

**Full wording of Act No. 185/2001 Coll., on waste and amending some other laws,  
including indication of the changes proposed**

**PART ONE**

**GENERAL PROVISIONS**

Section 1

**Subject of the Act**

In accordance with the law of the European Communities<sup>1)</sup>, this Act stipulates

- a) the rules for the prevention of waste production and for waste management in compliance with protection of the environment and human health, and sustainable development,<sup>1a)</sup>
- b) the rights and duties of persons in the waste management sector, and
- c) the competence of public administrative bodies.

Section 2

**Scope of the Act**

(1) The Act applies to the management of all wastes, except for:

- a) waste water,<sup>2)</sup>
- b) waste generated from mining activities and activities performed by mining methods, deposited in tips, waste dumps and sludge beds,<sup>3)</sup>
- c) waste from precious metals,<sup>4)</sup>
- d) radioactive waste,<sup>5)</sup>
- e) dead human bodies including dead-born and aborted babies, parts of bodies including amputated limbs and organs, and remains,<sup>6)</sup>
- f) confiscated materials of animal origin,<sup>7)</sup>
- g) uncaptured air-polluting emissions,<sup>8)</sup>
- h) waste from explosive agents, explosives and ammunition,<sup>9)</sup>

i) excavated soil and gangue, including sediments from river courses and water reservoirs complying with the pollution limits for their use within the agricultural land fund, for filling underground areas and land surface modifications (terrain modifications), stipulated by an implementing regulation.

(2) Unless stipulated otherwise by a special legal regulation, this Act also applies to depositing of wastes not generated in mining activities in underground spaces and in sludge beds<sup>3)</sup>, and management of unusable dependency-producing substances, preparations and precursors and unusable pharmaceuticals.<sup>10)</sup>

(3) The Ministry of the Environment and the Ministry of Agriculture shall stipulate in a decree the details of management and the limit values for concentration of harmful substances inexcavated soil and excavated gangue, including sediments from river courses and water reservoirs that are not subject to the Act on Waste.

### Section 3

#### **Definition of Waste**

(1) Waste shall be every movable thing that a person discards or intends to discard or is obliged to discard and that is assigned to any of the waste categories stipulated in Annex No. 1 to this Act.

(2) Waste is discarded whenever a person submits a movable thing classified in any of the waste categories stipulated in Annex No. 1 to this Act for recovery or disposal in the sense of this Act or if (s)he submits it to a person licensed to collect or purchase waste under this Act irrespective of whether the transfer is effected without consideration or for consideration. Waste is also discarded when a movable thing classified in any of the waste categories set forth in Annex No. 1 to this Act is disposed of by the relevant person him(her)self.

(3) Unless the owner demonstrates otherwise in a procedure to remove doubt pursuant to Section 78 (2) (h), the intention shall be presumed to discard a movable thing classified in any of the waste categories stipulated in Annex No. 1 to this Act

a) that is generated by legal persons or natural persons authorized to operate a business as a byproduct in the production or conversion of energy, in the production or management of substances or products, or in the use thereof or in the provision of services, or

b) whose original purpose of use has ended or ceased.

(4) A person shall be obliged to discard a movable thing classified in any of the waste categories stipulated in Annex No. 1 to this Act if (s)he does not use the thing for its original purpose and the thing endangers the environment or has been removed from use pursuant to a special legal regulation.<sup>11)</sup>

## Section 4

### Other Basic Terms

For the purposes of this Act:

a) hazardous waste means waste included in the List of Hazardous Waste stipulated in an implementing regulation and any other waste exhibiting one or more of the hazardous properties set forth in Annex No. 2 to this Act,

b) municipal waste means all waste generated in the territory of a municipality in connection with activities of natural persons that is referred to as municipal waste in an implementing regulation<sup>11a)</sup>, with the exception of waste generated by legal persons or natural persons authorized to operate a business,

c) waste management sector includes activities aimed at waste prevention, waste management and follow-up care for sites where waste is permanently deposited, and control of these activities,

d) waste management means the accumulation, concentration, collection, purchase, separation, shipment and transport, storage, treatment, recovery and disposal of waste,

e) facility means technological equipment, a site, structure or part of a structure,

**f) waste concentration means the concentration of waste prior to further management of the waste, such as accumulation, storage and purchase,**

~~f) accumulation of waste means short-term concentration of waste in waste-accumulation equipment at the place of its generation prior to further management of the waste,~~

~~g) waste storage means temporary storage of concentrated waste (accumulated, collected, purchased) in a facility designed for such purpose and retaining waste in that facility,~~

~~h) waste landfill means a technological facility designed for disposal of waste by means of its permanent and controlled deposit onto or into land,~~

**g) waste accumulation means the short-term accumulation of waste by its originator in the accumulation means or in locations intended for accumulation of waste prior to further management of the waste, for the maximal period of six months,**

**h) waste storage means temporary concentration of waste in the appropriate facility with serious intention to**

**1. use the waste for further processing with concentration period shorter than three years,**

**2. dispose the waste with concentration period shorter than one year, or**

**3. process the waste immediately prior to transport to the appropriate facility designed for further use or disposal of waste,**

**i) landfill (or waste dump) means a facility established in accordance with the special regulations operated in two or three consequential phases with first phase intended to dispose the waste onto or into land, including:**

- 1. facility operated by the waste originator for the purpose of waste disposal in the place of waste generation (so called "dedicated landfills") and**
- 2. facility intended for waste storage except for storage of waste under letter h) (so called "temporary landfills"),**

**j) landfill phase means:**

- 1. facility intended for waste disposal by its storage in the landfill (first phase of the landfill operation)**
- 2. facility for possible use of waste at closing and redevelopment of the landfill (second phase of the landfill operation)**
- 3. facility not intended for waste management, but operated for redevelopment and follow-up care of the landfill after its closure (third phase of the landfill operation)**

**Ⓜ) Ⓝ) k) waste collection means the concentration of waste by a legal person or natural person authorized to operate a business from other entities for the purpose of its submission for further recovery or disposal,**

**Ⓝ) Ⓞ) l) purchase of waste means the collection of waste in case where the waste is purchased for an agreed price by a legal person or a natural person authorized to operate a business,**

**Ⓞ) Ⓟ) m) waste treatment means every activity resulting in a change in the chemical, biological or physical properties of waste (including separation) for the purpose of enabling or facilitating the transport, recovery or disposal thereof, or for the purpose of reducing the volume thereof, or reducing the hazardous properties thereof, if appropriate,**

**Ⓟ) Ⓠ) n) waste recovery means activities set forth in Annex No. 3 to this Act,**

**Ⓠ) Ⓡ) o) material recovery of waste shall mean the replacement of primary raw materials by substances obtained from waste which may be considered to be secondary raw materials, or utilization of the material properties of the waste for their original purpose or other purposes, except for immediate obtaining of energy,**

**Ⓡ) Ⓢ) p) energy recovery of waste means the use of waste primarily in a manner similar to fuels<sup>8)</sup> for the purpose of obtaining their energy content or in some other manner for energy production,**

**Ⓢ) Ⓣ) r) waste disposal means activities set forth in Annex No. 4 to this Act,**

**Ⓣ) Ⓤ) s) waste generator means a legal person in whose activities waste is generated or a natural person authorized to operate a business in whose business activities waste is generated. A municipality shall be considered to be the waste generator in relation to municipal waste that is generated in the territory of a municipality and that originates in the activities of natural persons who are not subject to the duties of a waste generator. A municipality becomes the municipal waste generator when a natural person discards waste at the place designated therefore; the municipality simultaneously becomes the owner of such waste,**

⇒ ⇒ **t**) licensed person means every person licensed to manage waste pursuant to this Act or pursuant to special legal regulations,<sup>12)</sup>

⇒ ⇒ **u**) putting a product into the market in the Czech Republic (hereinafter referred to as "putting into market") means initial submission of a product to some other person, for consideration or without consideration, by its manufacturer or a person that imported the product from other Member State of the European Union. Putting into market shall also mean import of a product

⇒ ⇒ **v**) putting a product into circulation means submission of a product to some other person in the Czech Republic, for consideration or without consideration, after putting a product into market.

⇒ ⇒ **w**) product import means release of a product from other than EC Member State to enter the territory of the Czech Republic, into free customs circulation, for storage in customs warehouse, active refining process or re-processing under customs supervision or temporary use,

⇒ ⇒ **x**) distributor shall mean every person doing a follow-up trading activities within the supplier chain after putting a product into market.

**y) technological material shall mean waste and movable assets not considered to be waste, disregarding their origin, stored in the landfill in the first phase of its operation, for the purpose of its technical or technological protection, in accordance with the landfill project documentation, landfill operating rules and regulations, as well as requirements on waste acceptance and requirements on incoming raw materials,**

**z) waste general description shall mean the accompanying documentation of a waste prepared by waste originator on a basis of all the data and information available, used as a supporting documentation for waste classification and decision on the most appropriate method of waste processing or disposal,**

**za) waste data transfer standard shall mean the required data format and minimal scope of the statutory verification of formal and contentual correctness, allowing data reporting by electronic means.**

## **PART TWO**

### **CLASSIFICATION OF WASTE AND EVALUATION OF HAZARDOUS PROPERTIES OF WASTE**

#### **TITLE I**

#### **CLASSIFICATION OF WASTE**

##### **Section 5**

##### **Classification of Waste Pursuant to the Catalogue of Waste**

(1) For the purposes of waste management, the waste generator and the licensed person shall be obliged to classify waste pursuant to the Catalogue of Waste issued by the Ministry of the Environment (hereinafter the “Ministry”) in an implementing regulation.

(2) In cases where waste cannot be unambiguously classified pursuant to the Catalogue of Waste, the waste shall be classified by the Ministry on the basis of a proposal by the competent municipal authority of a municipality with extended competence. The Code of Administrative Procedure shall not apply to this procedure.<sup>13)</sup>

(3) The Ministry shall stipulate in a decree

- a) the Catalogue of Waste,
- b) the procedure for classification of waste pursuant to the Catalogue of Waste, and
- c) the requisites of a proposal by the municipal authority of a municipality with extended competence for classification of waste pursuant to the Catalogue of Waste.

##### **Section 6**

##### **Classification of Waste in Categories**

(1) For the purpose of waste management, a waste generator and a licensed person shall be obliged to classify waste in the hazardous waste category if it is

- a) included in the List of Hazardous Waste stipulated in an implementing regulation, or
- b) mixed with or contaminated by any of the components referred to in the List of Components Rendering Waste Hazardous, as set forth in Annex No. 5 to this Act, or
- c) mixed with or contaminated by any of the wastes included in the List of Hazardous Waste stipulated in an implementing regulation.

(2) If waste has one or more hazardous properties set forth in Annex No. 2 to this Act, the waste generator and the licensed person who manages the waste shall be obliged to classify such waste as hazardous and manage it as hazardous waste, even if it does not meet the conditions set forth in paragraph 1 above.

(3) Mixed municipal waste shall not be classified in the hazardous waste category and the waste generator and the licensed person shall not be obliged to manage the waste as hazardous even if it meets conditions set forth in paragraph 1 or 2 above.

(4) If the waste generator or the licensed person demonstrates through a certificate of absence of hazardous properties of waste that the waste referred to in paragraph 1 (b) or (c) above does not have any of the hazardous properties, then (s)he shall not be obliged to comply with the regime stipulated for hazardous waste; however, (s)he shall be obliged to verify from time to time that the waste does not have such hazardous properties. The authorized person shall stipulate the manner and frequency of verification in the certificate of absence of hazardous properties of waste.

(5) The Ministry shall stipulate in a decree the List of Hazardous Waste.

## TITLE II

### EVALUATION OF HAZARDOUS PROPERTIES OF WASTE

#### Section 7

#### **Authorization for Evaluation of Hazardous Properties of Waste**

(1) If a waste generator or a licensed person who manages waste is of the opinion that waste that meets the conditions set forth in Section 6 (1) (b) or (c) has no hazardous properties, (s)he may request evaluation of the hazardous properties of this waste.

(2) The hazardous properties of wastes set forth in Annex No. 2 to this Act under designations H1, H2, H3-A, H3-B, H12, H13 and H14 shall be evaluated by a legal person or natural person authorized by the Ministry; other hazardous properties set forth in Annex No. 2 to this Act shall be evaluated by a legal person or natural person authorized by the Ministry of Health (hereinafter the “authorized person”).

(3) Authorization for evaluation of the hazardous properties of waste shall be granted for a fixed term not exceeding 5 years. The term of the authorization for evaluation of the hazardous properties of waste shall be prolonged by the Ministry or the Ministry of Health on the basis of a proposal of the authorized person for another term not exceeding 5 years if the conditions for prolonging the term of authorization stipulated by this Act are met.

(4) If the authorized person submits a proposal for prolonging the term of authorization for evaluation of the hazardous properties of waste at the latest 6 month before expiry of the original term, for which the authorization was granted, the authorization for evaluation of the hazardous properties of waste shall not expire, until a final decision is made on the proposal.

(5) A granted authorization shall not pass to any other legal person or natural person.

