural or aesthetical value on:

- a) nature and landscape conservation;
- b) the protection of livestock, furthermore, livestock hygiene;
- c) pesticide application and plant sanitation;
- d) the conservation of historic buildings.

Basic Concepts

Section 4

For the purposes of this Act:

- a) "environmental component": land, air, water, the biosphere as well as the built (artificial) environment created by humans, furthermore, the constituents thereof;
- b) "environment": the environmental components, the systems, processes, and structure thereof;
- c) "natural resource": the environmental components or certain constituents thereof that may be used for satisfying the needs of society, with the exception of the artificial environment;
- d) "utilization of the environment": causing changes in the environment, making use of the environment or any of its components as natural resource;
- e) "level of utilization of the environment": the extent to which the environment, or any of its components, is used as a natural resource;
- f) "loading of the environment": emitting a substance or energy into the environment;
- g) "environmental pollution": loading a component of the environment above the emission standard;
- h) "level of environmental pollution": the state of the environment or a component thereof that may be characterized by a level of pollution resulting from environmental pollution;
- i) "use of the environment": an activity involving the utilization or loading of the environment or a component thereof that is subject to an official licence;
- j) "damaging the environment": an activity, which results in environmental damage;
- k) "environmental damage": change in or pollution of the environment or a component thereof, or the utilization of any of its components to such an extent, as a result of which its natural or previous state (quality) can only be restored by intervention, or cannot be restored at all, or which adversely affects the biosphere;
- l) "posing hazard to the environment": activity or omission, which may result in damaging the environment;
- m) "environmental impact": change in the environment ensuing from the loading or the utilization of the environment;

- n) "impact area": an area or a part of the space, where the environmental impact of a magnitude defined in a legal rule has occurred or may occur during the use of the environment;
- o) "affected party": person or organization, who or which lives or operates in the impact area;
- p) "affected local government": local government of a locality which is competent in the impact area of the given use of the environment;
- r) "local environmental issue": all environmental issues, in which the use of the environment and the impact area do not extend beyond the area of the affected local government;
- s) "utilization standard": level of utilization of the environment or any of its components - as provided for in a legal rule or a decision by an authority - which precludes the damaging of the environment;
- t) "emission standard": level of loading of the environment or any of its components - as provided for in a legal rule or a decision by an authority - which precludes the damaging of the environment;
- u) "pollution standard": level of pollution of any component of the environment - as provided for in a legal rule - which, if exceeded, may result in environmental damage or health impairment, based on prevailing scientific knowledge;
- v) "most efficient alternative": activity involving the most benign utilization of the environment attainable among the environmental, technical and economic conditions;
- w) "sustainable development": system of social and economic conditions and activities, which preserves the natural values for the present and future generations, uses the natural resources economically and expediently, and ensures the improvement of the quality of life and the preservation of diversity in the long run from the aspect of ecology;
- x) "precaution": decisions and measures necessary for the reduction of environmental risks and the prevention or reduction of environmental damage in the future;
- y) "prevention": the application of the most efficient alternatives in order to avoid the adverse environmental impacts of the use of the environment from the earliest stage of decision making;
- z) "environmental protection": all the activities and measures aimed at the prevention of posing hazard to, damaging or polluting the environment, the reduction or elimination of damage that has developed, and the restoration of the state preceding the damaging activity.

Section 5

Following the coming into force of this Act, an Act, a government decree, or municipal by-law may define activities qualifying as use of the environment.

Basic Principles for the Protection of the Environment Precaution, Prevention and Restoration

Section 6

- (1) The use of the environment shall be organized and performed in such a manner that
 - a) it shall result in the lowest level of environmental loading and utilization of the environment;
 - b) it shall prevent environmental pollution;
 - c) it shall preclude the damaging of the environment.
- (2) The use of the environment shall be performed by observing the principle of precaution, by treating carefully and using economically the environmental components, furthermore, by decreasing the release of wastes and by striving for the recycling and the re-use of natural and manufactured materials.
- (3) In the interest of prevention, the most efficient alternative shall be applied during the use of the environment.

Section 7

In order to enforce the provisions under Section 6, legal rules may ordain conditions for the use of the environment and may establish restrictive or prohibitive provisions.

Section 8

- (1) The user of the environment posing hazard to or damaging the environment shall stop the hazardous or damaging activity immediately.
- (2) The user of the environment shall provide for the elimination of the environmental damage caused by its activity and the restoration of the damaged environment.

Responsibility

Section 9

The user of the environment shall be liable for the environmental impacts of its activity as defined in this Act, and as regulated in this Act and other legal rules.

Co-operation

Section 10

(1) State organs, local governments, natural persons and their organizations, business organizations and the organizations safeguarding the interests of all the above, as well as other institutions, shall co-operate in the protection of the environment. The right and responsibility to co-operate shall extend to all phases of achieving the environmental objectives.

(2) The rights and responsibilities arising from the co-operation shall be established by this Act or in by-laws by local governments.

Section 11

(1) The enforcement of environmental interests shall also be encouraged by the Republic of Hungary through bilateral or multilateral international agreements on environmental protection and other agreements on co-operation and on the provision of information and assistance, related to environmental protection, in particular, in its relationship with neighbouring countries.

(2) Even in the absence of international agreements, the environmental interests of other countries, the abatement of the transboundary loading of, or posing hazard to, the environment and the prevention of polluting and damaging the environment shall be taken into consideration.

Gathering and Providing Information and Publicity

Section 12

(1) Everyone shall have the right to acquire knowledge about facts and information on the environment, thus, in particular, about the state of the environment, the level of environmental pollution, the environmental protection activities as well as the impacts of the environment on human health.

(2) In order that civic rights related to environmental protection be exercised and civic responsibilities related to the same be fulfilled, the state shall allow everyone to acquire knowledge about the essential connections between the environment and health, the activities damaging the environment and the importance thereof.

(3) State organs and local governments shall monitor within their scope of activities the state of the environment and its impact on human health, shall keep a record of the data thus obtained, and shall make them accessible - with the exceptions established by the Act on the Protection of Personal Data and the Publicity of Data of Public Interest - and shall provide appropriate information.

(4) Users of the environment shall be obliged to provide information - pursuant to the provisions of this Act - in respect of their loading, utilization, as well as posing hazard to the environment.

Chapter II

PROTECTION OF ENVIRONMENTAL COMPONENTS AND FACTORS POSING HAZARD TO THE COMPONENTS

The Uniform Protection of Environmental Components

Section 13

(1) Every environmental component shall be protected in itself and in unity with the other environmental components and by taking into consideration the interrelationships thereof. Their utilization and loading shall be regulated accordingly.

(2) The protection of environmental components means the protection of the quality, quantity and stocks thereof as well as the proportions and processes within the components alike.

Land Conservation

Section 14

(1) Land conservation shall cover the surface and subsurface strata of land, the soil, the rock formations and minerals, as well as the natural and transitional forms and processes thereof.

(2) Land conservation shall include the conservation of the productivity, the structure, the water and air balance, and the biota of the soil.

Section 15

(1) Such activities may be pursued on the land surface or underground and such materials may be deposited there that do not pollute or damage the quantity, quality and processes of the land and the environmental components.

(2) A separate legal rule shall establish the environmental condition of the deposition of materials.

Section 16

In the course of and prior to the implementation of projects (construction, mining), the adequate separation of topsoil with bulldozers, and its use as agricultural soil, shall be provided for.

Section 17

(1) Utilization standards shall be defined for the mining and exploitation of rock formations and minerals, if an Act provides so.

(2) The extent of exploitation, furthermore, the extent of the impact on the environment arising when the tailings produced in connection with mining, and the dressing and processing of mining products are disposed of, as well as the impact arising as a result of other activities linked to mining activities, may not exceed the standards established in a legal rule, or the decision of an authority made in accordance with the provisions of a legal rule.

(3) The user of an area shall provide for the scheduled restoration or development of the area or for the conditions of the redevelopment thereof after the activities involving the utilization of land have been completed - and even as early as during the use of the environment, if provided by a legal rule or a decision of an authority.

Water Conservation

Section 18

(1) Water conservation shall cover surface and subsurface waters, the reserves, the quality and quantity thereof, the bed and banks or shores of surface waters, and aquifers.

(2) The natural discharge, flow pattern, flow conditions, bed and banks or shores of waters may be altered only by preserving appropriate proportions of aquatic communities and ensuring the functioning thereof.

Section 19

(1) The conditions of the extraction and use of water - as a vital element and as a resource whose availability is limited - shall be established for each type of the water resources in accordance with the local conditions and by taking into consideration the utilization standard.

(2) A separate act shall provide for the order of satisfying water demands.