(6) The Ministry shall grant authorization to or prolong the term of authorization of a legal person or natural person who demonstrates his/her professional qualification or whose professional qualification has been recognized pursuant to the special legal regulation.<sup>13a)</sup> Professional qualification for evaluation of the hazardous properties of wastes set forth in Annex No. 2 to this Act under designations H1, H2, H3-A, H3-B, H12, H13 and H14 shall be demonstrated a document

a) of university education in a technical field or in natural science,

b) of at least 10 years of experience in chemistry or in the waste management sector; and

c) of the fact that, during the last 6 months prior to submission of an application for authorization or a proposal for prolonging the term of authorization, the applicant has undergone training in evaluation of the hazardous properties of waste, whose curriculum was approved by the Ministry.

(7) The Ministry of Health shall grant authorization to or prolong the term of authorization of a legal person or a natural person who demonstrates his/her professional qualification or whose professional qualification has been recognized pursuant to the special legal regulation.<sup>13a)</sup> Professional qualification shall be demonstrated

a) for evaluation of the hazardous properties of wastes set forth in Annex No. 2 to this Act under designations H4 to H8, H10 and H11, by submitting a document of completion of university study in the study field of medicine, veterinary medicine or pharmacy, or in some other field of study at a different university if the natural person has completed postgraduate study with the specialization of industrial toxicology and, if other professional workers in health care are involved, a special preparation whose subject matter includes toxicology, pursuant to the special regulations;<sup>14)</sup> for evaluation of the hazardous properties of wastes set forth in Annex No. 2 to this Act under designation H9, by submitting a document of completion of university study in the study field of medicine or veterinary medicine,

b) by a document of at least 10 years of experience in the given field, and

c) by a document of the fact that, during the last 6 months prior to submission of an application for authorization or a proposal for prolonging the term of authorization, the applicant has undergone training in evaluation of the hazardous properties of waste, whose curriculum was approved by the Ministry of Health.

(8) For a legal person or natural person authorized to operate a business, the requirements set forth in paragraphs 6 and 7 above must be met by the person who is responsible for proper evaluation of the hazardous properties of waste (hereinafter the “professional representative”).

(9) In case of cessation of activities of the professional representative for the authorized person, the authorized person shall be obliged to appoint a new professional representative and notify his/her appointment to the ministry that granted its authorization, at the latest within 15 days of cessation of activities of the professional representative. Simultaneously, the authorized person shall be obliged to submit to this ministry documents indicating the professional qualification of the new professional representative.

(10) Authorization pursuant to paragraph 2 above shall not be required for a person who is established in some other Member State of the European Union and intends to temporarily or occasionally pursue activities set forth in paragraph 2 above, if (s)he demonstrates that

a) (s)he is a citizen of a Member State of the European Union; and

b) (s)he is authorized to pursue the activities set forth in paragraph 2 above pursuant to the legal regulations of another Member State of the European Union.

(11) This person shall be obliged to submit the documents on meeting the conditions pursuant to paragraph 10 (a) and (b) above to the Ministry or to the Ministry of Health prior to commencing activities listed in paragraph 2 above. Section 9 shall apply to activities of this person *mutatis mutandis*.

(12) The Ministry and the Ministry of Health shall stipulate in a decree the contents of an application for authorization for evaluation of the hazardous properties of waste, the contents of a proposal for prolonging the term of authorization and the curriculum of training in evaluation the hazardous properties of waste.

## Section 8

### **Withdrawal and Expiry of Authorization for Evaluation of Hazardous Properties of Waste**

(1) In a decision, the Ministry or the Ministry of Health, within its respective competence, shall withdraw an authorization for evaluation of the hazardous properties of waste from an authorized person if the authorized person fails to follow the procedures stipulated for evaluation of hazardous properties of waste or fails to meet the conditions under which the authorization was granted or issues a certificate for waste that has any of the hazardous properties.

(2) A decision on authorization for evaluation of the hazardous properties of waste shall expire

a) upon the death of a natural person;

b) upon termination of a legal person,

- c) by declaring of bankruptcy in relation to the assets of the authorized person,
- d) upon expiry of the term, for which it was issued, unless a request has been lodged for prolonging the term of the authorization in the sense of Section 7 (4), or
- e) on the date of delivery of notification by the authorized person of cessation of his/her activities as a person authorized to evaluate the hazardous properties of wastes to the ministry that authorized the given person.

## Section 9

### **Certificate of Absence of Hazardous Properties of Waste**

(1) The authorized person shall evaluate the hazardous properties of waste on the basis of an application by the waste generator or licensed person. If the authorized person ascertains that the waste does not have any hazardous properties, (s)he shall issue to the applicant a certificate on absence of the hazardous properties of waste (hereinafter a “certificate”). Otherwise, the authorized person shall notify the applicant in writing that the waste has one or more hazardous properties (hereinafter “notification”), and state the reasons for this finding. The waste generator or the licensed person shall send a copy of the certificate or notification forthwith to the Czech Environment Inspection (hereinafter “the Inspection”) and the regional authority that competent pursuant to the place of waste management. The certificate shall not relieve the waste generator and the licensed person from the duty to manage the waste in a manner preventing damage to the environment or from liability for damage caused by inappropriate waste management. The Code of Administrative Procedure shall not apply to issuance of a certificate and notification.

(2) In the certificate, the authorized person shall always specify the type and origin of waste covered by the certificate and include evaluation of the hazardous properties of the waste, and stipulate the conditions and term of the certificate; this term may not exceed 4 years. The certificate shall expire immediately in case of a change in technology or input raw materials at the premises of the waste generator or licensed person that affects the composition of the waste or its properties.

(3) The Inspection or the regional authority competent pursuant to the place of waste management may suspend the validity of a certificate issued by an authorized person for a period not exceeding 60 days if doubts arise with respect to compliance with the proper methods or procedure set for evaluation of the hazardous properties of waste or the manner and frequency of control of the hazardous properties, or if doubts arise with respect to the result of evaluation of the hazardous properties of waste. An appeal against a decision on suspending the validity of a certificate shall not have suspensory effect.

(4) The Inspection or the regional authority competent pursuant to the place of waste management may withdraw a certificate if the methods or procedure set for evaluation of the hazardous properties of waste have not been maintained or the hazardous properties of waste

have not been evaluated correctly. An appeal against a decision on withdrawal of a certificate shall not have suspensory effect.

(5) An authorized person may not issue a certificate with respect to waste, for which (s)he is responsible as the generator or licensed person and may not evaluate hazardous properties, for the evaluation of which (s)he is not authorized.

(6) The Ministry and the Ministry of Health shall stipulate in a decree

a) the contents of an application for evaluation of the hazardous properties of waste,

b) the contents of a certificate,

c) the criteria, methods and procedures involved in the evaluation of hazardous properties of waste.

## **PART THREE**

### **DUTIES IN WASTE MANAGEMENT**

#### **TITLE I**

#### **GENERAL DUTIES**

#### **Section 10**

#### **Prevention of Waste Generation**

(1) Every person shall be obliged, within his/her activities or within his/her competence, to prevent waste generation and to limit the quantity and hazardous properties thereof; waste whose generation cannot be avoided must be recovered or disposed of, as appropriate, in a manner that does not endanger human health and the environment and that is in accordance with this Act and with the special legal regulations.<sup>15)</sup>

(2) A legal person and a natural person authorized to operate a business, who manufactures products, shall be obliged to manufacture the products in a manner limiting the generation of unrecoverable waste from these products, particularly of hazardous waste.

(3) A legal person and a natural person authorized to operate a business, who manufactures or imports products or places products on the market, shall be obliged to provide, in the accompanying documentation of the product, on the packaging, in the instructions for use or in some other appropriate manner, information on the manner of recovery or disposal of unused parts of the products.

## Section 10a

(1) For the purpose of this part of the Act

- a) community composting - shall mean a system of collection and gathering of plant residues from maintenance of greenery and gardens in the municipal territory, their treatment and processing to green compost,
- b) green compost - shall mean a substrate generated by processing (composting) of plant residues
- c) public green areas - shall mean parks, forest parks, sporting areas, playgrounds and grassy areas accessible to public, within the municipal territory.

(2) Each municipality may, as a measure to prevent from waste generation, to determine and accept a generally binding municipal regulation on system of community composting and methods for processing of green compost for maintenance and restoration of public green areas in the territory of the municipality.

(3) Treatment and composting of green residues shall be carried out in such a way so the environmental aspects are not placed in hazard beyond the extent as determined by the applicable legislation. Composting process shall be controlled in such a way so the aerobic decomposition of organic matter is ensured without odour or methane emissions.

(4) Other use of the green compost than stated under paragraph 2 is only allowed if conditions determined in special regulations<sup>15a)</sup> are followed.

## Section 11

### **Priority of Waste Recovery**

(1) Every person shall be obliged, within his/her activities or within his/her competence, within the limits stipulated by this Act, to ensure that recovery of waste has priority over its disposal. Material recovery of waste shall have priority over any other recovery of waste.

(2) The duty stipulated in paragraph 1 above need not be fulfilled if technical or economic preconditions are lacking at the given time and location for its fulfilment and if waste management plans pursuant to Part Seven of this Act are complied with.

(3) When assessing the suitability of the manners of waste disposal, priority shall always be given to the manner that ensures greater protection of human health and is environmentally sounder. Only wastes, for which no other manner of disposal is available or which would entail a greater risk for the environment or risk for human health, may be deposited in a landfill provided that landfilling of the waste is not contrary to this Act or implementing regulations.

## Section 12

### General Duties

(1) Every person shall be obliged to manage waste and discard it only in a manner stipulated by this Act and other legal regulations issued for environmental protection **and in relation to such proceeding to cooperate with the inspection bodies, as deemed necessary.** Management of hazardous waste management is also governed by special legal regulations<sup>16)</sup> valid for products, substances and preparations with the same hazardous properties, unless specified otherwise by this Act or regulations for its implementation.

(2) Unless hereinafter stipulated otherwise, waste pursuant this Act may only be managed in facilities designed for waste management pursuant to this Act. Such waste management must not endanger human health or endanger or damage the environment, and the pollution limits stipulated by special legal regulations<sup>17)</sup> must not be exceeded.

(3) Only a legal person or a natural person authorized to operate a business, who operates a facility for recovery or disposal or for collection or purchase of a certain type of waste, or a person, who is the operator of a facility pursuant to ~~Section 14 (2)~~ **Section 14 (3)** or, under the conditions stipulated in Section 17, also a municipality, shall be authorized to accept waste to his/her ownership.

(4) Every person shall be obliged to ascertain whether the person, to whom (s)he submits waste, is authorized to accept the waste pursuant to this Act. If that person fails to demonstrate such authorization, the waste may not be submitted to him/her.

(5) Diluting or mixing of wastes aimed at meeting the criteria for their acceptance to a landfill and mixing hazardous wastes with other hazardous wastes or with other wastes shall be prohibited. In exceptional cases, mixing hazardous wastes with other hazardous wastes or other wastes shall be permissible only with the consent of the regional authority competent pursuant to the place of waste management. The regional authority shall grant this consent only if the mixing of the hazardous wastes will not result in endangering of human health or the environment and if the purpose of mixing hazardous wastes is to meet the requirements of the technology of recovery or disposal of wastes and increasing safety in management thereof.

(6) If hazardous wastes have already been mixed with other hazardous wastes or other wastes, these wastes must be separated provided that this is technically or economically feasible and required to ensure protection of the environment and human health. This duty does not apply to mixing of hazardous wastes, for which the consent has been granted by the regional authority pursuant to paragraph 5 above.

(7) The duties of waste generators and licensed persons do not apply to fire-protection units and other legal persons and natural persons authorized to operate a business that are designated by special legal regulations<sup>18)</sup> for dealing with accidents and extinguishing fire, within the scope of these activities.

## Section 13

### **Packaging and Labelling of Hazardous Waste**

(1) Packaging of hazardous waste shall be governed by special legal regulations *mutatis mutandis*.<sup>19)</sup>

(2) A waste generator and a licensed person who manages hazardous waste shall be obliged to ensure that hazardous wastes are labelled as follows:

a) wastes with a hazardous property set forth in Annex No. 2 to this Act under designations H1, H2, H3, H6, H8, H9 and H14, with a graphic symbol pursuant to the special legal regulation,<sup>19)</sup>

b) hazardous waste other than set forth in subparagraph a) above, with the sign “hazardous waste”-;

**c) catalogue number, indication of waste type and name of person responsible for waste management.**

(3) A waste generator and a licensed person who manages hazardous waste shall be obliged to draw up an identification sheet for hazardous waste and display this sheet at the place of management of the hazardous waste.