(3) In the case of the utilization of the environment, thus, in particular, of the interventions into water conditions, the following shall be provided for:

a) water shall remain as a factor of the landscape;

b) the conditions necessary for the survival of aquatic and riparian flora and fauna as well as

c) the quantity and quality conditions ensuring the potential use of water

shall not deteriorate.

Section 20

Water resources

a) providing for the supply of drinking water,

b) used for the extraction of mineral and medicinal waters,

c) significant from the aspect of nature conservation, and

d) designated for use for recreation, sports and therapeutic purposes

shall receive stricter protection.

Section 21

(1) Waters may be utilized and loaded, as well as used water and sewage may be discharged into waters - following appropriate treatment - in a way that does not pose hazard to the natural processes and on the renewal of the quantity and quality of waters.

(2) The use of the extracted water shall be provided for. The extraction and the returning of used water into water bodies as well as the transfer of waters shall be carried out in a way that does not change unfavourably the reserves, the quality and the biota in the supplying and recipient water body, and shall not pose hazard to the self-purification thereof.

Protection of the Air

Section 22

(1) The protection of the air shall cover the whole of the atmosphere and the processes and composition thereof, as well as the climate.

(2) The air shall be protected from all artificial impacts which load it or other environmental components through its transmission with radiating, liquid, gaseous or solid substances in a way that poses hazard to the quality of the air, or damages human health.

(3) When activities and facilities are planned, implemented, performed as well as when products are manufactured and used, efforts shall be made to keep the emission level of air pollutants as low as possible.

Conservation of the Biosphere

Section 23

(1) The conservation of the biosphere shall cover all living organisms and the communities and habitats thereof - by taking into consideration the preservation of the natural processes of, proportions in, and the provision of the functioning of the ecosystem.

(2) The biosphere may be utilized only in such a way that does not damage the natural processes and conditions of communities and biodiversity, and does not pose hazard to the functions thereof.

(3) A legal rule or a decision of an authority may establish utilization standards for the regulation of the extent and location of the utilization of the biosphere.

Conservation of the Built Environment

Section 24

The conservation of the built environment shall cover localities, individual structures and technical facilities.

Section 25

(1) In the development plan, zones shall be laid out within the area of the localities on the basis of the loadability of the environment and the designated purpose of the various parts of localities.

(2) The activities that may be performed in the individual zones may be permitted in case a protective distance or area exists, as specified in a separate legal rule on the basis of the nature of the environmental loading, and in case the regulations on protection are observed.

(3) In the area or within the distance designated, no activity which is incompatible with the designated purpose of the given zone may be performed without special measures taken for conservation.

Section 26

In the area of the locality, green space and shelter belts shall be established in accordance with a separate legal rule.

Section 27

In the interest of the co-ordinated protection of the natural and built environments, the environmental impact of the ideas contained in the regional development conceptions during the preparation of regional and locality development plans shall also be explored and evaluated, and the required environmental measures shall be laid down in a chapter on the environment or in a self-contained environmental plan or programme. The content requirements thereof shall be established by this Act and separate legal rules.

Hazardous Substances and Technologies

Section 28

(1) The protection against the adverse impact of hazardous substances shall cover all natural and artificial substances that are used, produced or distributed by users of the environment in the course of its activities, and the quality or quantity of which is explosive, inflammable, radioactive, toxic, highly

corrosive, infectious, ecotoxic, mutagenic, carcinogenic, or irritant, or may bring about such impact if interacting with other substances.

(2) When hazardous substances are handled or used - including the exploitation or extraction, storage, transport, production or manufacture and application thereof -, furthermore, when hazardous technologies are applied, such protective and safety measures shall be taken that reduce the risk of hazards to the environment to a level specified in a legal rule, or eliminate them.

Section 29

(1) When technologies involving hazards to the environment are applied, a protective area or distance adjusted to the nature of the source of the hazard shall be designated in order to reduce the level of hazard to the environment.

(2) In case the protective area or distance under subsection (1) may only be ensured on the basis of a licence by changing the established conditions of a locality, the costs of implementation shall be borne in proportion to the responsibilities.

(3) For the prevention or clean-up of extraordinary levels of environmental damage possibly occurring during the operation of a hazardous technology, an environmental emergency plan shall be drawn up before the beginning of the activity, if no separate provision exists in a legal rule.

Wastes

Section 30

(1) The protection against the impacts of wastes on the environment shall cover all substances, products - including also the packaging and wrapping materials thereof - that their owners cannot or do not wish to use in accordance with their original designated purpose or that are produced during the use thereof.

(2) The user of the environment shall provide for the treatment (disposal, recuperation) of wastes.

(3) The rules on the treatment (disposal, recuperation) of wastes shall be applied also in the case of substances separated during the various cleaning or demolition operations, and of polluted soil that has become waste, as well as of disassembled products, or products to be disassembled.

Noise and Vibration

Section 31

(1) The protection against noise and vibration in the environment shall cover all artificially generated energy emissions, which cause an unpleasant, disturbing, endangering or impairing noise or vibration load.

(2) Within the framework of the protection against noise and vibration, the following shall be resolved using technical and organizational methods:

- a) the abatement of the noise emission or vibration generation of sources of noise and vibration;
- b) the reduction or prevention of an increase in the noise or vibration load;
- c) the posterior protection of environments loaded above standard levels on a permanent basis.

Radiation

Section 32

The protection against the adverse impacts of radiation on the environment shall cover artificially generated and natural ionizing, non-ionizing and thermal radiation.

Common rules

Section 33

In the interest of the protection of the environment - according to this Act - target states shall be set for the environmental components to be attained in the quantitative and qualitative sense [Section 38, subsection paragraph g)].

Section 34

(1) In the interest of the protection and conservation of the environmental components or the system thereof against impacts posing hazards thereto, protective zones may be laid out.

(2) In the protective zones - on the basis of the provisions of separate legal rules - the restriction or prohibition of certain activities, the restriction or prohibition of construction, of the use of materials and of land use, as well as regular measurement and monitoring obligations may be ordered.

(3) When protective zones are designated, the contents of Section 29 shall govern.

Section 35

(1) In the interest of the protection and conservation of environmental components and the protection against impacts posing hazard to the environment - in accordance with the contents of this Act - utilization, emission and pollution standards shall be established.

(2) In the course of the establishment of the standards under subsection (1), the actual and desirable target state of the environment shall also be taken into consideration.

Section 36

The comprehensive rules of special fields on the protection and conservation of the environmental components and the protection against impacts posing hazard to the environment shall be established by separate Acts. The detailed rules that do not require statutory regulation shall be established, based on the contents of this Act, in decrees issued by the Government.

Chapter III

ACTIVITIES OF THE GOVERNMENT AIMED AT THE PROTECTION OF THE ENVIRONMENT

Activities of the Government Aimed at Environmental Protection

Section 37

(1) The regulation of environmental protection, the establishment of the rights and responsibilities related to environmental protection and the control of the observance thereof, as well as the planning and direction of environmental protection shall be performed by the organs of the state and local governments.

(2) The state shall guarantee the assertion of civic rights linked to environmental protection and the enforcement of environmental conventions and treaties concluded with other states or international organizations.

Section 38

The duties of the state in environmental protection are, in particular, the following:

- a) the enforcement of environmental requirements during the performance of the duties of the state with other aims;
- b) the direction of the utilization, the preservation, the prevention of the damaging, the elimination of posing hazard to, the restoration, and the gradual improvement of the state of the environment;
- c) the determination of the priority tasks of environmental protection;
- d) the establishment of a legal, economic and technical regulatory system for the attainment of environmental goals;
- e) the performance of state administration duties of environmental protection;
- f) the development, maintenance and operation of a system serving as a basis for the execution of the tasks, and measuring monitoring, controlling, evaluating the state of the environment, as well as providing information about the impacts thereon;
- g) the exploration of the state of the environment, as well as of the quantitative and qualitative characteristics thereof, the determination of the extent to which the environment may be loaded and utilized, and the state of the environment to be attained (target state), taking into consideration the health indices of the population as well;
- h) the determination of the tasks of research, technical development, education, training and culture, the provision of information, as well as of product and technology qualification in environmental protection, and the provision for the performance thereof;
- i) provision for the economic and financial bases of environmental protection.

Activities of Parliament Aimed at Environmental Protection

Section 39

In the interest of the protection of the environment, Parliament shall:

- a) enforce the environmental interests in its legislative work;
- b) adopt the National Environmental Programme and shall evaluate the execution thereof biennially;
- c) decide on the report of the Government on the state of the environment;
- d) determine the environmental duties of the Parliamentary Ombudsman responsible for the protection of civic rights;
- e) determine the environmental duties of the Government and the local governments;
- f) approve the funds serving the attainment of environmental objectives, and control the use thereof.

National Environmental Programme

Section 40

(1) The basis for environmental planning shall be the National Environmental Programme to be renewed every six years and approved by Parliament (hereinafter: Programme).

(2) With respect to the duration of the Programme, the Programme shall include:

- a) the presentation of the state of the environment;
- b) the environmental goals and target states to be attained;
- c) the tasks to be performed in order to attain the goals and the target states, the order and deadline of the implementation;
- d) the means for the attainment of the goals set, including the indication of the planned sources of the financial needs;
- e) the designation of areas in which special environmental measures are required as well as the contents of the measures.

(3) When submitting its proposal for the renewal of the Programme, the Government shall report to Parliament on the implementation of the Programme and on the experiences gained in the course of the implementation.

(4) The contents of the Programme shall be enforced during the drawing up of the social and economic plan of the country [Constitution, Section 19, subsection (3), paragraph c)], the development of the decisions on economic policy, regional and locality development, regional planning, furthermore, the planning and execution activities carried out in any sector of the national economy by the state.

(5) Regional and county environmental protection programmes are to be prepared in harmony with the Programme, in accordance with the provisions of a separate act.

Activities of the Government Aimed at Environmental Protection

Section 41

(1) The Government shall direct the implementation of the responsibilities of the state regarding environmental protection, shall determine and co-ordinate the environmental protection activities of the ministries and the organs placed directly under the Government.

(2) When submitting its annual budget, the Government shall make a proposal on the funds aimed at the attainment of the goals set in the Programme.

(3) The Government shall submit its proposal on the Programme to Parliament for approval every six years, shall submit a summary report on the state of the environment and on the state of affairs concerning the implementation of the Programme every two years, furthermore, shall direct and co-ordinate the implementation of the tasks specified in the Programme.

(4) While setting the development objectives for the Government, the Government shall enforce the requirements of environmental protection and shall promote the improvement of the state of the environment.

(5) The following shall be, in particular, the environmental responsibilities of the Government:

- a) to fulfil the environmental obligations and to assert the environmental rights arising from international treaties;
- b) to promote the manufacture of environmentally sound or environmentally friendly products meeting the requirements of environmental protection as well as the implementation and spreading of similar technologies and facilities;

c) to clean up the consequences of environmental damage or environmental emergencies (including also military exercises held in the territory of Hungary), if this responsibility may not be diverted to another party;

d) to provide cover for the liability of the state for environmental damage and to fulfil the liabilities.

Responsibilities of the Minister in Charge of Environmental Protection

Section 42

In his ministerial competence, the Minister in charge of environmental protection (hereinafter: Minister):

a) shall direct:

aa) the environmental protection activities assigned to him in Acts or government decrees,

ab) the implementation of responsibilities regarding environmental protection arising from international treaties,

ac) the environmental protection administration in his sphere of activities and powers;

b) shall analyze and shall evaluate:

ba) the state of the environment and the state of affairs of the protection thereof,

bb) the processes of the management of natural resources,

bc) the experiences of the protection, regulated use and planned development of the environment,

bd) the prevention of the development of environmental emergencies as well as the professional environmental protection activities aimed at the defusing of environmental emergencies and disasters, in co-operation with the competent organs;

c) shall work out a Draft Programme and shall submit it to the Government on the basis of the experiences of the evaluation carried out in accordance with paragraph b);

d) shall participate in the development of the conceptions of professional policy on the use of the natural resources;

e) shall participate in the development and operation of a special environmental protection curriculum and qualification system.

Enforcement of Environmental Protection in Regulation and in Other State Decisions

Section 43

(1) The drafter of bills and other legal rules related to the protection of the environment (hereinafter together: legal rules), of the social and economic plans and regional development conceptions of the country, furthermore, of decisions resulting in regional impacts (hereinafter together: decisions) shall assess and evaluate the impacts of measures on the environment and shall summarize them in an analysis of assessment (hereinafter: analysis of assessment).

(2) For the purposes of subsection (1), legal rules related to environmental protection are Acts, government decrees, ministerial decrees and decisions that have impacts on

a) the environmental components,

b) the quality of the environment or

c) human health in connection with the environment.

(3) In the case of regulations aimed at the introduction of economic regulators related to environmental protection (rules on customs, taxation and duties, etc.) and the significant modification thereof, the analysis of assessment shall be carried out in every case.

Section 44

(1) The analysis of assessment shall cover, in particular, the following:

a) the extent to which the planned regulations and measures influence or may improve the state of the environment;

b) in case the planned measures were not implemented, what could be the damage caused to the environment or the population;

c) the extent to which conditions are adequate in Hungary for the introduction of the planned measures;

d) the extent to which the organs of public administration are prepared for the implementation of the planned measures;

e) whether the state, financial, organizational and procedural conditions are available for the implementation of the planned measures;

f) the extent to which the proposal represents deviation from the solutions generally adopted on the international plan.

(2) Prior to submitting the drafts and the analysis of assessment specified in Section 43, subsection (1) to the organ entitled to make decisions, they shall be sent to the National Council of Environmental Protection for evaluation. At least thirty days - reckoned from the delivery of the Draft - shall be provided for preparing an evaluation.

National Council of Environmental Protection
Section 45

(1) In order to establish wide social and scientific, professional bases for environmental protection, a National Council of Environmental Protection (hereinafter: Council) - consisting of up to 22 members - shall operate.

(2) During the Government's term in office, and as an advisory organ thereof, the Council shall take a stand on the matters of principle of various environmental programmes, on the legal rules and decisions related to environmental protection (Section 43) and on other issues related to environmental protection. The Council shall submit to the Government its positions on the decisions falling within the powers of Parliament or the Government.

(3) In the Council, the representatives

a) of public organizations registered with environmental goals, as well as

b) of organs representing professional and economic interests, elected in a manner determined by themselves;

c) appointed to this function by the scientific community and the Chairman of the Hungarian Academy of Sciences shall participate in equal proportions.

(4) The responsibilities of the secretariat of the Council shall be fulfilled by the Minister through his official organization.

(5) The Council shall elect a chairman from among its members. Representing the Government, the Minister shall be the co-chairman of the Council.

(6) The Council shall fulfil its responsibilities specified in this Act in accordance with the rules of this Act, and, as regards its other activities, it shall determine its rules of procedure.

(7) The operating costs of the Council shall be provided for under a separate title in the budget of the ministry in charge of the protection of the environment.

Chapter IV
ENVIRONMENTAL RESPONSIBILITIES OF LOCAL GOVERNMENTS

Section 46

(1) In the interest of environmental protection, municipal local governments (in Budapest the Metropolitan Government of Budapest as well)

a) shall ensure the execution of the legal rules serving the protection of the environment and shall perform the official tasks assigned to it;

b) shall work out, in harmony with the goals and objectives in the Programme and the development plan of the locality, a self-contained municipal environmental programme for its area of competence, to be approved by the body of representatives (general assembly) thereof;

c) shall issue municipal by-laws and shall pass resolutions to attain objectives related to environmental protection;

d) shall co-operate with other authorities in charge of environmental protection, with other local governments and social organizations;

e) shall analyze and evaluate the state of the environment in its area of competence and shall inform the public thereof as required, but at least once a year;

f) shall enforce the requirements of environmental protection during the attainment of development objectives and shall promote the improvement of the state of the environment.

(2) In order to fulfil its responsibilities in connection with the built and the natural environment, county governments

- a) shall prepare environmental programmes co-ordinated with the municipal local governments;
- b) shall give their preliminary opinions on the municipal environmental programmes or may initiate the preparation thereof;
- c) shall take a stand on the draft municipal by-laws of municipal local governments affecting environmental protection;
- d) shall promote the reaching of agreements under Section 58, subsection (7);
- e) may make recommendations for the foundation of municipal environmental associations.

(3) With respect to cities of county rank, the responsibilities under subsection (2), paragraphs a) and b) shall be fulfilled within the framework of a conciliatory panel [Act on Local Governments, Section 61/A].

Section 47

(1) The municipal environmental programme defined in Section 46, subsection (1), paragraph b) shall contain, in particular, the tasks and regulations of the following, pertaining to the localities:

- a) cleanness of the environment in the locality,
- b) draining of storm water,
- c) treatment, collection, draining and purification of municipal sewage,
- d) treatment of municipal wastes,
- e) protection against noise, vibration and air pollution generated by the public and public services (catering, operation of municipal facilities, retail trade),
- f) organization of local transport,
- g) drinking water supply,
- h) energy management,
- i) management of green spaces;
- j) the prevention of posing predictably exceptional hazards to the environment and the abatement of environmental damage.

(2) The municipal local government shall take charge of the implementation of the tasks contained in the municipal environmental programme and of the provision of conditions for the implementation, shall monitor the completion of the tasks contained therein, and shall review the programme as required, but at least biennially.

(3) The objectives set in the approved environmental protection programme shall be implemented during the approval of the development plans of the locality or when another decision is made by the local government - if necessary, by passing a municipal by-law.