(4) The Ministry shall stipulate in a decree the contents of the identification sheet for hazardous waste **and methods of labelling (designation) of collecting facilities.**

## Section 14

### **Consent to Operation of a Facility for Waste Recovery, Disposal, Collection or Purchase**

~~(1) A facility for waste recovery, disposal, collection or purchase may be operated only on the basis of a decision issued by a regional authority, through which the consent is granted to operate such a facility and for its rules of operation (hereinafter the “consent to operate a facility”). In the proceedings preceding issuance of this decision, the regional authority must assess all facilities related to this activity. The consent to operate landfills for hazardous waste shall be granted for a fixed term not exceeding 4 years. The regional authority shall prolong the term of the consent on the basis of an application of the operator of a landfill for hazardous waste always by an additional term not exceeding 4 years if all the conditions are met and the duties are fulfilled in operation of the landfill, as stipulated by this Act and the implementing regulation.~~

**(1) A facility for waste recovery, disposal, collection or purchase and particular operation phases of a landfill may only be operated on the basis of a decision issued by a regional authority, through which the consent is granted to operate such a facility and for its rules of operation (hereinafter referred to as "consent to operate a facility"). While granting the consent for operating of a facility for processing of biologically degradable**

**waste containing animal elements, the regional authority is obliged to follow the statement by the regional veterinary authority. Within the scope of the prior proceeding the regional authority shall assess all the related facilities and aspects.**

**(2) The consent with operation of particular landfill phases shall be issued by the regional authority based on own local survey carried out to verify the information contained in the particular application for the permission and after fulfilment of all the conditions and requirements set for initiation of operation of particular landfill phases.**

~~(2)~~ (3) Facilities that are not designed for waste management pursuant this Act may recover only waste that meets the conditions stipulated for input raw materials and the management of this waste must not be contrary to the special legal regulations, in accordance with which the facility is operated, and the legal regulations for the protection of human health and the environment.<sup>20)</sup> The consent to operate a facility pursuant to paragraph 1 above shall not be required for the operation of such facilities.

~~(3)~~ (4) If the new operator of a facility applies to the regional authority for a new consent to operate the facility at the latest within 30 calendar days of the date of transfer or passage of the right to use the facility, the existing consent to operate the facility shall also apply to the new operator until a final decision is issued on the application of this operator.

~~(4)~~ (5) A construction-approval decision issued pursuant to the special legal regulation<sup>21)</sup> for structures designed for waste recovery, disposal, collection or purchase may not be issued without a decision on granting the consent to operate a facility under paragraph 1 above.

~~(5)~~ (6) The Ministry shall stipulate in a decree

- a) the requisites of an application for the consent to operate a facility,
- b) the contents of the rules of operation of a facility for waste recovery, disposal, collection or purchase,
- c) the technical requirements for these facilities,
- d) the contents of the plan of modification of a landfill,
- e) details for waste sampling in order to determine waste attributes **and vocational capability of persons responsible for waste sampling and methods for its demonstration,**
- f) **technical requirements on waste accumulation.**

## Section 15

### Waste Manager

(1) A waste generator and a licensed person, who have managed hazardous waste in a quantity exceeding ~~100~~ **50** t of hazardous waste annually during the last 2 years, ~~and the operator of a landfill for hazardous waste or municipal waste,~~ **and the operator of the first phase of a landfill** shall be obliged to provide for professional management of waste through a professionally qualified person (hereinafter a “waste manager”).

(2) If an independent establishment meets the conditions set forth in paragraph 1 above, the waste generator or the licensed person shall be obliged to appoint a waste manager also for this independent establishment.

(3) The waste manager shall be responsible to the waste generator or the licensed person, who appointed him/her as the waste manager, for ensuring professional waste management. The waste manager shall represent the waste generator or the licensed person in negotiations with the public administrative bodies in the area of waste management, particularly in the performance of their control activities.

(4) A waste manager may act in this capacity for no more than five waste generators and licensed persons or five independent establishments.

(5) The duty to appoint a waste manager does not apply to carriers even if they meet the conditions set forth in paragraph 1 above.

(6) Only a natural person who has completed **educational program the content of which and means of demonstration of skills gained shall be determined by the Ministry through a decree and who has completed** university education and has at least 3 years of experience in the waste management sector obtained during the last 10 years or has secondary education completed by a graduation examination and has at least 5 years of experience in the waste management sector obtained during the last 10 years, may be appointed as a waste manager.

(7) If the waste generator or the licensed person meets the conditions set forth in paragraph 1 above, the appointment of a waste manager in accordance with this Act shall be a precondition for granting the consents pursuant to Sections 14 and 16 (3).

(8) If activities of a waste manager for the waste generator or the licensed person are ceased and the conditions set forth in paragraph 1 above continue to exist, the waste generator or the licensed person shall be obliged to appoint a new waste manager and to notify his/her appointment to the administrative authority that issued the consent to operate the facility or the consent to manage hazardous waste, within 30 days of the date of cessation of activities of the waste manager. Simultaneously, the waste generator or the licensed person shall be obliged to submit to this administrative authority documents indicating compliance with the requirements set forth in paragraph 6 above.

(9) The provisions of paragraph 8 above shall also apply when the conditions pursuant to

paragraph 1 above are met for the waste generator or the licensed person.

## TITLE II

### DUTIES IN THE INDIVIDUAL PHASES OF WASTE MANAGEMENT

#### Chapter 1

#### Waste Generators

#### Section 16

#### Duties of Waste Generators

(1) A waste generator shall be obliged to:

- a) classify waste according to the types and categories pursuant to Sections 5 and 6,
- b) provide for the priority of recovery of waste in accordance with Section 11,
- c) transfer the ownership title to waste that (s)he cannot recover or dispose of him/herself in accordance with this Act and the implementing regulations only to a person authorized to accept the waste pursuant to Section 12 (3), either directly or through a legal person established to this end,<sup>22)</sup>
- d) verify the hazardous properties of waste pursuant to Section 6 (4) and manage waste according to its actual properties,
- e) accumulate waste separated according to the individual types and categories **and transfer it in such a state to ownership of authorized persons,**
- f) safeguard waste against undesirable devaluation, theft or escape,
- g) keep continuous records of waste and the manner of its management, report waste and send to the competent authority other data within the scope stipulated by this Act and an implementing regulation, including keeping records of and reporting PCBs and equipment containing PCBs subject to inventory as defined in Section 26. ~~These records must be filed for a period stipulated by this Act or an implementing regulation,~~ **submit the continuous records of waste for review in the place of waste handling and keep it for the period determined in this Act or an implementing regulation,**
- h) allow the control bodies to enter buildings, premises and facilities and, on request, submit documents and provide truthful and complete information related to waste management,

i) draw up a waste management plan in accordance with this Act and an implementing regulation and ensure its implementation,

j) perform control of the impact of waste management on human health and the environment in accordance with the special legal regulations and the waste management plan,

k) appoint a waste manager under the conditions stipulated by this Act pursuant to Section 15,

~~l) pay fees for depositing waste on landfills in the manner and within the scope stipulated by this Act.~~

**l) prepare a general description of waste in accordance with implementing regulations, and**

**m) provide a general description of waste to authorized person with each individual or with the first one of a multiple delivery of waste to the appropriate facilities, or whenever asked for by an authorized person who accepts waste from the generator to its ownership.**

(2) If separation or separate accumulation is not necessary with respect to the subsequent manner of recovery or disposal of the waste, the waste generator may refrain from separation or separate accumulation with the consent of the locally competent state administrative body, subject to subsequent changes in competence.

(3) The waste generator may manage hazardous waste only on the basis of the consent of the competent state administrative body, subject to subsequent changes in competence, unless the consent for operation of a facility pursuant to Section 14 already covers this activity. **Should the waste generator store the hazardous waste in the designated area, the consent shall be issued for the operating rules of this area (warehouse) as well.** Shipment of hazardous waste shall not be a subject to the consent.

(4) The waste generator shall be responsible for management of waste until its recovery or disposal if (s)he provides for recovery or disposal him(her)self as a licensed person, or until the ownership title to the waste is transferred to a person authorized to accept the waste pursuant to Section 12 (3). The carrier shall be responsible for transport of waste.<sup>23)</sup> ~~The duties of the generator pursuant to paragraph 1 above, except for subparagraphs i) and j), shall pass to each licensed person who accepts waste from the waste generator into his/her ownership.~~

(5) The Ministry shall stipulate in a decree the requisites of an application for the consent to manage hazardous waste, **content and form of the general description of waste, requirements on waste sampling and skills to be gained by persons responsible for waste sampling and means for demonstration of these skills for the purpose of compiling the general description of waste.**

## Section 17

### **Rights and Duties of Municipalities and Natural Persons in Managing Municipal Waste**

(1) The duties of waste generators pursuant to Section 16 apply to municipalities, unless the Act hereafter stipulates otherwise.

(2) Within its independent competence, a municipality may stipulate, in a generally binding edict of the municipality, the system of accumulation, collection, shipment, separation, recovery and disposal of municipal waste generated within its cadastral territory, including the system of management of construction waste.

(3) In accordance with the special legal regulations<sup>24)</sup>, a municipality shall be obliged to designate places where natural persons may discard municipal waste generated by them and provide for places where natural persons may discard hazardous components of municipal waste (e.g. residues of paints and consumer chemicals, discharge lamps, solvents) **and since January 1st, 2010 at least four recyclable municipal waste types (paper, glass, plastic and tetra packs) and biologically degradable municipal waste.** A municipality shall fulfil the duty to provide for places for discarding hazardous components of municipal waste by designating a place for accumulation of hazardous components of municipal waste at the set dates, however, at least twice a year, and by providing for transport of this waste by a licensed person. If required, a municipality may supplement this system by regular mobile waste collection ensured by a licensed person.

(4) Natural persons shall be obliged to discard municipal waste at places designated therefor and, from the date when the municipality so stipulates in a generally binding edict, to separately accumulate and separate municipal waste and submit municipal waste for recovery and disposal according to the system stipulated by the municipality, unless they recover the waste themselves in accordance with this Act and special legal regulations.<sup>25)</sup>

(5) A municipality may collect a fee for accumulation, collection, transport, separation, recovery and disposal of municipal wastes from natural persons on the basis of an agreement. The agreement must be executed in writing and must specify the amount of the fee. If a municipality collects such a fee, it may not stipulate a fee for municipal waste pursuant to Section 17a or a local fee for operation of a system of accumulation, collection, shipment, separation, recovery and disposal of municipal waste pursuant to the special law.<sup>25a)</sup>

(6) Waste generators who generate waste classified according to the Catalogue of Waste as waste similar to municipal waste generated in activities of legal persons and natural persons authorized to operate a business may, on the basis of an agreement with the municipality, utilize the system established by the municipality for management of municipal waste. The agreement must be executed in writing and must always specify the amount of the agreed price for this service.

**(7) The Ministry shall stipulate in a decree details to means of fulfilment of obligations pursuant to paragraph 3.**

## Section 17a

### **Fee for Municipal Waste**

(1) A municipality may stipulate, in a generally binding edict (Section 17 (2)), and collect a fee for municipal waste (hereinafter the “fee”) generated within its jurisdiction. The fee may not be stipulated simultaneously with a local fee for operation of a system of accumulation, collection, shipment, separation, recovery and disposal of municipal waste pursuant to the special law.<sup>25a)</sup>

(2) The contributor of the fee shall be every natural person who generates municipal waste in his/her activities. The payer of the fee shall be the owner of the real estate where municipal waste is generated. With respect to a building where an association of owners of units has been established pursuant to the special law the payer of the fee shall be this association. The payer of the fee shall charge the fee to the individual contributors *pro rata*.

(3) The fee shall be administered by the municipality that established the fee within its jurisdiction.

(4) If the contributor fails to reimburse the fee to the payer in time or in the correct amount, the payer of the fee shall notify this fact to the municipality, which shall consequently charge the fee by means of a payment order.

(5) The maximum amount of the fee shall be set according to the expected justified costs of the municipality following from the regime of management of municipal wastes, allocated to the individual contributors according to the number and volume of containers designed for discarding waste per individual piece of real estate or according to the number of persons using an apartment and in relation to the degree of separation of this waste. The fee may also reflect the costs related to lease of containers intended for discarding the waste. The fee shall be an income for the municipality.

(6) Special legal regulations shall apply to the proceedings concerned with fees for municipal waste.<sup>25b)</sup>

## **Chapter 2**

### **Collection and Purchase of Waste**

## Section 18

### **Duties in Collection and Purchase of Waste**

(1) The operator of a facility for the collection or purchase of waste shall be obliged to

- a) classify waste according to the types and categories pursuant to Sections 5 and 6,

- b) provide for the priority of recovery of waste in accordance with Section 11,
- c) appoint a waste manager under the conditions stipulated by this Act pursuant to Section 15,
- d) transfer the ownership title to the collected or purchased waste only to a person authorized to accept the waste pursuant to Section 12 (3),
- e) operate the facility for collection or purchase of waste in accordance with its approved rules of operation,
- f) publish the collected or purchased types of waste and the conditions for their collection or purchase, and collect or purchase the published types of collected or purchased waste under the set conditions,
- g) verify the hazardous properties of waste pursuant to Section 6 (4) and manage waste according to its actual properties,
- h) accumulate the collected or purchased waste separated according to the individual types and categories,
- i) safeguard waste against undesirable devaluation, theft or escape,
- j) keep continuous records of waste and the manner of its management, report waste and send to the competent authority other data within the scope stipulated by this Act and an implementing regulation, including keeping records of and reporting PCBs and equipment containing PCBs subject to inventory as defined in Section 26. These records must be filed for a period stipulated by this Act or an implementing regulation,
- k) allow the control bodies to enter buildings, premises and facilities and, on request, submit documents and provide truthful and complete information related to waste management.
- l) provide a general description of waste to authorized person with each individual or with the first one of a multiple delivery of waste to the appropriate facilities, or whenever asked for by an authorized person who accepts waste from the generator to its ownership.**

(2) If separation or separate accumulation is not necessary with respect to the subsequent manner of recovery or disposal of the waste, the operator of a facility for collection or purchase of waste may refrain from separation or separate accumulation with the consent of the competent state regional authority.

(3) The operator of a facility for collection or purchase of waste carrying out the collection or purchase of waste stipulated by an implementing regulation shall be obliged, in acceptance or purchase of this waste, to keep records of persons from whom (s)he accepted or purchased the waste **and retain these records for at least 2 years from the date of acceptance/purchase of the waste**; in order to fulfil this obligation, (s)he shall be entitled to request their personal identification cards for inspection. Without verifying their identity, the operator shall not

accept or purchase the waste. In management of personal data of natural persons, the operator shall proceed pursuant to the special law.<sup>26)</sup>

**(4) No mobile facility is allowed to be operated for the purpose of collection or purchase of waste (Section 14, paragraph 1).**

~~(4)~~ **(5) The Ministry shall stipulate in a decree the list of wastes with respect to which a licensed person shall be obliged, upon their acceptance or purchase, to keep records of the persons from whom the waste was accepted or purchased and the extent of these records.**

### **Chapter 3**

#### **Waste Recovery**

##### **Section 19**

#### **Duties in Waste Recovery**

- (1) The operator of a facility for waste recovery shall be obliged to
- a) appoint a waste manager under the conditions stipulated by this Act pursuant to Section 15,
  - b) publish a list of wastes for the recovery of which (s)he is licensed,
  - c) operate the facility for waste recovery in accordance with its approved rules of operation,
  - d) safeguard waste against undesirable devaluation, theft or escape,
  - e) keep continuous records of waste and the manner of its management, report waste and send to the competent authority other data within the scope stipulated by this Act and an implementing regulation, including keeping records of and reporting PCBs and equipment containing PCBs subject to inventory as defined in Section 26. These records must be filed for a period stipulated by this Act or an implementing regulation,
  - f) allow the control bodies to enter buildings, premises and facilities and, on request, submit documents and provide truthful and complete information related to waste management,
  - g) verify the hazardous properties of waste pursuant to Section 6 (4) and manage waste according to its actual properties,
  - h) notify the competent municipal authority of a municipality with extended competence, without undue delay, of the unfavorable effects of waste management on human health or the environment that are contrary to those expected or described in the rules or operation of the facility or that exceed the set limit values.

**i) provide a general description of waste to authorized person with each individual or with the first one of a multiple delivery of waste to the appropriate facilities, or whenever asked for by an authorized person who accepts waste from the generator to its ownership.**

(2) The operator of a facility pursuant to ~~Section 14 (2)~~ **Section 14 (3)** shall be subject to the duties set forth in paragraph 1 (e) and (f).

(3) The Ministry shall stipulate in an implementing regulation the technical requirements and conditions for the recovery of waste on the land surface (e.g. for terrain modifications, reclaiming).

## **Chapter 4**

### **Waste Disposal**

#### **Section 20**

#### **Joint provisions**

The operator of a facility for waste disposal shall be obliged to

- a) appoint a waste manager under the conditions stipulated by this Act pursuant to Section 15,
- b) publish a list of wastes for the disposal of which (s)he is licensed,
- c) operate the facility for waste disposal in accordance with its approved rules of operation,
- d) safeguard waste against undesirable devaluation, theft or escape,
- e) keep continuous records of waste and the manner of its management, report waste and send to the competent authority other data within the scope stipulated by this Act and an implementing regulation, including keeping records of and reporting PCBs and equipment containing PCBs subject to inventory as defined in Section 26. These records must be filed for a period stipulated by this Act or an implementing regulation,
- f) dispose of waste in extraordinary cases on the basis of a decision of the municipal authority of a municipality with extended competence if this is necessary from the viewpoint of protection of the environment and if this is technically feasible for the operator; any expenses incurred through this decision shall be paid by the municipal authority of the municipality with extended competence that issued the decision; the person responsible for the waste shall be obliged to reimburse the costs thus expended to the municipal authority of the municipality with extended competence,
- g) allow the control bodies to enter buildings, premises and facilities and, on request, submit documents and provide truthful and complete information related to waste management,

h) verify hazardous properties of waste pursuant to Section 6 (4) and manage waste according to its actual properties,

i) notify the competent municipal authority of a municipality with extended competence, without undue delay, of the unfavorable effects of waste management on human health or the environment that are contrary to those expected or described in the rules or operation of the facility or that exceed the set limit values.

**j) pay the fee by means and to the extent pursuant to this Act,**

**k) provide a general description of waste to authorized person with each individual or with the first one of a multiple delivery of waste to the appropriate facilities, or whenever asked for by an authorized person who accepts waste from the generator to its ownership.**

## Section 21

### Special Provisions on Landfilling of Waste

(1) A landfill operator shall also be obliged to:

~~a) demonstrate, prior to commencement of operation of the landfill, that (s)he has no outstanding debts towards the locally competent financial authority and that (s)he has established a special account pursuant to Section 50 and, in operation of the landfill, create and maintain a financial reserve for reclamation, maintenance of the landfill and decontamination after cessation of its operation, within the scope stipulated by this Act and implementing regulations;~~

~~b) after cessation of operation of the landfill, provide for its decontamination, reclaiming and subsequent care and prevent the detrimental impact of the landfill on the environment; (s)he shall provide for these activities from his (her) own means and the means of the financial reserve for a period of at least 30 years;~~

~~c) collect fees for waste landfilling, transfer the fees to the recipient of the fee and inform the recipient of any outstanding fees;~~

~~d) file the records of deposited waste over the entire period of operation of the landfill and the subsequent maintenance of the landfill pursuant to subparagraph b) above.~~

**a) demonstrate, prior to commencement of the first phase of the landfill operation or its part, that (s)he has no outstanding debts towards the locally competent financial authority as well as the locally competent customs authority and that (s)he has established a special account pursuant to Section 50,**

**b) to create and maintain, prior to commencement of the first phase of the landfill operation or its part, a financial reserve for reclamation, maintenance of the landfill and decontamination after cessation of its operation, as well as for works related to preventing of potential accident or mitigation of accident experienced in the amount according to**

**Section 51 (4), letters b) and c), by means pursuant to this Act and an implementing regulation,**

**c) after cessation of operation of the landfill, from his (her) own means and the means of the financial reserve, in accordance with the particular rules of operation for the specific phase of landfill operation, provide for its decontamination, reclaiming and subsequent care, including monitoring of negative effects of the landfill on environment, for a period of at least 30 years,**

**d) file the records of deposited waste over the entire period of operation of the landfill and the subsequent maintenance of the landfill pursuant to subparagraph c) above,**

**e) send annually, by March 31st of the next year, report on results of landfill operation monitoring in the previous calendar year, and by February 15th of the next year report on state of the financial reserve, including a copy of a bank statement of the landfill operator, as well as information on free capacity of the landfill as of December 31st of the previous year, to the appropriate regional authority, and**

**f) ensure that the waste manager trains all the landfill employees, by documented means.**

~~(2) The location and technical design of the landfill must ensure protection of the environment over the entire period of operation of the landfill and also after cessation thereof and conditions for reclaiming of the landfill and subsequent utilization of the landfill area in accord with the approved land use planning documents.<sup>27)</sup>~~

**(2) Landfill operator or owner shall ensure that the location and technical design of the landfill must ensure protection of environment over the entire period of operation of the landfill and also after cessation thereof and conditions for reclaiming of the landfill and subsequent utilization of the landfill area in accordance with the approved land use planning documentation<sup>27)</sup> and special legislation.<sup>27a)</sup>**

(3) Waste may be deposited only in landfills whose technical design complies with the requirements for landfilling such waste. The decisive factor in landfilling wastes shall be their chemical composition, their mixability, hazardous properties and the content of harmful substances in an aqueous extract.

(4) It shall be prohibited to landfill waste stipulated in an implementing regulation, waste that could have a detrimental impact on the environment when mixed, and untreated waste, except for waste stipulated in an implementing regulation, and also waste, the treatment of which cannot ensure reduction of its volume or reduction or elimination of its hazardous properties.

(5) The Ministry shall stipulate in a decree

a) a list of wastes that may not be deposited in landfills or that may be landfilled only under certain conditions,

- b) the technical requirements for landfills and the conditions for their operation,
- c) the manner of evaluation of wastes according to their extractability and mixability.

### **Special Provisions on Waste Incineration**

#### **Section 22**

(1) Waste may be incinerated only if the conditions stipulated by legal regulations on air protection<sup>28)</sup> and on energy management<sup>29)</sup> are met.

(2) The Ministry shall stipulate in a decree the technical requirements for management of wastes generated in incineration of hazardous waste in incinerators.

#### **Section 23**

(1) Incineration of waste shall be considered to constitute energy recovery of waste only if

- a) the utilized waste does not require for its incineration, after ignition, any auxiliary fuels and the generated heat is utilized for own needs or for the needs of third persons, or
- b) the waste is used as a fuel or as an additive fuel in facilities for production of energy or materials under the conditions stipulated by the legal regulations on air protection.

(2) Waste incinerators that do not meet the conditions of incineration set forth in paragraph 1 above are waste disposal facilities.

### **Chapter 5**

#### **Shipment of Waste**

#### **Section 24**

##### **Duties in Waste Shipment**

(1) Legal persons and natural persons authorized to operate a business involved in waste shipment shall be obliged to

- a) provide for shipment of waste in accordance with the requirements stipulated in the special legal regulations,<sup>30)</sup>
- b) at request of control bodies, submit documentation and provide truthful and comprehensive information related to the shipment of waste,

- c) keep records on shipment of waste for at least 3 years after the particular shipment was commenced,
- d) label the waste transport means based on requirements pursuant to the applicable legislation,
- e) in the shipment of hazardous waste, keep records and report the shipped hazardous waste within the scope stipulated by this Act and an implementing regulation.

(2) The carrier is obliged to inform the driver on the content of the load, provide the driver with documentation appropriate for the waste type to be transported and based on the legislation applicable to the particular means of transport and ensure that such a documentation is kept all throughout the transport.

(3) The Ministry shall stipulate in a decree means of designation (marking) the vehicles used for waste transport.

## **PART FOUR**

### **DUTIES IN MANAGEMENT OF SELECTED PRODUCTS, SELECTED WASTES AND SELECTED FACILITIES**

#### **TITLE I**

#### **JOINT PROVISIONS**

#### **Section 25**

(1) For the purposes of this Act, selected products, selected wastes and selected equipment mean:

- a) persistent organic pollutants and PCBs,
- b) waste oils,
- c) batteries and accumulators,
- d) sludge from waste water treatment plants,
- e) waste from the production of titanium dioxide,
- f) waste asbestos,
- g) end-of life vehicles,

h) electrical and electronic equipment.

(2) The duties of generators and licensed persons shall apply to generators of selected waste and the licensed persons who manage selected waste, unless hereinafter stipulated otherwise.

(3) Legal persons and natural persons authorized to operate a business, who manage selected products or waste or operate selected facilities, shall be obliged to provide the administrative authorities performing competence in the waste management sector pursuant to Part Eleven, at their request, with comprehensive and truthful information concerning management of selected products and selected wastes and information concerning operation of selected facilities.

## TITLE II

### SPECIAL PROVISIONS ON SELECTED PRODUCTS, SELECTED WASTE AND SELECTED FACILITIES

#### Chapter 1

#### Persistent organic pollutants and PCBs

#### Section 26

For the purposes of this Part of the Act

- a) PCBs shall mean polychlorinated biphenyls, polychlorinated terphenyls, monomethyltetrachlorodiphenyl methane, monomethyl-dichloro-diphenyl methane, monomethyldibromo-diphenyl methane and any mixture containing any of the above substances with a concentration exceeding 50 mg/kg,
- b) equipment containing PCBs means any equipment containing PCBs or having contained PCBs which has not been decontaminated,
- c) equipment containing PCBs subject to inventory means equipment containing PCBs (subparagraph b) above) with an overall content of PCBs exceeding 5 liters,
- d) equipment that may contain PCBs and is subject to inventory means oil transformers, capacitors with fluid dielectric, resistors, induction coils and other electrotechnical equipment filled with electrical insulation fluid, hydraulic mining equipment, vacuum pumps, industrial equipment using heat-conducting fluids (duplicators, road gravel precoating facilities, etc.) or parts of such equipment containing more than 5 liters of fluids,
- e) equipment without PCBs means equipment pursuant to subparagraph b) above that has been successfully decontaminated and equipment pursuant to subparagraph d) above, for which absence of PCBs has been demonstrated pursuant to Section 27 (10) (c),

f) decontamination means all operations which enable equipment, objects and materials containing PCBs to be reused, recycled or disposed of in a manner stipulated in an implementing regulation, after the absence of PCBs is demonstrated. Decontamination may also include replacement of PCBs by suitable fluids not containing PCBs,

g) disposal of PCBs means the manners of disposal of wastes designated D 8, D 9, D 10, D 12 and D 15 of Annex No. 4 to this Act.