(4) The municipal local governments may also prepare a joint municipal environmental protection programme.

Section 48

(1) The legislature of the municipal local governments or, in the case of the Metropolitan Government of Budapest, the Metropolitan General Assembly may only lay down regulations regarding environmental protection in a municipal by-law - and in a manner and to the extent specified in an Act or government decree - for its area of competence, which are more restrictive than the provisions contained in other legal rules.

(2) Municipal local governments shall send the drafts of their by-laws and decisions regarding environmental protection, the drafts of its plans affecting the state of the environment and the environmental protection programme [Section 46, subsection (1), paragraph b)] to the neighbouring and affected local governments and the regional environmental protection authorities [Section 65, subsection (1), paragraph a)]. The regional environmental protection authorities shall inform the municipal local governments about their professional opinions within thirty days.

Chapter V

THE GROUNDWORK FOR ENVIRONMENTAL PROTECTION

Environmental Information System and Provision of Information

Section 49

(1) The Minister shall establish and operate a monitoring network, the National Environmental Information System (hereinafter together: Information System) - in accordance with the provisions set forth by the Government - for the monitoring of the state and use of the environment, and the measurement, collection, processing and registration of data on the utilization and loading thereof.

(2) The Information System shall be organized and set up in such a manner and with such a territorial density that on the basis thereof

a) the changes in the utilization, loading and the state of the environment can be determined quantitatively and qualitatively and can be compared internationally - in a form that can also be evaluated together with social and economic relationships and from the aspect of the impacts on the health of the population;

b) the causes of the environmental impacts can be established with satisfactory accuracy (including also detailed breakdowns required for the establishment of the causal relationships of the damage);

c) the hazards posed to the environment can be recognized as early as possible;

d) the regulatory responsibilities can be fulfilled and the official measures can be taken by the authorities;

e) it can be used for planning.

(3) The regional tasks necessary for the operation of the Information System shall be fulfilled by the regional environmental protection authority [Section 65, subsection (1), paragraph a)].

(4) The costs of data provision, as specified in legal rules, shall be borne by the party obligated to provide the data concerning the impacts on the environment.

Section 50

(1) Users of the environment shall measure the environmental loading and the utilization of the environment caused during its activities in a manner specified in legal rules, or shall substantiate and register it with technological calculations, and shall make its records available and/or shall provide data to the authorities with jurisdiction and competence.

(2) The organs of local governments and the state responsible for environmental protection shall make the data they obtained and necessary for the Information System available to the Information System, in accordance with the contents of government decrees.

Section 51

(1) The findings of studies funded from the state budget and pertaining to the state, the utilization and the use of the environment shall be treated in accordance with the legal rules on data of public interest.

(2) On the basis of the data collection, the Minister shall submit a report annually to the Government on the trends in the state of the environment in the country.

(3) Municipal local governments shall inform the population about the trends in the state of the local environment as required, but at least annually.

Entry of Environmental Data into Other Records

Section 52

(1) The fact, extent and nature of permanent environmental damage established by a non-appealable decision of an authority or a court ruling shall be entered into the land registry.

(2) The entry shall be requested by the environmental protection authority or - in case the liability is established by a court - shall be ordered ex officio by the court.

(3) The cessation of, or any change in, the fact, extent and nature of environmental pollution serving as a basis for the entry shall be established, at the request of the owner of the real property, by the authority requesting the entry or the court ordering the entry, and they shall subsequently take measures ex officio to delete or amend the entry.

Environmental Research and Technical Development

Section 53

(1) The fulfilment of responsibilities related to environmental protection shall also be promoted through the development of science and technology, the organization of scientific research and technical

development, furthermore, through the dissemination as well as the practical application of the findings of domestic and international research.

(2) Research aimed at exploring the state of the environment and at the development of environmental protection are research objectives that shall receive priority support. The Minister shall be responsible, in co-operation with the minister in charge of scientific research, for the co-ordination, support and evaluation of such research and the provision for the attainment of the environmental research goals of the state.

Environmental Education, Training, Culture

Section 54

(1) All citizens shall have the right to acquire knowledge about the environment and to improve such knowledge.

(2) The dissemination and improvement of knowledge about the environment (education at nursery schools, education and training at schools, education and extension training outside the school system, dissemination of information, publishing of books) shall be primarily the responsibilities of the state and the local governments.

(3) During the fulfilment of the responsibilities of the state, the Minister shall co-operate with the minister in charge of education and public instruction and other concerned ministers, in order to ensure professional education about knowledge concerning the environment and to improve the latter on a continuous basis.

(4) In accordance with the principles and requirements of the National Master Curriculum, the Minister shall participate in the professional preparation of the curricular requirements and school equipment prepared for the institutions of public education.

(5) The Minister shall prepare an environmental education and training programme that summarizes

a) the environmental knowledge for environmental education, training, extension training and dissemination of information outside the school system, as well as

b) guidelines for the improvement of self-motivated public education and environmental awareness, and

c) guidelines for, and parameters of, the vocational and professional training in environmental protection.

(6) In addition to the basic complex knowledge (of the natural sciences and ecology, of the social sciences as well as engineering and technology), environmental education and dissemination of information shall also cover environmental knowledge necessary for the practice of trades and professions, the activities that pose hazard to the environment, the basic questions of the prevention and defusing of emergencies, the environmental impacts influencing human health, furthermore, the dissemination of knowledge regarding civic rights and responsibilities related to the protection of the environment.

Section 55

(1) The state shall fulfil the responsibilities indicated in Section 54 through the institutions of instruction and public education, in co-operation with the environmental protection associations and the professional organizations of the public engaged in the protection of the environment. The state shall support the individual organizations with educational and training responsibilities, the churches, the scientific institutions, professional organizations and associations in order that they perform their educational and training activities more effectively, if necessary, by making appropriate funds available.

(2) The minister in charge of education and public instruction and the Minister shall be jointly responsible for the organization of education about environmental knowledge and the academic and financial support of the preparation of the curricula and educational programmes related to this; the Minister shall exercise the rights of the minister in charge of qualification with respect to professional and vocational training, shall fulfil the responsibilities of the state in the sphere of higher education and shall provide assistance for the educational work of institutions of higher education belonging to his field.

Chapter VI

ECONOMIC BASES OF ENVIRONMENTAL PROTECTION

Section 56

- (1) In harmony with the separated state funds, the central budget
- a) shall support the fulfilment of tasks arising from the assumption of environmental protection and international obligations of high priority specified in the Programme;
 - b) shall contribute to the clean-up of environmental damage in cases when it may not be diverted to third parties or the party causing the damage is unknown, or the liability thereof for the damage may not be enforced;
 - c) shall advance the costs of abating or eliminating environmental damage that requires immediate intervention;
 - d) shall support measures aimed at environmental protection, especially in the fields of the development and operation of the Information System, control by public administration, education and the dissemination of information, research and the activities of the public related to environmental protection.
- (2) The use of technologies resulting in a reduced utilization and loading of the environment, the manufacture of environmentally sound products and the provision of environmentally sound services may be supported through the provision of tax allowances, and customs and duty reductions.

Central Environmental Protection Fund

Section 57

- (1) The Central Environmental Protection Fund is a separated state fund promoting the encouragement of the development of an environmentally sound economic structure, the prevention of environmental damage, the clean-up of environmental damage sustained - landscape planning specified in a separate Act - furthermore, the conservation of natural values and areas, the encouragement and promotion of the most efficient alternatives, the development of the environmental attitude in society as well as environmental research.
- (2) A separate Act shall provide for the Central Environmental Protection Fund and the detailed rules of the management and use thereof.

Municipal Environmental Protection Funds

Section 58

- (1) In order to promote the fulfilment of their responsibilities in environmental protection (Section 46), the local governments - in Budapest, the Metropolitan Government as well - may establish municipal environmental funds through municipal by-laws.
- (2) The revenues of the municipal environmental protection funds shall be the following:
- a) the full amount of environmental fines imposed non-appealably by the local government,
 - b) thirty per cent of the sum of environmental fines imposed non-appealably by the regional environmental protection authority [Section 65, subsection (1), paragraph a)] in the area of the municipal local government,
 - c) part of the environmental load charges and utilization contributions specified in a separate Act,
 - d) the amount of the revenues of the local government separated for environmental protection purposes, and
 - e) other revenues.
- (3) If the local government does not establish a municipal environmental protection fund, the revenue contained in subsection (2), paragraph c) shall not be due to it.
- (4) The municipal environmental protection fund shall be used for environmental protection purposes.
- (5) The body of representatives shall provide for the use of the municipal environmental protection fund annually, simultaneously with the passing of the by-law on the budget (State Finances Act, Section 65) and the adoption of the final accounts (State Finances Act, Section 85).
- (6) Local governments affected by the utilization, loading and pollution of the environment may initiate, with the local government entitled to dispose of the revenues under subsection (2), paragraphs

a), b) and c), the proportionate division of revenues among the local governments in the impact area. They shall substantiate the extent of their needs with data.