## Section 27

### **Duties in Management of PCBs, PCB Wastes and Equipment Containing PCBs**

(1) The owners of PCB waste shall be obliged to dispose of this waste and the owners or operators of equipment containing PCBs subject to inventory and equipment that may contain PCBs and is subject to inventory shall be obliged to decontaminate this equipment or dispose of it in accordance with this Act as soon as possible, but not later than by the end of 2010, unless they demonstrate that the equipment does not contain PCBs. The owners or operators of transformers whose operational fluid contains 50 to 500 mg/kg of PCBs may decontaminate these transformers or dispose of them at the end of their lifetime.

(2) Separation of PCBs from other substances for the purpose of reusing the PCBs shall be prohibited.

(3) Disposal of PCBs shall be permissible only in facilities designed therefor.

(4) The operators of equipment containing PCBs subject to inventory shall be obliged to designate such equipment, including the premises where this equipment is located, in a manner stipulated in an implementing regulation. The operators of decontaminated equipment shall be obliged to designate such equipment in a manner stipulated in an implementing regulation.

(5) The operators of equipment containing PCBs subject to inventory may not supplement PCBs to this equipment. Until it is taken out of service, they may only maintain such equipment so that the PCBs they contain comply with technical standards, that the equipment is in good working order and that their filling does not leak.

(6) Equipment containing PCBs that is not subject to inventory and that is part of some other equipment that is taken out of service must be, if feasible, removed from such equipment and disposed of in accordance with the Act and an implementing regulation.

(7) If the operators or owners of equipment that may contain PCBs (Section 26 (d)) fail to demonstrate in the set manner to the Ministry that their equipment does not contain PCBs, the equipment will be considered as containing PCBs.

(8) PCBs owners and owners or operators of equipment containing PCBs shall prepare and submit to the Ministry a plan for gradual disposal of PCBs, PCB waste and equipment

containing PCBs or PCB waste decontamination plan or plan for decontamination of equipment containing PCBs, by March 31st, 2009 at the latest, for the period 2009 to 2010. These plans shall be fulfilled by December 31st, 2010 at the latest.

(9) Physical persons authorized to carry out business activities and legal entities that are owners or operators of equipment containing PCBs that does not need to be registered, are obliged to prepare a list of equipment and determine deadlines for disposal of it. The completed lists shall be submitted to the Ministry by December 31st, 2008 at the latest and fulfilled as promised.

(10) The Ministry, in agreement with the Ministry of Health, shall stipulate in a decree

- a) the conditions for decontamination, technical requirements for management of PCBs and technical requirements for equipment containing PCBs including measures for the protection of human health and the environment,
- b) the decisive methods for determining the overall concentration of PCBs in substances containing PCBs,
- c) the details of the manner of demonstrating the absence of PCBs, ~~and~~
- d) the manner of designation of equipment containing PCBs subject to inventory and the manner of designation of decontaminated equipment.
- e) content of lists of equipment containing PCBs that does not need to be registered, incl. information on collection and disposal of such an equipment.

#### § 27a

(1) Persistent organic pollutants shall mean waste containing at least one of the substances pursuant to Annex 8 to this Act.

(2) Handling with persistent organic pollutants is directly settled in the EC regulation on persistent organic pollutants<sup>30a)</sup>.

(3) The Ministry is a competent body according to the article 15 of the EC regulation on persistent organic pollutants<sup>30a)</sup> while the regional authority is a competent administrative body to carry out proceeding and issue a resolution pursuant to the article 7, paragraph 4, subparagraph b) of the EC regulation on persistent organic pollutants<sup>30a)</sup>.

## **Chapter 2**

### **Waste oils**

#### **Section 28**

For the purposes of this Part of the Act

- a) waste oils means any mineral-based or synthetic lubrication or industrial oils which have become unfit for the use for which they were originally intended, and in particular used combustion engine oils and gearbox oils, and also mineral or synthetic lubricating oils, oils for turbines and hydraulic oils,
- b) processing of waste oils means operations designed to permit the re-use of waste oils, i.e. their regeneration or combustion,
- c) regeneration of waste oils means any process whereby base oils can be produced by refining waste oils, in particular by removing the contaminants, oxidation products and additives contained in such oils,
- d) combustion of waste oils means only their energy recovery as fuel pursuant to the special regulation.

#### **Section 29**

### **Duties in Management of Waste Oils**

(1) A generator of waste oils and a licensed person who manages waste oils shall be obliged to

- a) provide for the priority of regeneration of waste oils,
- b) provide for combustion of waste oils in accordance with the requirements of Sections 22 and 23 if regeneration is not possible,
- c) provide for storage or disposal of waste oils in accordance with the requirements of this Act and other legal regulations if regeneration or combustion is not possible for technical reasons,
- d) ensure that, during management of waste oils, these oils are not mixed with other waste oils or with substances containing PCBs or with other hazardous wastes.

(2) In order to fulfil the duties set forth in paragraph 1 (a) to (c) above, the generator or licensed person may utilize the take-back system pursuant to Part Five.

(3) The Ministry shall stipulate in a decree the technical requirements for management of waste oils.

## Chapter 3

### Batteries and Accumulators

#### Section 30

For the purposes of this Part of the Act

- a) ~~batteries or accumulators means sources of electrical energy generated by direct conversion of chemical energy and consisting of one or more batteries or cells,~~
- b) ~~spent batteries or accumulators means batteries or accumulators which are not re-usable and are intended for recovery or disposal.~~

#### Section 31

#### **Duties in Management of Batteries and Accumulators**

~~(1) Legal persons and natural persons authorized to operate a business who manage alkaline manganese batteries containing more than 0.025 % of mercury by weight or batteries or accumulators containing~~

- a) ~~more than 0.0005 % of mercury by weight, except for alkaline manganese batteries, or~~
- b) ~~more than 25 mg of mercury per cell, except for alkaline manganese batteries, or~~
- c) ~~more than 0.025 % of cadmium by weight, or~~
- d) ~~more than 0.4 % of lead by weight,~~

~~shall be obliged to provide for their separate accumulation, concentration, recovery and disposal.~~

~~(2) The manufacturers and importers shall be obliged to label batteries, accumulators and appliances into which batteries and accumulators are incorporated with information concerning the possibility of taking back thereof and concerning the content of heavy metals.~~

~~(3) The manufacturers and importers of appliances into which batteries and accumulators are incorporated or appliances requiring incorporation thereof shall be obliged to ensure that the batteries or accumulators can be readily removed, when spent, by the consumer. If the appliance does not permit ready removal of batteries or accumulators, an instruction for the consumer concerning their safe removal must be attached to the appliance.~~

~~(4) The manufacturers and importers of batteries or accumulators or appliances containing batteries or accumulators shall be obliged to inform the consumer of the dangers connected with illegal disposal of spent batteries and accumulators.~~

~~(5) It shall be prohibited to manufacture and import batteries and accumulators containing more than 0.0005 % of mercury by weight, including those cases where these batteries and accumulators are incorporated into appliances.~~

~~(6) The prohibition set forth in paragraph 5 above shall not apply to button cells and batteries composed of button cells with a mercury content of no more than 2 % by weight.~~

~~(7) The importers shall be obliged to demonstrate the facts set forth in paragraphs 5 and 6 above to the customs authority by submitting a document pursuant to paragraph 8 hereof.~~

~~(8) The Ministry shall stipulate in a decree the technical requirements for the management of batteries and accumulators and the form and contents of the document demonstrating compliance with the conditions and criteria set forth in paragraphs 5 and 6 above.~~

### **Section 30**

**(1) Provisions of this part of the legislation are based on the appropriate regulations of the European Community<sup>30b)</sup> and determine rules for placing of batteries and accumulators on the market or into circulation, special rules for separate collecting of batteries and accumulators and rules for recycling of waste batteries and accumulators.**

**(2) Provisions of the part of the legislation shall apply to all types of batteries and accumulators disregarding their shape, volume, weight, material composition or application, except batteries and accumulators used in**

**a) equipment designed for protection of critical safety interests of the Member States, arms, munition and military materials, except for products that are not exclusively intended for military purposes, and**

**b) equipment designed to be sent into space.**

### **Section 31**

#### **Definitions**

**For the purposes of this Directive, the following definitions shall apply:**

**a) battery or accumulator shall mean any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary battery cells (nonrechargeable) or consisting of one or more secondary battery cells (rechargeable); batteries and accumulators are classified into the following groups:**

- 1. portable batteries and accumulators,**
- 2. industrial batteries and accumulators, and**
- 3. automotive batteries and accumulators.**

**b) portable battery or accumulator shall mean any battery, button cell, battery pack or accumulator that is sealed, can be hand-carried and is neither an industrial battery or accumulator nor an automotive battery or accumulator,**

**c) industrial battery or accumulator shall mean any battery or accumulator designed for exclusively industrial or professional uses or used in any type of electric vehicle,**

**d) automotive battery or accumulator shall mean any battery or accumulator used for automotive starter, lighting or ignition power,**

**e) battery pack shall mean any set of batteries or accumulators that are connected together and/ or encapsulated within an outer casing so as to form a complete unit that the end-user is not intended to split up or open,**

**f) button cell shall mean any small round portable battery or accumulator the diameter of which is greater than its height and which is used for special purposes such as hearing aids, watches, small portable equipment and back-up power,**

**g) waste battery or accumulator shall mean any battery or accumulator which is waste within the meaning of the Section 3,**

**h) treatment means any activity carried out on waste batteries and accumulators after they have been handed over to facility for sorting, preparation for recycling or preparation for disposal**

**i) producer shall mean any legal entity or natural person authorized to carry out business activities that, irrespective of the selling technique used, including by means of distance communication<sup>31m)</sup>, places batteries or accumulators, including those incorporated into appliances according to Section 37g, subparagraph a) or other products or vehicles, on the market in the Czech Republic for the first time,**

**j) last seller shall mean any legal entity or natural person authorized to carry out business activities that delivers batteries or accumulators, including those incorporated into appliances according to Section 37g, subparagraph a) or other products or vehicles to end-user**

**k) cordless power tool shall mean any hand held appliance powered by a battery or accumulator and intended for maintenance, construction or gardening activities**

**l) collecting of batteries and accumulators shall mean withdrawing of used portable batteries or accumulators from end-users without any consideration in the location designed exclusively for such collecting**

**m) separate collecting of batteries and accumulators shall mean collecting of waste batteries or accumulators, except for portable batteries and accumulators, from end-users with intention of their further use or treatment**

n) collecting level shall mean a percentage share for the specific calendar year calculated as follows: the total weight of the used portable batteries and accumulators collected under the scope of this Act or Division 8 of it in the particular calendar year shall be divided by average weight of portable batteries and accumulators sold to end users or delivered to third parties for the purpose of sale to end users in the Czech Republic in the particular calendar year and two preceding calendar years,

o) end-user shall mean a user of batteries or accumulators.

### Section 31a

#### Liabilities at placing batteries and accumulators to the market or into circulation

(1) It is prohibited to place on the market:

a) all batteries and accumulators, whether or not incorporated into appliances or other products, that contain more than 0,0005% of mercury by weight, except for button cells with a mercury content of no more than 2% by weight;

b) portable batteries or accumulators that contain more than 0,002% of cadmium by weight, including those incorporated into appliances or other products;

(2) The prohibition set out in paragraph 1, subparagraph b) shall not apply to portable batteries and accumulators intended for use in:

a) emergency and alarm systems, including emergency lighting,

b) medical equipment; or

c) cordless power tools.

(3) Producer of electrical appliances or other products intended to be used with batteries or accumulators shall design these appliances or products in such a way so the used batteries and accumulators may be easily and safely removed. All the electrical appliances or other products with batteries and accumulators shall be accompanied with operating instructions stating how to safely remove the used batteries or accumulators, including information on type of the batteries or accumulators used. Producer, distributor or the end seller are obliged to ensure that each end-user (customer) is provided with these operating instructions.

(4) Obligations stated under paragraph 3 above shall not apply to electrical appliances or other products for which a constant delivery of electrical power must be ensured due to safety reasons, to ensure a specific performance, for healing purposes or to satisfy a requirement on keeping of critical information or data, as these appliances or products require constant interaction with battery or accumulator.

## **Section 31b**

### **(1) The producer is obliged to**

- a) present a technical documentation, by request, to the inspection bodies or authorities, proving fulfilment of its obligations stated in Section 31a, paragraph 1, subparagraph a).**
- b) inform end-users (its customers), by demonstrable means, on the fact that the batteries or accumulators fulfil the legislative requirements on placing on the market or into circulation, under this legislation.**

**(2) The person that introduces batteries or accumulators into circulation including those incorporated into appliances or other products shall provide the inspection bodies or authorities, by their request, with technical documentation proving fulfilment of its obligations under Section 31a, paragraph 1, subparagraph a) or b).**

**(3) Importers shall prove fulfilment of obligations under Section 31a, paragraph 1, to customs authorities by means determined in the implementing regulations.**

**(4) Means for proving the fulfilment of obligations according to section 3 above shall be determined by the Ministry in cooperation with the Ministry of Finance, through the appropriate ministerial decree.**

## **Section 31c**

### **Labelling of batteries and accumulators**

#### **(1) Producer is obliged to ensure that:**

- a) all the batteries, accumulators and battery packs are clearly marked with the appropriate graphical symbol for the separate collecting purposes,**
- b) not later than by September 26<sup>th</sup>, 2009 all the portable and automotive batteries and accumulators are clearly, legibly and indelibly marked with information on capacity,**
- c) batteries, accumulators and button cells containing more than 0,0005% of mercury, more than 0,002% of cadmium or more than 0,004% of lead are clearly marked by a chemical symbol of the appropriate metal by means required in the applicable legislative regulations.**

#### **(2) The ministry, through the appropriate ministerial decree, shall determine:**

- a) sample of graphic symbols for labelling of batteries, accumulators and battery packs for the separate collecting purposes,**
- b) information on capacity of portable and automotive batteries and accumulators, and**

c) methods of marking batteries and accumulators and button cells as stated under paragraph 1, subparagraph c).

## **Section 31d**

### **Reporting obligations**

(1) Producer is obliged, through the last seller, to inform the end user on the system for separate collecting or collecting and treatment of waste batteries and accumulators, especially on places where the used batteries and accumulators are collected or accepted for further treatment. Producer shall further inform the end user on:

a) possible effects of substances used in batteries and accumulators on environment and human health,

b) meaning of the graphical symbol for separate collecting or collecting and meaning of other labelling according to Section 31c, paragraph 1, subparagraph c).

(2) The last seller, in the premises of whom the separate collecting or collecting of used batteries and accumulators is ensured based on the agreement with the producer, is obliged to inform the end-users in written form on availability of the system of separate collecting or collecting of used batteries and accumulators in its premises.

(3) Producer and the last seller, in the premises of whom the place for separate collecting or collecting of used batteries and accumulators was established, shall ensure good accessibility and visibility of this place so it is easily recognizable by end-users, using signboards and marking "Place for collecting of used batteries and accumulators" or "Place for separate collecting of used batteries and accumulators".

(4) If the producer fulfils its obligations through a collective system according to Section 31j, subparagraph c), the liabilities stated under paragraph 1 shall not apply.

## **Section 31e**

### **List of batteries and accumulators producers**

(1) Each producer shall submit a proposal on its inclusion in the List of batteries and accumulators producers (hereinafter referred to as "the List of producers") kept by the Ministry.

(2) Proposal on registration in the List of producers shall be served to the Ministry not later than 60 days after this Act comes into force or within 60 days after the first placement of the batteries or accumulators on the market, including those incorporated in appliances or other products

a) in two hard copies and in electronic form at the same time, or

**b) in electronic form with electronic sign on a basis of qualified system certificate issued by the accredited provider of certification services or signed by electronic signature according to the special regulations.<sup>30c)</sup>**

**(3) Proposal on registration in the List of producers shall contain:**

**a) in case of natural person - name and surname or name of the company, permanent residence address or place of undertaking, identification (registration) number, if any, copy of the trading license or authorization or copy of the extract from the register of companies, if the natural person is registered in it (not more than 3 months old),**

**b) in case of legal entity - name of the company, legal form, registered office, identification (registration) number, if any, copy of the extract from the register of companies, if the legal entity is registered in it (not more than 3 months old), name and surname, phone, fax and e-mail connection to a contact person of the company,**

**c) battery or accumulator type (brand),**

**d) group of batteries or accumulators to be introduced to the market by the producer,**

**e) means of fulfilling the requirements according to Section 31j, subparagraph a) by the producer,**

**f) description of the system for collecting of used batteries and accumulators, separate collecting of used batteries and accumulators and treatment related to used batteries and accumulators,**

**(4) The Ministry shall register the applicant into the List of producers not later than within 30 days after the proposal is received, if all the appurtenances under paragraph 3 are fulfilled. Not later than within 30 days after the registration the Ministry shall publish the information on registration on the information board of the Ministry.**

**(5) Should the proposal for registration fail to contain all the required appurtenances under paragraph 3, the Ministry shall ask the applicant for amending the proposal, including detailed information on what is missing or what should be completed. Such amending shall not take more than 15 working days after the applicant is asked for it by the Ministry. Should the applicant fail to complete the proposal as asked for by the Ministry within the term above, the Ministry will execute the registration in the List of producers based on the information available and may ask the appropriate inspection body to carry out inspection of the applicant.**

**(6) Producer who is obliged to serve a proposal on registration in the List of producers shall keep the Ministry informed on any change of information provided under paragraph 3, not later than within 30 days after a particular change came to force. Within the same period the producer shall inform the Ministry on expiration of reasons for registration in the List of producers.**

**(7) The Ministry shall keep the List of producers up-to-date based on notifications received under the paragraph 6 or according to the own findings and also to exclude any producer from the List of producers, if necessary.**

**(8) The Ministry shall make the List of producers accessible on the public administration website, within the following extent:**

**a) name and surname or company name for natural persons or commercial name for legal entities,**

**b) identification (registration) number, if any**

**c) battery or accumulator type (brand),**

**d) group of batteries or accumulators to be introduced to the market by the producer,**

**e) means of fulfilling the requirements according to Section 31j, subparagraph a) by the producer, including a name of the legal entity responsible for operating of the collecting system under Section 31k,**

**f) information on fulfilment of reporting obligations (annual reports), and**

**g) amounts of used batteries and accumulators collected (in case of portable batteries and accumulators producers)**

**(9) Administrative procedure shall not apply on registration/ exclusion of producers in/ from the List of producers as well as any changes to it.**

**(10) Distributor who places batteries or accumulators, including those incorporated in appliances under Section 37g, subparagraph a) or other products on the market or into circulation, but these are not made by producers listed in the List of producers or producers fulfilling their obligations by means of collective system according to Section 31j, subparagraph c), shall be held liable for fulfilment of obligations set by this part of legislation.**

**(11) If the producer fulfils its obligations through collective system under Section 31j, subparagraph c), obligations stated under paragraph 1 shall not apply. Information on producers fulfilling their obligations through collective system under Section 31j, subparagraph c), that is received by the Ministry from entity authorized to operate the collective system under Section 31k, is published in accordance with paragraph 8 hereto.**

**(12) The Ministry shall determine appurtenances of proper request for registration in the List of producers as well as other requirements on information and data necessary for record-keeping by the collective system operator through the appropriate ministerial decree.**

## **Section 31f**

### **(1) Producer is obliged**

**a) to prepare an annual report on fulfilment of obligations under this section of the legislation (hereinafter referred to as "the annual report") for the previous calendar year, within the scope as determined by the implementing regulations and submit the annual report to the Ministry every year, by March 31st, in written form as well as in electronic form (waste data transfer standard),**

**b) to keep the annual report for at least 5 years,**

**c) to demonstrate and prove accuracy and completeness of data stated in the annual report to the inspection bodies, by their request,**

**(2) If the producer fulfils its obligations through the collective system under Section 31j, subparagraph c), obligations stated under paragraph 1 shall not apply.**

**(3) The Ministry shall determine a content and extent of the annual report and methods for its submission through the appropriate ministerial decree.**

## **Section 31g**

### **Requirements on collecting of used batteries and accumulators**

#### **(1) Producer of portable batteries or accumulators shall ensure**

**a) collecting of used batteries and accumulators from end-users at the producer's costs, disregarding brand, date of placing on the market and without forcing end-user to buy new battery or accumulator in return,**

**b) minimal level of used batteries and accumulators collecting of 25% until September 26<sup>th</sup>, 2012 and 45% by September 26<sup>th</sup>, 2016.**

#### **(2) In order to fulfil obligations under paragraph 1, the producer shall:**

**a) establish places for collecting of used batteries and accumulators in every urban area in the Czech Republic, in every municipal area or town area, where these batteries and accumulators are sold. Collecting places of the producer shall mean selling places of last sellers, as determined by the implementing regulations.**

**b) conclude a contract on utilization of system for collecting and sorting of communal waste, as determined by municipalities interested in such a conclusion, under terms and conditions similar to other municipalities.**

**(3) Last seller of batteries or accumulators is obliged to collect the used batteries and accumulators from end-users in its selling places that are considered to be collecting places designated by the producers according to paragraph 2, subparagraph a), during full opening time of the selling place, without consideration, disregarding battery or accumulator brand, date of placing on the market and without forcing end-users to buy new battery or accumulator in return.**

**(4) Used batteries or accumulators may only be disposed by holders through collecting places or by returning them to processing facility according to Section 31i. Batteries and accumulators from collecting places may only be provided to entity authorized to carry out further processing/ treatment of used batteries or accumulators according to Section 31i).**

**(5) Costs on collecting of used batteries and accumulators and processing of waste portable batteries and accumulators shall not be charged to end users at purchase of new portable batteries or accumulators.**

**(6) Collected used batteries and accumulators become a waste at the moment of their provision to entity authorized for further process used batteries and accumulators.**

**(7) Producer of portable batteries or accumulators is obliged to publish a list of places where used batteries and accumulators are collected from end-users, including a detailed address of the location. Such a publishing shall be made in a way easily accessible to end-users and municipalities.**

**(8) The Ministry shall determine places where portable batteries and accumulators are sold and at the same time used portable batteries and accumulators collected, by means of a ministerial decree.**

#### **Section 31h**

##### **Requirements on separate collecting of used batteries and accumulators**

**(1) Producer of industrial batteries and accumulators is obliged, at its own costs, to ensure separate collecting of used industrial batteries and accumulators of the same type and designation as it placed on the market, disregarding their chemical composition, date of placing on the market and without forcing end-users to buy new battery or accumulator in return.**

**(2) Producer of automotive batteries and accumulators is obliged, at its own costs, to ensure separate collecting of used automotive batteries and accumulators, disregarding their brand, date of placing on the market and without forcing end-users to buy new automotive battery or accumulator in return. As for the automotive batteries and accumulators from private vehicles not used for business purposes, the producer shall even not ask for any consideration from end-users for such collecting.**

**(3) In order to fulfil obligations under paragraph 2, the producer shall establish places for separate collection that allow end-users to dispose of waste automotive batteries and accumulators. Places for separate collection shall be in accessible locations with a density corresponding to Section 37a, paragraph 1, subparagraph a). For this purpose, the producer may use a system of collection and sorting of communal waste organized by particular municipalities, based on the written agreement with municipalities. The producer shall publish a list of places where the separate collection of used automotive batteries or accumulators is provided, by means accessible to end-users and municipalities.**

**(4) Used batteries or accumulators not covered in collecting scheme under this legislation may only be disposed by holders by returning them to entities authorized to collect them under this legislation. Also batteries and accumulators from places of separate collecting may only be disposed through entities authorized to process waste batteries or accumulators according to Section 31i.**

### **Section 31i Processing of waste batteries and accumulators**

**(1) Producer is obliged, at its own costs, to ensure processing and material utilization of used batteries and accumulators, using the most sophisticated methods available<sup>31s)</sup> in facilities fulfilling the requirements stated in paragraph 3.**

**(2) Processor of waste batteries and accumulators is obliged**

**a) to remove all liquids and acids from waste batteries and accumulators,**

**b) as for processing or any storage in processing facilities, including temporary storage, to store the batteries and accumulators on leakproof surfaces or in appropriate containers, and**

**c) to demonstrate application of exception for combustion of portable batteries or accumulators.**

**(3) Not later than by September 26<sup>th</sup>, 2010 the processes of material utilization shall reach the following effectiveness (as minimum):**

**a) material utilization of 65% of average weight of lead batteries and accumulators, including material utilization of the lead content at the highest possible level, considering technical feasibility at reasonable costs,**

**b) material utilization of 75% of average weight of nickel cadmium batteries and accumulators, including material utilization of the cadmium content at the highest possible level, considering technical feasibility at reasonable costs, and**

**c) material utilization of 50% of average weight of other used batteries and accumulators.**

**(4) Decision approving operation of the facility for processing of waste batteries and accumulators, including the operating procedures, granted in accordance with Section 14, paragraph 1, shall contain requirements necessary for fulfilment of obligations under paragraphs 2 and 3.**

**(5) Batteries and accumulators shall not be stored in landfills of all groups. Industrial and automotive batteries as well as accumulators, and since September 26<sup>th</sup>, 2009 also portable batteries and accumulators that allow visual determination of their electro-chemical type or brand before further processing, shall not be disposed by combustion. This prohibition does not apply to portable batteries or accumulators withdrawn from the market based on special legislative regulation.<sup>31v)</sup> Waste from batteries and accumulators as a result of processing under this legislation may be disposed in landfills of appropriate type or by combustion.**

**(6) If waste batteries and accumulators are exported for processing in accordance with EC regulations<sup>39)</sup> and in accordance with division 9 of this Act, obligations and utilization rates stated under paragraph 2 shall only apply if it is demonstrated that the process of material utilization was executed under conditions comparable to requirements set by this legislation. In terms of classification for export (transport abroad), collected waste batteries and accumulators are considered to be waste.**

**(7) The Ministry shall determine detailed rules for calculation of material utilization process effectiveness in the appropriate ministerial decree.**

#### **Section 31j Fulfilment of producers' obligations**

**Producers shall fulfil their obligations related to collecting of batteries and accumulators as well as separate collecting of waste batteries and accumulators and processing of waste batteries and accumulators**