(7) If no agreement is reached among the affected local governments on the issue and extent of the division under subsection (6), the local government initiating it may submit a statement of claim to the town court acting at the seat of the county court and, in the Capital City, to the Central District Court of Pest. The procedure shall be free of duty.

Charges Payable for the Use of the Environment
Section 59

(1) The charges providing cover for the measures abating the loading and the utilization of the environment are:

- a) environmental load charges,
 - b) utilization contributions,
 - c) product charges,
 - d) deposits
- (hereinafter together: charges)

(2) The magnitude of the charges shall be established in such a way that they should encourage the users of the environment to reduce the utilization and loading of the environment.

(3) The magnitude of the charges and the goal they are used for shall be set through conciliation with the interest representations of those obligated to pay the charges. The charges shall be introduced gradually with respect to their date and magnitude.

(4) The goals and manner of using the charges shall be specified in the separate legal rule providing for the charges in such a way that the greater part of the amount collected may be spent on the abatement of the environmental load and/or the level of utilization of the environment taken as basis when the payment of the charge was determined.

(5) The charges shall be paid to funds specified by law.

Environmental Load Charges
Section 60

(1) The users of the environment shall pay environmental load charges for loading the environment, in the cases specified in separate legal rules.

(2) The users of the environment obligated to pay environmental load charges shall keep records of the loads they imposed, shall provide data thereon and shall declare them.

(3) Environmental load charges may be set for substances and types of energy for which measurement standards exist or the emission of which may be established reliably on the basis of material balance or technical calculations.

(4) The environmental load charges payable for pollutants released into the environmental components specified under subsection (1) shall be specified separately for certain substances, types of energy or the groups thereof, in proportion to the quantity of the emitted substance or energy. The proportionality factor may be different depending on the category of the area and the emission standards.

(5) An Act shall provide for the scope of substances and types of energy subject to the obligation to pay environmental load charges, for the magnitude of the charges, furthermore, for the order of record keeping and the provision of data.

Utilization Contribution
Section 61

(1) The users of the environment shall pay utilization contribution for certain ways of utilizing a particular component of the environment.

(2) No utilization contribution shall be paid for the utilization of an environmental component for which the users of the environment pay mining royalties (Mining Act, Section 20).

(3) The users of the environment obligated to pay utilization contribution shall keep records of the extent of the utilization, shall provide data thereon and shall declare them.

(4) The contribution payable for the utilization of the environmental component shall be established in proportion to the utilized quantity of the environmental component. The proportionality factor may be different depending on the category of the area.

(5) An Act shall provide for the scope of activities and utilization subject to the obligation to pay utilization contribution, the magnitude of the contribution, furthermore, the order of record keeping and the provision of data.

Product Charges

Section 62

(1) The manufacture, import and distribution of certain products putting special load on or posing special hazard to the environment or any components thereof during or following their use shall be burdened by the obligation to pay a single product charge.

(2) The manufacturer, importer and distributor obligated to pay product charges shall keep records of the quantity and turnover of the products, shall provide data thereon and shall declare them.

(3) An Act shall provide for the scope of products, the magnitude of the charge and the order of record keeping and the provision of data.

(4) The magnitude of the product charge shall be established for the unit quantity of the manufactured, imported and distributed products.

(5) The manufacturer or the distributor of the products, including also the importer, may be obligated - on the basis of the provisions of legal rules - to take back and to treat adequately certain worn-out products that are subject to the obligation to pay product charges.

(6) The product charge of products burdened by the obligation to take them back shall be spent on the recuperation or safe disposal of the returned worn-out products, or on the funding of projects implementing the above, with consideration to the contents of Section 59, subsection (4).

Deposits

Section 63

(1) Legal rules shall provide for the sphere of products, the return of which is justified in order to abate the loading and the pollution of the environment. To encourage the return thereof, the distributor of the product shall charge deposits.

(2) The distributor of products with deposit shall provide for the taking back and the adequate treatment of the used product, furthermore, shall pay the deposit charged when the product was sold to the person returning the product.

Chapter VII

ADMINISTRATION OF ENVIRONMENTAL PROTECTION

Administration of Environmental Protection

Section 64

(1) The following shall belong to the scope of the administration of environmental protection:

a) the performance of the activities of the environmental protection authority, thus, in particular, the licensing of the use of the environment - in accordance with the rules specified in this Act - and the enforcement of the administrative legal responsibility for the environment;

b) the fulfilment of responsibilities related to the operation of the Information System;

c) the specification of the environmental rating system of substances, products and technologies and the licensing of the distribution or use thereof;

d) the organization of tasks aimed at averting environmental damage.

(2) The responsibilities of the administration of environmental protection shall be fulfilled by the official apparatus overseen by the Minister on the basis of the provisions of this Act and other legal rules, furthermore, by the regional environmental protection authorities and other organs of public administration, local governments and the organs thereof as well as by the notaries.

Fulfilment of the Responsibilities of the Environmental Protection Authority

Section 65

(1) The responsibilities of the environmental protection authority shall be fulfilled at the level of first instance by

a) the regional environmental protection authority (hereinafter: inspectorate) in cases not falling under the powers of local governments, unless a legal rule provides otherwise;

b) the mayor (Lord Mayor of Budapest) or notary (Notary-in Chief of Budapest) (hereinafter together: municipal environmental protection authority) in cases falling under the powers of local governments, in accordance with the provisions of separate legal rules;

c) the inspectorate in cases when the whole or the majority of assets subject to the responsibilities of the authority is owned by the local governments.

(2) The scope of activities and powers of the inspectorate - not provided for in this Act - shall be established in decrees by the Government, while its area of competence, by the Minister.

(3) The inspectorate shall co-operate in environmental issues concerning the scope of activities and powers of the local governments with the municipal environmental protection authorities operating in its area of competence and shall support them in the fulfilment of their responsibilities related to environmental protection.

Conditions for and Licensing of the Use of the Environment

Section 66

(1) The use of the environment may be commenced or continued following the becoming non-appealable of

a) an environmental licence issued by the inspectorate - prior to other licences related to the activity or as a precondition thereto - in the case of activities subject to environmental impact assessment [Section 70, subsection (2), paragraph b); Section 71, subsection (4), paragraph a)],

b) an environmental operating licence issued by the inspectorate in the case of activities subject to environmental audit [Section 79, subsection (1), paragraph a)];

c) a decision issued by the inspectorate or the municipal environmental protection authority (hereinafter together: environmental protection authority) or another decision issued by another authority taking into consideration the position taken by the environmental protection authority as an expert authority in the cases not falling under the effect of paragraphs a) and b) and specified in separate legal rules.

(2) The inspectorate shall keep an official record of its official decisions specified in subsection (1) and the positions it has taken as an expert authority.

Environmental Impact Assessment

Section 67

(1) Prior to commencing activities with significant impacts on the environment, [subsection (2), paragraph a)], an environmental impact assessment shall be carried out.

(2) From the aspect of environmental impact assessment

a) the siting or implementation of a facility or operation, the abandonment and significant enlargement or expansion of an existing facility or operation, as well as a change in technologies and products and the significant modification of the above - all specified in a decree by the Government - shall qualify as activities with significant impacts on the environment;

b) applicant: proponent or performer of the activities defined in paragraph a).

Section 68

(1) The impact assessment shall consist of a scoping (preparatory) and - in case it is necessary in accordance with the rules of this Act - a detailed assessment phase.

(2) The applicant shall present the findings of the phases of impact assessment

a) in a preliminary environmental statement and

b) in a detailed environmental impact statement.

(3) In the course of environmental impact assessment, environmental impacts expected as a result of other operations linked directly to the activity and of a failure or accident shall also be revealed.

Preliminary Environmental Statement

Section 69

(1) The applicant shall notify the inspectorate of its intent to start an activity (hereinafter: application). A preliminary environmental statement shall be attached to the application.

(2) The preliminary environmental statement shall contain:

a) the goal of the planned activity, a description of the siting and technological alternatives thereof, the justification of the need for the facility, furthermore, a description of the environmental consequences to result should the planned activity not come about;

b) quantitative and qualitative descriptions of the expected environmental loads and levels of utilization of the environment resulting from the implementation of what is contained in paragraph a);

c) a preliminary assessment of the expected environment impacts, furthermore, in the case of a new siting, a detailed description of the changes expected in the landscape and the ecological conditions at the location of the siting;

d) those questions that may be answered only on the basis of further detailed impact assessment;

e) an indication of the information that constitutes state, service or business secrets pursuant to the law.