**a) individually, in their own costs in terms of organization and technical assurance (hereinafter referred to as the individual system), or**

**b) jointly with other producers based on written agreement; in such a case the contractual parties shall be responsible for fulfilment of obligations related to collecting of batteries and accumulators, separate collecting of waste batteries and accumulators and processing of waste batteries and accumulators on a basis of solidarity (hereinafter referred to as the joint system), or**

**c) by concluding the contract on assurance of obligations related to collecting of batteries and accumulators, separate collecting of waste batteries and accumulators and processing of waste batteries and accumulators under this legislation (hereinafter referred to as the contract on common fulfilment) with a legal entity authorized to operate a collective system according to Section 31k (hereinafter referred to as the system operator) (hereinafter referred to as the collective system).**

**Section 31k**  
**System operator**

**System operator is a legal entity established as a limited company or incorporated company with a permission granted by the Ministry to operate the collective system according to Section 31l. For the purpose of this Act the permission to operate the collective system shall mean permission to ensure common fulfilment of obligations related to collecting of batteries and accumulators, separate collecting of waste batteries and accumulators and processing of waste batteries and accumulators (hereinafter referred to as “common fulfilment of producers’ obligations), including a right to conclude agreements on common fulfilment of producers’ obligations under Section 31j, paragraph 1, subparagraph c).**

**Section 31l**  
**Issue of permission for collective system operation**

**(1) The Ministry shall issue a permission for operation of the collective system in favour of legal entity, based on the application of the entity (hereinafter referred to as “the applicant”) that demonstrates adherence to requirements on assurance of common fulfilment of producers’ obligations under this legislation.**

**(2) Permission for operation of the collective system is issued for assurance of common fulfilment of producers’ obligations in relation to a specific group of batteries and accumulators.**

**(3) Application for issue of permission for collective system operation is to be submitted to the Ministry in two hard copies and electronic form as well. The Application shall contain name of the company, legal entity, registered office, identification number of the applicant and a list of all partners of the applicant, including information on their shares in basic capital. Each application shall be accompanied with:**

- a) statutes or articles of association of the applicant,**
- b) extract from register of companies and extract confirming emission of registered shares, not older than 7 days, if the applicant is an incorporated company,**
- c) documents demonstrating fulfilment of requirements under Section 31m, paragraphs 1 and 2 and Section 31m (10),**
- d) latest annual report of the applicant, if any, and detailed information on activities of the applicant since its foundation,**
- e) applicant’s declaration on fulfilment of conditions under Section 31m, paragraphs 4, 5, 6 and 8 and declaration of partners on fulfilment of requirements under Section 31m, paragraph 11,**
- f) drafts and samples of contracts on common fulfilment,**

**g) description of means for assurance of collecting of batteries and accumulators, separate collecting of waste batteries and accumulators and processing of waste batteries and accumulators, registration and reporting obligations, including financial resources and ways of financing the activities under this legislation.**

**(4) The Ministry shall issue permission for operation of the collective system for the period of 5 years at maximum, with option for extension by another 5 years, provided that the request for extension is served by the system operator at least 6 months before expiration of original effectiveness period. Based on the request for extension the Ministry shall carry out supervision over activities of the system operator according to Section 31p. If any issues are found, a deadline for their elimination will be determined by the Ministry. Should the system operator fail to eliminate all the issues and non-conformances within the agreed term, the permission for system operation will not be extended. While reviewing requests for extension of permission for operation of the collective system, the Ministry proceeds in accordance with paragraphs 1 to 3. Request for extension of the validity of permission for operation of the collective system may be submitted repeatedly.**

**(5) List of issued permissions for operation of collective system, incl. information on their expiration date or cancellation (if cancelled), as well as content itself, except confidential information or protected personal data, is published by the Ministry on the public administration website.**

**(6) Only applicant is considered to be a participant of the proceeding for issue of permission for operation of the collective system.**

**(7) The Ministry shall determine requirements on content of the application for issue of the permission for operation of the collective system through a ministerial decree.**

#### **Section 31m System operator limitations**

**(1) If the system operator is an incorporated company, it may only issue common stocks in registered form (registered stocks). Shares and stocks may only be subscribed by monetary deposits.**

**(2) Only producers of batteries and accumulators may act as partners or shareholders of the system operator.**

**(3) Profit gained by the system operator shall not be distributed amongst partners or shareholders. System operator is not allowed to reduce its basic capital for other reasons than to compensate loss or to fulfil statutory requirements. System operator shall not increase its basic capital by conditional means.**

**(4) System operator shall not participate in any bodies of other legal entities, except entities associating subjects with similar business activities.**

**(5) Besides activities related to assurance of common obligations of the batteries and accumulators producer, as stated in this legislation, the system operator is not allowed to carry out other activities than consulting activities in the field of waste batteries and accumulators elimination, waste batteries and accumulators management or exploratory, lecturer, edifying or promotional activities in the field of collecting of batteries and accumulators, separate collecting of waste batteries and accumulators and processing of waste batteries and accumulators. Exploratory, lecturer, edifying and promotional activities may only be carried out by the system operator as a secondary business.**

**(6) System operator shall not conclude a contract with legal entity or natural person with a special relation under paragraph 7, that would not be (in terms of its nature or risks) normally concluded with any other legal entity or natural person. It further shall not provide these legal entities or natural persons with any guarantees nor transfer property to them without consideration. Contracts concluded in contrast to this provision shall not be deemed invalid, if concluded in good will. The one who concluded such a contract on behalf of the system operator shall be held liable for any consecutive losses; in general its liability shall be governed according to the Commercial Act.<sup>30d)</sup>**

**(7) Legal entities or natural persons with a special relation to the system operator shall mean:**

**a) statutory body and members of the statutory body of the system operator, members of the supervisory board and employees of the system operator in managerial positions, that may be adured by statutory body of the system operator,<sup>30e)</sup>**

**b) members of statutory bodies of the legal entities that are partners or shareholders of the system operator,**

**c) persons in close relation<sup>30f)</sup> to those mentioned under subparagraphs a) or b),**

**d) legal entities with persons as stated under subparagraphs a) or b), some of whom has direct or indirect stake in the basic capital, exceeding 33%,**

**e) partners or shareholders of the system operator that are legal entities, and other legal entities controlled by them.**

**(8) The system operator is not allowed to conclude other contract with partners, shareholders, legal entities, controlled persons or persons controlling some of the partners or shareholders of the system operator, than stated under paragraph 5 or in Section 31n, paragraph 1.**

**(9) The system operator is authorized to conclude agreements with persons ensuring fulfilment of obligations under division 9 of this Act, the subject of whose is settlement of management of used batteries and accumulators, collected through the collecting system established according to the division 8 of this Act, in such a way so the double financial charge on the side of producers of collected batteries and accumulators is prevented.**

**(10) Stake of particular partners or shareholders in the system operator company shall not exceed 33%. If the stake of 33% is exceeded, the partner or shareholder shall inform the Ministry and reduce the stake under 33% not later than within 6 months after the stake of 33% was exceeded.**

**(11) Partner or shareholder of the system operator is not allowed to:**

**a) carry out business activities in the field of waste management except those activities focused exclusively on other waste than used batteries and accumulators – this exception shall be explicitly stated in the trading licence or authorization of the partner/ shareholder, and**

**b) to act on behalf of third parties that are engaged in waste management, especially management of waste batteries and accumulators or entities, the business activities of whom are directly focused on waste management. The same applies to members of system operator company bodies and other employees.**

#### **Section 31n System operator obligations**

**(1) The system operator shall ensure fulfilling of common obligations of producers based on contracts concluded with particular producers of batteries and accumulators. Terms and conditions of these contracts shall be determined uniformly for all the producers and in such a manner so that no type of batteries or accumulators is preferred or disadvantaged in the economic competition.**

**(2) The system operator is obliged to conclude a contract on common fulfilling of obligations with every person that displays its interest and has no outstanding liabilities towards the system operator, for all the batteries and accumulators available in the market or in circulation.**

**(3) If the battery or accumulator fails to become a waste in the territory of the Czech Republic, the system operator shall return a contribution received from entity for handling with the battery or accumulator, if it is demonstrated that the battery or accumulator was exported or delivered to other Member State after introduction to the market in the Czech Republic. Returning of such a consideration represents financial settlement between the system operator and entity who exported the objective battery or accumulator or delivered it to other Member State.**

**(4) The system operator shall not disclose information on amount of batteries or accumulators introduced to the market by particular producers, being in contractual relation to the system operator according to paragraph 1, to third parties, except for state authorities.**

**(5) The system operator shall ensure that the legal entity or natural person providing auditing services according to special legislation (hereinafter referred to as “the auditor”) will:**

- a) verify the final accounts and annual reports of the system operator, when requested,**
- b) verify records on persons and entities in contractual relation to the system operator according to paragraph 1 and records on amount of batteries and accumulators within the extent required for annual reporting according to Section 31f, paragraph 1, subparagraph a)**
- c) to compile a report on verification according to subparagraphs a) and b).**

**(6) The system operator shall ensure verification and preparation of the report according to paragraph 5 in every year of validity of the permission for operation of the collective system; such a report shall be submitted by the system operator to the Ministry not later than within six months after the reported period has ended. Verification according to paragraph 5 shall not be executed by auditors who have special relation to the system operator, in accordance with Section 31m, paragraph 7. This applies also to natural persons carrying out auditing services on behalf of such an auditor.**

**(7) The Ministry may determine other details and requirements on activities of collective system operators through the appropriate ministerial decree.**

### **Section 31o Registration and reporting obligations**

**(1) The system operator is obliged to keep records on**

- a) producers in contractual relation to the system operator regarding common fulfilment of producers’ obligations in accordance with Section 31j, paragraph 1), subparagraph c), including those producers on behalf of which the system operator fulfils obligations according to division 8 of this Act, under Section 31m, paragraph 9, within the extent as determined in Section 31e, paragraph 3, subparagraphs a) through c) and the implementing regulations, and**
- b) amount of batteries and accumulators as well as amount of waste from batteries and accumulators managed under contracts on common fulfilment concluded with producers of batteries and accumulators, flow of the collected batteries and accumulators from the collection place to treatment facility or disposal facility and methods of their use, within the extent required for submission of annual report according to Section 31f, subparagraph a), verified by the auditor.**

**(2) The system operator is obliged to**

a) provide the Ministry, by request, with information according to paragraph 1, subparagraphs a) and b), and

b) report information on producers (from the register) under contractual relation regarding common fulfilment of obligations under Section 31e, paragraph 10, subparagraphs a) to d) including any changes, not later than within 30 days after particular contracts are concluded or changes reported, in electronic form within the waste data transfer standard.

(3) The system operator is obliged to keep end-users informed especially through information campaigns on:

a) possible effects of substances incorporated in batteries and accumulators on environment and human health,

b) methods of batteries and accumulators disposal in accordance with the applicable legislation,

c) system of collecting and separate collecting or processing of batteries and accumulators, and

d) meaning of graphic symbols used for indication of separate collecting or collecting of waste batteries and accumulators and other markings under Section 31c, paragraph 1, subparagraph c).

### **Section 31p**

#### **Supervision over the system operator activities**

(1) The Ministry shall supervise the system operator activities, proceeding in accordance with the special regulation.<sup>30g)</sup>

(2) Should the Ministry find any defects or non-conformances in the system operator activities, it may, based on the nature and severance of the failure to

a) order taking of corrective measures by the system operator within the set term, with appeal not having a deferring effect, if served by the system operator,

b) order the inspection authorities to initiate proceeding on infliction of a fine to the system operator,

c) decide on cancelling of the permission for the collective system operation.

(3) A non-conformance in the activities of the system operator shall mean breaching of obligations under this Act or incapability of the system operator, its shareholders or partners to fulfil requirements necessary to keep the permission effective.

**Section 31r**  
**Decision on cancellation of permission for collective system operation**

- (1) The Ministry may cancel the permission for operation of collective system if
- a) it was issued based on untrue information stated in documents accompanied with the application or additional submitted by the system operator,
  - b) the system operator fails to take corrective actions ordered under Section 31p, paragraph 2, subparagraph a), within the agreed term,
  - c) significant non-conformances in the activities of the system operator are discovered during inspection according to Section 31p,
  - d) a bankruptcy proceeding is initiated towards the system operator in accordance with the special regulations.<sup>30h)</sup>

(2) Should the general assembly of the system operator or other company body decide about discontinuing of activities under the permission for operation of collective system, the system operator shall immediately inform the Ministry who shall then cancel the permission for operation of the collective system. The Ministry shall cancel the permission not earlier than 30 days after it is demonstrated by the system operator that it has informed producers of batteries and accumulators, within the scope of the contractual relation to them according to Section 31j, paragraph 1, subparagraph c, and municipalities under the contractual relation according to Section 31g, paragraph 2, subparagraph b as well as other entities for which the system operator ensured collecting and processing of used batteries and accumulators, about the intended termination of its activities as stated above.

(3) Should the reason for cancelling the collecting and processing activities relate to a specific group of batteries and accumulators only, the Ministry shall cancel the permission only in the appropriate part, related to the specific group of batteries and accumulators.

(4) The only participant of the proceeding on cancelling the permission for collective system operation is the system operator.