Section 70

(1) In the scoping (preparatory) phase, the inspectorate shall always involve the following as expert authorities:

a) the competent nature conservancy directorate or national park directorate;

b) the competent county (Budapest) institute of the National Public Health and Medical Officer Service;

c) other expert authorities specified in separate legal rules.

(2) On the basis of the application and the preliminary environmental statement, the inspectorate

a) shall prescribe the submission of a detailed environmental impact statement and shall determine the issues to be studied during the preparation of the detailed environmental impact statement and/or the requirements that may be determined (are to be met) on the basis of the data available,

b) shall issue the environmental licence required for the activity, by simultaneously notifying the local governments competent at the planned location(s) of the siting, or

c) shall reject the application.

(3) The inspectorate shall withdraw the environmental licence, if the activity or the preliminary construction work necessary therefor has not been started within three years reckoned from the becoming non-appealable thereof, or if the title holder makes a statement that it does not wish to make use of the environmental licence, furthermore, even if the conditions existing at the time of the licensing have substantially changed.

Detailed Environmental Impact Statement

Section 71

(1) The detailed environmental impact statement, to be drawn up on the basis of the preliminary environmental statement and substantiated with local tests shall contain, at the depth and to the level of details specified by the inspectorate:

a) a detailed description of what is contained in Section 69, subsection (2), paragraphs a) and b) and a comparison of the selected technology with the most efficient alternative;

b) the delimitation of the impact areas, including the visual presentation thereof using maps, and a description of the state of the environment in these areas in the situation without the implementation of the activity;

c) the prediction and evaluation of impacts of the changes generated in the state of the environment as a result of the activity on the environmental components and human health;

d) the assessment of the health, economic and social consequences expected due to changes in the state of the environment;

e) the specification of measures preventing, abating or cleaning up possible levels of utilization, pollution and damage;

f)

fa) the methods of measurement and analysis of the impacts on the environment during the performance of the activity, as well as

fb) the methods of post-project analysis of the impacts on the environment following the abandonment of the activity;

g) the sources of information used for the compilation of the detailed environmental impact statement, the methods used in the impact assessment, their limitations and the conditions of their use, the limits to the validity (probability) of predictions, and the uncertainties found during the evaluation of the impacts and the findings of the assessment;

h) a list of the studies used and the way of gaining access to the studies;

i) an indication of the information in the study parts prepared in accordance with paragraph a) that constitutes state, service or business secrets pursuant to the law;

j) a non-technical summary for the public.

(2) The inspectorate shall involve the expert authorities defined in Section 70, subsection (1) in the detailed assessment phase.

(3) In the positions they have taken as expert authorities, the expert authorities participating in the detailed assessment phase may make a statement also on the fact that, on the basis of the information provided by the applicant, it grants its licence in principle and/or for land use falling under its powers without a separate procedure, simultaneously with the granting of the environmental licence.

(4) The inspectorate shall make its decision on the basis of all the information available in the matter and

a) shall issue the environmental licence required for the performance of the activity or

b) shall reject the application.

(5) For the withdrawal of the environmental licence, the contents of Section 70, subsection (3) shall be applied.

Contents of the Environmental Licence

Section 72

(1) The decision on the granting of the environmental licence shall contain:

a) the name and data of the licensee and the licensed activity, furthermore, the validity period of the licence;

b) the environmental regulations as well as the obligations to give a bond and to form provisions as specified in legal rules, the satisfaction of which is a precondition for the siting, implementation, modification, performance and abandonment of the licensed activity;

c) the positions taken by the expert authorities about the environmental impacts of the licensed activity;

d) in its reasoning, a detailed description of the circumstances which the inspectorate considered when granted the licence and on which it based its decision.

(2) A decision rejecting the application shall contain a detailed reasoning with the facts and considerations on which the inspectorate based the rejection. At the same time, the applicant shall be informed whether the activity is possible with an alternative solution that is different from the rejected application or whether it is not possible at all in the given area.

Environmental Audit

Section 73

(1) Environmental audits (hereinafter: audit) shall be carried out for the exploration and study of the environmental impacts of certain activities as well as for checking whether the environmental protection requirements are met.

(2) From the aspect of the audit:

a) the performance, renewal, restoration and abandonment of some operation or technology entailing the utilization of, posing hazard to or the pollution of the environment shall qualify as activities;

b) the concerned party shall be the performer of the activities defined in paragraph a).

Section 74

(1) In order to explore the environmental impacts of the activity of the concerned party, the inspectorate shall obligate the concerned party to carry out a full or partial audit when it detects that the latter poses hazard to or damages the environment.

(2) The inspectorate shall order an audit, if the concerned party

a) began or performs an activity subject to a licence without such a licence, furthermore,

b) performs an activity that poses hazard to the environment in strictly protected or protected areas or in protective zones (national park, nature conservation area, landscape conservation area, water quality protective zone, hydrogeological protective zone, the protective zones of drinking, mineral and medicinal water abstraction sites).

(3) If the inspectorate detects during the environmental audit that hazard is being posed to the environment or the environment is being damaged, it may fully or partially restrict or suspend the audited activity causing the said problems in the impact area.

Section 75

(1) The full audit shall cover

a) the description of the technologies used and the presentation of the technical state and the up-to-date nature of the equipment;

b) the description of the loading and the utilization of the environment caused during the performance of the activity, substantiated by data;

c) the operations linked directly to the activity, especially the material stream, shipments into and outside the facility and the treatment of wastes and sewage;

d) the specification of pollutants and energy to be presumably released into the environment because of a failure or environmental disaster that might occur;

e) the description of measures taken and planned in order to prevent environmental hazards and to clean up environmental damage;

f) the measures to be taken after the abandonment of the activity.

(2) During the audit, the alternatives and conditions of the elimination of environmental pollution and - if this is not possible - the abatement of the utilization and pollution of the environment shall be specified.

(3) Of the conditions described in subsections (1) and (2), the partial audit shall cover those earmarked by the inspectorate.

Section 76

(1) The concerned party may carry out the audit itself at its own expense or may have it carried out by persons or organizations entitled to carry out such audits.

(2) The concerned party shall be responsible for the authenticity of the audit and the validity of the information reported.

(3) If the inspectorate finds out during its inspection that the findings of the audit are wrong or the contents thereof are partially or fully invalid, it shall have a new audit carried out at the expense of the concerned party (repeated audit).

(4) The inspectorate shall notify the concerned party of the repeated audit; and the concerned party shall provide the inspectorate or the organization(s) commissioned by the inspectorate with the information requested and shall carry out the supplementary measurements (shall have them carried out).

Environmental Protection Performance Evaluation

Section 77

With the appropriate application of Sections 73 through 76, the concerned party may carry out a survey (may have it carried out) to evaluate its own environmental performance (to audit its own activity) and to find out about the environmental impacts of its activity, and - at its request - the inspectorate shall approve it.

Common Rules of the Audit and the Performance Evaluation

Section 78

In procedures instituted on the basis of the findings of the audit in accordance with Section 73, or, in the case of Section 77, when the findings of the survey are approved, the competent nature conservancy or national park directorate, the county (Budapest) institute of the National Public Health and Medical Officer Service, as well as other authorities concerned in the matter - and vested with powers in separate legal rules - shall be involved as expert authorities.

Section 79

(1) On the basis of the findings of the audit, the inspectorate

a) shall license the performance of the activity (hereinafter: operating licence);

b) simultaneously with the granting of the licence, shall obligate the concerned party to take the necessary environmental measures, including also the obligations to give a bond and to form provisions as contained in Section 72, subsection (1), paragraph b);

c) shall restrict, suspend or ban the performance of the activity, or shall initiate the same with the organ vested with the relevant powers. In the case of a restriction or suspension, it shall specify the environmental conditions of the performance of the activity.

(2) When approving the survey carried out in accordance with Section 77, the inspectorate shall make a simplified decision [State Administration Act, Section 43, subsection (2)], or may continue the procedure by appropriately applying the provisions of subsection (1), paragraphs b) and c).

Section 80

In the case of Section 74, subsection (2), paragraph a), the inspectorate shall hold a public hearing in order to ensure the involvement of the public.

Section 81

The decision shall contain:

(1) In the case of Section 79, subsection (1), paragraph a):

a) designation of the activity and of the concerned party, as well as the goal of the activity;

b) location where the activity is performed and the delimitation of the impact area thereof;

c) data specifying the nature of the activity, established on the basis of Section 75;

d) environmental protection regulations related to the activity; including the order and documentation of measurements required for the monitoring of the environmental impacts and the manner of providing and evaluating the resulting information.

e) validity period of the decision.

(2) In the case of Section 79, subsection (1), paragraph b), in addition to the provisions of subsection (1):

a) specification of the measures required for the performance of the activity;

b) sampling sites required for the monitoring of the environmental impacts;

c) order and scheduling in time of the measures.

(3) In the case of Section 79, subsection (1), paragraph c):

a) the name of the obligor;

b) the contents of the obligation established and the manner and deadline of the fulfilment thereof;

c) all essential regulations (conditions) that have to be observed or met during the activity;

d) the requirements pertaining to the elimination of environmental damage and the general solutions (the possible alternatives thereof) applicable to the supplementation thereof.

Obligation to Report, Inspection

Section 82

(1) The concerned party shall notify the inspectorate within fifteen days of any significant change in the conditions taken as basis in the operating licence or in the case mentioned in Section 66, subsection (1), paragraphs a) and c), furthermore, any change in the ownership.

(2) The inspectorate shall also inspect ex officio the changes in the conditions taken as basis in the environmental licence or in the decision mentioned in Section 66, subsection (1), paragraph c). If they deviate significantly from the conditions existing at the time of licensing, the environmental protection authority shall order an audit and, until it is evaluated, may partially or fully restrict or suspend the performance of the activity, or may initiate the same with the organ vested with the relevant powers. In

case the notification specified in subsection (1) is not given, the organ vested with powers shall suspend the activity.

(3) From the aspect of applying subsections (1) and (2), changes in the conditions and technology that result in particular levels of loading and utilization of the environment exceeding those permitted shall qualify as significant changes.

Section 83

In the case of bankruptcy and liquidation proceedings and final accounting, the provisions of a separate Act shall be applied for the exploration and elimination of environmental damage possibly caused by the activity.

Rating of Substances, Products and Technologies in Relation to Environmental Protection

Section 84

(1) Polluting products and technologies posing hazard to the environment or polluting it in the absence of appropriate treatment or design shall be rated from the aspect of environmental protection, and the conditions of ensuring the quality shall be provided for.

(2) Substances posing hazard to the environment shall be classified into hazard classes - in accordance with separate legal rules - on the basis of the environmental impacts realized if they are possibly released into the environment.

(3) The environmental protection requirements shall also be enforced during the rating of substances, products and technologies for other purposes.

(4) The manufacturer or the distributor shall provide information in the user's instructions about the environmental hazards and impacts of the rated substances, products or technologies, and on the conditions and methods of the treatment thereof after they have been dismantled, or have become worn out.

Section 85

In addition to their rating, the production, manufacture, import, distribution of certain substances and products posing serious hazard to the environment and the use of similar technologies shall be made subject to separate licences or, if necessary, shall be banned.

Section 86

(1) The distinctive symbols of "environmentally sound product or technology" may be used for environmentally friendly or environmentally sound products and technologies that utilize or load the environment to a lesser extent - and this is demonstrated - than traditional products and technologies with the same or similar functions.

(2) The unauthorized use of the distinctive symbols shall bring about an environmental fine specified in a separate legal rule.

Standards

Section 87

(1) Standards shall be specified as utilization [Section 17, subsection (1); Section 19, subsection (1); Section 23, subsection (3)], or emission and pollution (Section 35) standards.

(2) Depending on the specific features of the environmental component to be protected, or the nature of pollution, the following types of ecological, health and planning standards, furthermore, standards to be applied in emergency situations, may be specified:

- a) of general nature,
- b) regional,
- c) local,
- d) individual,
- e) pertaining to protective zones.

Section 88

(1) The extent to which the environmental components may be utilized, the quantity, quality and concentration of substances and energy that may be released into the environment (hereinafter: standard) shall be established with consideration to the target state defined for the preservation or restoration of the state of the environment or of the affected environmental component.

- (2) An emission standard may be established for:
- a) some product (product standard);
 - b) the quantity of an emission characteristic to some technology or pollutant (technology standard; it may be an emission concentration or a specific value for the quantity of the use of substances, production and energy production, etc.);
 - c) the quantity of a pollutant or energy that may be emitted in the given area by the pollutant source (area standard);
 - d) in a total quantity for a specified area or branch of production or pollutant group.
- (3) A utilization standard may be established for:
- a) for the admissible level of utilization with respect to some use of the environment (the extent of a change in the environment that may be caused, the quantity of a natural resource that may be extracted in total or over unit of time);
 - b) for the admissible extent of the abstraction or use of an environmental component that may be utilized in some area;
 - c) in a total quantity for a specified group of exploiters or users.

Section 89

(1) When the standards are established, the present and target state of the environment or a given component thereof and the most efficient alternative shall be taken into account. When they are introduced, the necessary and sufficient preparation periods shall be guaranteed.

(2) During the establishment of the standards, the expected joint impact of natural processes and certain environment-loading factors shall also be taken into consideration.

(3) The standards shall be established by the Minister in decrees - issued jointly with the concerned ministers - or by the environmental protection authority in cases specified in a decree.

Special Rules for the Official Procedures of the Environmental Protection Organs of Public Administration

Section 90

The Act on the General Rules of State Administration Procedures shall be applied for the procedures of the environmental protection authority, with the differences contained in this Act.

Deadlines for Dispatch

Section 91

The administration deadline shall be not more than ninety days in procedures aimed at the acquisition of an environmental licence and the issuance of an operating licence.

Proceeding as an Expert Authority

Section 92

(1) In environmental issues, the expert authority participating in the procedure shall provide its position taken as an expert authority within thirty days following the request therefor.

(2) In the procedures of other authorities, the environmental protection authority shall provide its position taken as an expert authority within thirty days following the receipt of the application or request.

Public Hearing

Section 93

(1) After a detailed environmental impact statement has been submitted to it, the inspectorate shall hold a public hearing (hereinafter: public hearing), unless the activity falls under military secrecy. The inspectorate shall inform the affected local government about the environmental impacts of a secret military activity.

(2) The location of the public hearing shall be a room provided by the local government competent in the location of the siting of the activity or by the local government of the most affected locality (localities), where the inspectorate may invite the expert authorities concerned in the matter [Section 70, subsection (1)], the affected parties [Section 4, paragraph o)] and the affected local governments [Section 4, paragraph p)], the applicant, furthermore, the associations formed to represent

environmental interests and other public organizations, if they announced their intent to participate and verified their capacity as party to the case [Section 98, subsection (1)].

(3) The affected local governments shall notify the population of the affected locality (localities) - in a public advertisement - of the date and place of the public hearing and of where the detailed environmental impact statement can be inspected.

(4) The advertisement shall be made public at least thirty days prior to the date of the public hearing.

(5) Comments may be submitted by the date of the public hearing to the inspectorate or the local government competent at the place of the public hearing.

(6) Before making its decision, the inspectorate shall study the comments important in the matter from the aspect of evaluating the impact on the environment on their merits.

(7) In case there are several affected local governments, or if it is justified in view of the number of affected parties, the public hearing may be held at several locations.

Minutes of the Public Hearing

Section 94

(1) The inspectorate shall draw up minutes on the public hearing and shall send copies thereof to the applicant and the expert authorities that participate in the procedure within fifteen days of the public hearing. The minutes shall contain a summary on the merits of the comments.

(2) The inspectorate shall send the minutes to the organizations that participate in the procedure [Section 98, subsection (1)] and the publicity thereof shall be ensured at the inspectorate and at all affected local governments.

Executable Decisions

Section 95

Petitions for legal remedy against decisions made concerning emergencies that pose hazard to and damage the environment shall have no delaying force with respect to the execution.

Section 96

(1) If a procedure instituted by the environmental protection authority ex officio is closed with a decision establishing obligation, the obligor shall bear the costs of the public administration procedure.

(2) The costs of the public hearing held in an environmental licensing procedure and those incurred through the participation of outside experts involved in the procedure shall be borne by the licensee.

Chapter VIII

CITIZEN PARTICIPATION IN ENVIRONMENTAL PROTECTION

Section 97

(1) The citizens are entitled to participate in procedures concerning the environment in ways specified in this Act and in other legal rules.

(2) Everyone shall have the right to call the attention of the user of the environment and the authorities to the fact that hazard is being posed to the environment or if the environment is being damaged or polluted. Upon the notification made in writing with respect to the above, the organ with powers shall, in addition to taking measures, provide an answer on the merits before the deadline prescribed in an Act.

(3) Citizen participation may be exercised:

- a) in person or through a representative,
- b) through social organizations,
- c) through municipal local governments.

Environmental Protection Association of Citizens

Section 98

(1) Associations formed by the citizens for the representation of their environmental interests and other social organizations not qualifying as political parties or interest representations - and active in the impact area - (hereinafter: organizations) shall be entitled in their area to the legal status of being a party to the case in environmental protection state administration procedures.

(2) The organizations shall have the right, by representing the interests of their members, to

a) co-operate in drawing up regional development plans and environmental protection programmes affecting their area of operation or activities;

b) participate in the environmental licensing procedure - in accordance with the provisions of this Act;

c) give their opinion on the state bills and local government draft by-laws.

(3) In order to assert their right under subsection (2), paragraph c), the organizations shall give notification of their request for giving their opinion to the ministry drafting the bill, or the local government drafting the by-law.

(4) The ministries shall send a list of the titles of their legal rules related to the environment and planned for the following year annually - by December 31 - to the Minister, who shall publish it in the official gazette of the portfolio. The municipal local governments shall provide information on such by-laws they intend to issue in a locally customary manner.

Section 99

(1) In case a hazard is being posed to the environment or the environment is being damaged or polluted, organizations are entitled to intervene in the interest of the protection of the environment and

a) to request the government organ or local government to take appropriate measures falling under its powers or

b) to file a lawsuit against the user of the environment.

2) In the lawsuit under subsection (1), paragraph b), the party to the case may request the court to

a) enjoin the party posing the hazard to refrain from the unlawful conduct (operation);

b) obligate the same to take measures necessary for the prevention of the damage.

Section 100

The right to give opinion under Section 98, subsection (2), paragraph c) and subsection (3) shall be due also to the professional interest representations in issues of concern to the professions they represent.

Chapter IX

LIABILITY FOR THE ENVIRONMENT

General Basis of Legal Liability

Section 101

(1) Those posing hazard to or polluting or damaging the environment with their activities or omissions or who perform their activities by violating the regulations regarding environmental protection (hereinafter together: unlawful activity) shall be liable (under criminal law, civil law, administrative law, etc.) in accordance with the contents of this Act and the provisions of separate legal rules.

(2) Those pursuing unlawful activities shall

a) stop posing hazard to or polluting the environment and shall finish damaging the environment;

b) accept responsibility for the damage they caused;

c) restore the state of the environment existing before the activity.

(3) In case the measure in subsection (2), paragraph a) is not taken or is unsuccessful, the authority or court entitled thereto may restrict the performance of the activity or may suspend or ban it until the conditions it established are ensured.

(4) Users of the environment may be obligated to give an environmental bond, form environmental provisions or take out environmental liability insurance - as specified in separate legal rules - for the commencement of their activity.

Section 102

(1) The liability for the unlawful activity - with the exception of criminal and misdemeanour liability, shall burden under joint and several liability the owner and the possessor (user) of the real property, on which the activity is or was carried out - until evidence is provided to the contrary.

(2) The owner shall be exempted from the joint and several liability, if it names the actual user of the real property and proves beyond any doubt whatsoever that the responsibility does not lie with him.

(3) The provisions of subsection (1) and (2) shall be appropriately applied for the owners and the possessors (users) of non-stationary (mobile) pollutant sources.

Liability for Damages

Section 103

(1) Damage caused to other parties with activities or omissions entailing the utilization or loading of the environment shall qualify as damage caused with an activity posing hazard to the environment, and the provisions of the Civil Code on activities entailing increased hazard shall be applied (Civil Code, Sections 345 and 346).

(2) If the injured party does not wish to enforce its claim for damages under subsection (1) against the party causing the damage - on the basis of a relevant statement made by the injured party within the prescription period - the Minister may enforce the said claim to the credit of the Central Environmental Protection Fund.

Section 104

If the person or the entity performing an unlawful activity changes, the rules of the liability of the legal successor shall be applied against the person or entity performing the said activity, unless the parties have agreed otherwise in a contract.

Section 105

In case the user of the environment is terminated without a legal successor during liquidation or final accounting or during the transformation of a state enterprise into an economic association, the commercial exploitation and sales of state property, the costs of the clean-up of and compensation for environmental damage sustained as a result of the activity shall be shown in the statement of assets on the basis of an assessment of the state of the environment.

Environmental Fine

Section 106

(1) Those who violate the regulations aimed at the protection of the environment and contained in a legal rule or a decision of an authority or who exceed the standards established therein shall pay an environmental fine in conformity with the level, weight and recurrence of the environmental pollution and environmental damage they caused.

(2) The environmental fine shall be paid over and above the environment-utilization contribution and the environmental load charges.

Section 107

The fine shall not exempt one from liability under criminal law, misdemeanour liability and from liability for damages, furthermore, from the fulfilment of obligations to restrict, suspend or ban the activities, to develop adequate protection and to restore the natural environment or the environment that existed before.

Environmental Officer

Section 108

(1) In the case of uses of the environment specified by the Government in legal rules - in order to fulfil their responsibilities related to environmental protection - users of the environment shall employ or commission environmental officer who has appropriate professional knowledge (hereinafter: Officer).

(2) The Officer's rights and responsibilities as well as a detailed description of his tasks shall be laid down in writing (in an employment contract or a contract).

(3) The Officer shall call preliminarily the attention of all organs and officers of the organization to the fact if some planned measure violates legal rules and regulations on environmental protection.

(4) Persons receiving non-appealable sentences because of criminal acts related to the damaging of or posing hazard to the environment shall not become Officers as long as they are not dispensed from the effect of the sentence.

(5) An environmental commissioner shall be employed with organs of state administration specified by the Government.

The Prosecutor's Role in Environmental Protection

Section 109

(1) Prosecutors shall act in accordance with the contents of the Code of Criminal Procedure in case the environmental components are damaged in ways prohibited in the Criminal Code.

(2) In case a hazard is posed to the environment, the prosecutor is also entitled to file a lawsuit to impose a ban on the activity or to elicit compensation for the damage caused with the activity posing hazard to the environment.

(3) Acting in his jurisdiction of supervision of legality, and on the basis of legal rules pertaining to him, the prosecutor shall participate in ensuring the legality of the procedures and decisions of the environmental protection authorities.

Chapter X **CLOSING PROVISIONS**

Section 110

(1) This Act shall come into force on the 180th day reckoned from its promulgation. Simultaneously, Act II of 1976 on the Protection of the Human Environment shall cease to be in force.

(2) Simultaneously with the coming into force of this Act,

a) Section 332, subsection (1) of Act III of 1952 on the Code of Civil Procedure shall be complemented by the following paragraph d):

"d) shall order, at the request of the defendant, that the environmental fine contested with a statement of claim be paid into court as deposit.";

b) Section 4 of Act VI of 1988 on Economic Associations shall be complemented by the following subsection (5), and the numbering of subsection (5) shall be changed to subsection (6):

"(5) If the economic association performs the activity of the founder(s), it shall be considered as the legal successor thereof with regard to environmental rights and responsibilities."

(3) The proposal for the Programme for a period of six years shall be submitted to Parliament the first time simultaneously with the submission of the bill on the 1997 budget of the Republic of Hungary.

(4) The National Council of Environmental Protection shall be established simultaneously with the coming into force of the Act. The Minister shall be responsible for the organization work in respect thereof.

(5) The provisions of the Act shall be applied also to cases not yet evaluated with decisions of first instance, with exception of the contents of subsection (6).

(6) Until new legal rules on the environmental components and the factors posing hazard thereto come into force, the provisions of government and ministerial decrees on the subjects to be regulated shall be applied.

(7) The Government shall be authorized to

a) establish the detailed environmental protection state administration powers of the mayors and notaries of municipal local governments;

b) specify the scope of activities and powers of the environmental protection inspectorates;

c) regulate the scope of activities subject to environmental impact assessment and the detailed rules of the official procedure related thereto, as well as to review the scope of activities as required, but at least biennially;

d) establish rules for the obligation to give a bond and to form provisions and for liability insurance during the environmental licensing procedure;

e) establish detailed rules for the production, manufacture, import, distribution of substances and products posing serious hazard to the environment and for the application, rating and licensing of similar activities and technologies;

f) determine the types and magnitude of environmental fines and the manner of the establishment thereof;

g) specify the scope of substances, products, activities and technologies to be rated from an environmental aspect, the rules of the rating, as well as the rating authorities and institutions and the order of the rating;

h) determine those uses of the environment, in the case of which an environmental Officer shall be employed;

i) establish rules for determining impact areas;
j) regulate and determine the types and quantities of the procedures, technologies, substances and stocks of environmental protection applicable during the fulfilment of defence and national defence responsibilities in the territory of Hungary.

(8) The Minister shall be authorized to establish, in agreement with the concerned ministers, in decrees

- a) the area of competence of the environmental protection inspectorates;
 - b) regulations for the re-collection and appropriate treatment of worn-out products subject to the obligation to pay product charges;
 - c) a set of conditions for the "environmentally friendly" and "environmentally sound" distinctions;
 - d) specific rules for imposing environmental fines;
 - e) the content requirements of the audit documentation;
 - f) the professional conditions of the entitlement necessary for performing audits and the way of authorization;
 - g) the conditions of employment and qualification for environmental Officers;
 - h) detailed rules for keeping official records [Section 66, subsection (2)].
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