**Chapter 4**

**Sludge from Waste Water Treatment Plants And Other Biologically Degradable Waste**

**Section 32**

For the purposes of this Part of the Act:

- a) sludge means

1. sludge from waste water treatment plants treating urban waste waters or domestic waste waters and from other waste water treatment plants treating waste waters of the same composition as urban waste waters and domestic waste waters,
2. sludge from septic tanks and other similar installations,
3. sludge from waste water treatment plants other than those set forth above,

b) treated sludge means sludge which has undergone biological, chemical or heat treatment, long-term storage or any other appropriate process so as to significantly reduce its pathogen organisms content and the health hazards resulting from its use,

c) use of sludge means land treatment with sludge,

d) sludge use program means the documentation drawn up within the scope stipulated by an implementing regulation.

### Section 33

#### **Duties in the Use of Sludge**

(1) A legal entity and a natural person using soil shall be obliged to use only treated sludge taking into account the nutritional requirements of plants, under the conditions stipulated in this Act and an implementing regulation and in accordance with the sludge use program stipulated by the producer of sludge so that the quality of soil and the quality of surface waters and groundwater is not impaired.

(2) The producer of sludge shall be obliged to stipulate a sludge use program and, within this program, to demonstrate compliance with the conditions for use of sludge stipulated by this Act and an implementing regulation. The producer of sludge shall be obliged to submit the sludge use program to the person set forth in paragraph 1 above.

(3) The use of sludge shall be prohibited

a) on agricultural land which is part of protected areas of nature and the landscape pursuant to the special legal regulation,<sup>31)</sup>

b) on forest land normally used for classical forest-growing activities,

c) within the protection zone of water sources, on wet soil and in areas exposed to flooding,

d) on permanent grasslands and on grass grown on arable land during the vegetation season until after the last mowing,

e) in intensive fruit-producing orchards,

- f) on properties used for growing field vegetables during the year when vegetables are grown and during the preceding year,
- g) during the vegetation of fodder crops, corn and sugar beet if the leaves are used as feedstuffs,
- h) if soil analyses indicate that the risk substance content in an average sample exceeds one of the values stipulated in an implementing regulation,
- i) on soils having the exchange soil reaction value below pH 5.6,
- j) on surfaces used for recreation and sports and in publicly accessible areas, or
- k) if the sludge does not meet the microbiological criteria stipulated by an implementing regulation. Microbiologically contaminated sludge may only be used after the sludge has been demonstrably hygienically modified.

(4) The Ministry, in cooperation with the Ministry of Agriculture and the Ministry of Health, shall stipulate in a decree

- a) the technical conditions for use of treated sludge on agricultural soil,
- b) the limit values for concentration of selected risk substances in soil,
- c) the limit values for concentration of heavy metals that may be added to agricultural soil over a period of 10 years,
- d) the limit values for concentration of selected risk substances in sludge to be applied on agricultural soil,
- e) the microbiological criteria for use of sludge,
- f) the procedures for analysis of sludge and soil including the sampling methods,
- g) the contents of the sludge use program.

#### Section 33a

For the purposes of this Part of the Act:

- a) biologically degradable waste means any waste that is subject to aerobic or anaerobic decomposition,
- b) facility for biological processing of biologically degradable waste means a facility for aerobic or anaerobic decomposition of biologically degradable waste.

## Section 33b

### **Obligations in Biological Processing of Biologically Degradable Waste**

(1) The operator of a facility for the collection, purchase or recovery of biologically degradable waste shall be obliged to

a) operate this facility only with the consent to operate a facility and to its rules of operation pursuant to Section 14 (1), except for facilities that process recoverable biologically degradable waste for a single fill in a quantity not exceeding 10 tons of this waste per year (hereinafter a “small facility”); the annual quantity of biologically degradable waste processed by a small facility may not exceed 150 tons,

b) operate a small facility on the basis of an affirmative statement of the municipal authority of a municipality with extended competence pursuant to Section 79 (4) (e) and in accordance with the special legal regulations for the protection of health of humans and the environment, in accordance with which the facility was established and is operated,

c) evaluate and classify treated biologically degradable waste through procedures and methods stipulated by an implementing regulation and label the waste and provide it with instructions for use in accordance with that regulation,

d) submit treated biologically degradable waste that cannot be classified in any of the groups stipulated by the implementing regulation and residual waste after treatment of biologically degradable waste that is no longer waste subject to biological decomposition for recovery or disposal to an authorized person pursuant to Section 12 (3).

(2) Classification of biologically degradable waste according to its actual properties, composition and manner of material recovery in one of the groups stipulated by the implementing regulation, its labeling and provision with instructions for use constitute its final material recovery pursuant to ~~Section 4 (m)~~ **Section 4 (o)**.

(3) The Ministry, in cooperation with the Ministry of Agriculture and the Ministry of Health, shall stipulate in an implementing regulation

a) a list of biologically degradable waste,

b) the manners of biological processing of biologically degradable waste,

c) technical requirements on equipment and operation of a facility for biological processing of biologically degradable waste depending on the quantity and type of biologically degradable waste treated in the facility,

d) technological requirements on treatment of biologically degradable waste,

e) the contents of the rules of operation of the facility,

f) requirements on the quality of waste entering the technology of material recovery of biologically degradable waste,

g) the manner and criteria of evaluation and classification of treated biologically degradable waste in groups pursuant to the manners of its material recovery,

h) limit values of concentration of foreign substances and indicator organisms in the outputs from the facility for biological processing of waste, the methods of determining concentration of foreign substances,

i) the frequency and methods of sampling, designation of the groups according to the manner of their biological processing and the criteria for evaluation of treated biologically degradable waste as waste that is no longer biologically degradable.

## **Chapter 5**

### **Wastes from Production of Titanium Dioxide**

#### **Section 34**

##### **Duties in Management of Waste from Production of Titanium Dioxide**

(1) The generator of waste from the production of titanium dioxide who draws up a waste management plan shall be obliged to include in this plan the manner of reducing emissions of harmful substances into the air,<sup>8)</sup> the manner of reducing pollution of discharged waste waters including the manner of an effective waste water treatment, and the manner of monitoring of environmental components.

(2) The competent public administrative body shall not grant the consent to manage hazardous waste from the production of titanium dioxide if environmental impact assessment<sup>8a)</sup> demonstrates direct or anticipates future harmful impact of the production on the environment. If the production of titanium dioxide increases by more than 15 thousand tons per year, the generator of waste from such production shall be obliged to draw up a new waste management plan and apply to the competent authority for new consent to manage waste from the production of titanium dioxide or for new consent to operate a facility for the recovery or disposal of waste from the production of titanium dioxide, as appropriate.

(3) A manufacturer of titanium dioxide shall be obliged to monitor the set indicators for the discharged waste water and indicators for emissions of pollutants into the air in the manner and within the scope stipulated by the special legal regulation and the waste management plan, and to report this information to the competent regional authority with the frequency stipulated in an implementing regulation.

(4) The Ministry shall stipulate in a decree the requirements for management of waste from the production of titanium dioxide and the requirements for monitoring of the environmental components.

## Chapter 6

### Waste Asbestos

#### Section 35

#### Obligations in Management of Waste Asbestos

(1) The generator of waste containing asbestos and a licensed person who manages waste containing asbestos shall be obliged to ensure that asbestos fibres or asbestos dust is not released into the air in management of such waste and that liquids containing asbestos fibres are not spilled.

(2) Waste containing asbestos fibres or asbestos dust may be deposited only in landfills designed for this purpose. The waste must be treated, packed or, after depositing in the landfill, immediately covered. The operator of the landfill shall be obliged to ensure that asbestos particles cannot be released into the air.

(3) The Ministry shall stipulate in an implementing regulation the requirements for landfilling asbestos waste.

## Chapter 7

### End-of Life Vehicles

#### Section 36

For the purposes of **this chapter of the Act**

**a) selected vehicles shall mean every motor vehicles designated in a special regulation<sup>31a)</sup> as category M1 or N1 or three-wheel motor vehicle<sup>31b)</sup> except for motor tricycles<sup>31b)</sup>,**

**a) b) end-of life vehicle means a motor vehicle, or part thereof, that was used for operation on roadways for transport of persons, animals or things (hereinafter a “vehicle”) and has become waste pursuant to Section 3,**

~~b) selected end-of life vehicle means each motor vehicle, or part thereof, designated in a special regulation<sup>31a)</sup> as category M1 or N1 or three-wheel motor vehicle<sup>31b)</sup>, excluding motor tricycles<sup>31b)</sup> (hereinafter a “selected vehicle”) that has become waste pursuant to Section 3;~~

**c) selected end-of life vehicle shall mean every complete or incomplete selected vehicle that has become a waste pursuant to Section 3,**

**e) d) producer means the final vehicle manufacturer or his accredited representative who introduced the vehicle to the market in the Czech Republic or his legal successor;**

**e) e) reuse means the use of components of end-of life vehicles, without modification, for the same purpose for which they were originally conceived,**

**e) f) treatment means operations carried out after the end-of life vehicle has been handed over for depollution, dismantling, shearing, shredding, preparation for disposal or recovery of the shredder wastes, and all other operations carried out for the recovery or disposal of the end-of life vehicle and its components;**

**f) g) person treating end-of life vehicles means a legal or natural person authorized to operate a business who carries out one or more operations pursuant to subparagraph g) pursuant to subparagraph f) above on the basis of authorization pursuant to Section 14 (1),**

**h) complete selected end-of life vehicle shall mean the selected end-of life vehicle containing at least motor with accessories, axles with wheels, engine-gearbox assembly with accessories, body shop (including doors, splash boards and hoods), electric installations (including control and safety elements and instruments), catalyzer according to homologation and lighting elements according to homologation,**

**i) substantial part of end-of life vehicle shall mean a body shop of the end-of life vehicle with identification number of the vehicle, including doors, splash boards and hoods, engine-gearbox assembly with accessories, axles with wheels, motor with identification number (if included in the vehicle registration documentation), electrical installations (including control and safety elements and components), control unit and other devices, catalyzer according to homologation,**

**j) information for dismantling shall mean all the information required for proper and environment-friendly treatment of selected end-of life vehicles.**

## Section 37

### Obligations in Management of End-of Life Vehicles

~~(1) Every person who discards an end-of life vehicle shall be obliged to hand over the end-of life vehicle exclusively to persons who are operators of a facility for collection, purchase, treatment, recovery or disposal of end-of life vehicles.~~

**(1) End-of life vehicle, its part or part that was taken out of the vehicle and has become a waste pursuant to Section 3 (hereinafter referred to as "end-of life vehicle or its parts") may only be handed over to the operator of a facility intended for collection of end-of life vehicles, except for the selected end-of life vehicle, the part or parts of which was/**

were taken out of the vehicle and has become a waste pursuant to Section 3 (hereinafter referred to as "selected end-of life vehicle or its parts"). Selected end-of life vehicle or its parts may only be handed over to the operator of a facility designated by the vehicle manufacturer as a place for collection of selected end-of life vehicles. Person that intends to sell end-of life vehicle shall submit registration papers; this obligation shall not apply to procedure pursuant to paragraph 6.

(2) Only a person operating a facility intended for collection of end-of life vehicles, except for selected end-of life vehicle or its parts, may accept end-of life vehicle or its parts from natural person or owner of the vehicle. Selected end-of life vehicle or its parts may only be accepted from natural person or owner of the vehicle by operator of a facility designated by the manufacturer of the vehicle to be a place for collection of selected end-of life vehicles.

(3) Paragraphs 1 and 2 shall not apply to parts of end-of life vehicle or parts taken out of the vehicle that has become a waste pursuant to Section 3 and shall be collected under the collection system or separated collection system pursuant to other provisions of this Act.

~~(2)~~ (4) Prior to handing over of a vehicle pursuant to paragraph 1 above, the owner of the vehicle shall be obliged to place the vehicle on a site where it will not damage or endanger the environment or interfere with the esthetic appearance of the municipality or nature or the landscape.<sup>31c)</sup>

~~(3)~~ (5) A vehicle that is placed at variance with ~~paragraph 2~~ **paragraph 4** above (hereinafter an "abandoned vehicle") shall be transported by the municipal authority, after expiry of 2 months from the date when it learnt of this fact, to a selected parking lot at the expense of its owner. The municipal authority shall publish information on location of an abandoned vehicle on its official board. The municipal authority shall notify the owner of the vehicle, if the owner can be identified, of the location of the vehicle.

~~(4)~~ (6) If the owner fails to remove the vehicle from the selected parking lot within a deadline of 2 months from notifying the owner and, if identification of the owner is not possible, from publishing information pursuant to ~~paragraph 3~~ **paragraph 5** above, it shall hold that the vehicle is an end-of life vehicle. The municipal authority shall manage the end-of life vehicle pursuant to paragraph 1 above.

~~(5)~~ (7) The last owner of the abandoned vehicle, as specified in the register of motor vehicles, shall be obliged to reimburse the municipality for any and all costs connected with the procedure pursuant to ~~paragraphs 3 and 4~~ **paragraphs 5 and 6** above, **if it is not demonstrated that some other person is the owner of the objective abandoned vehicle.**

~~(6)~~ (8) A procedure pursuant to a special regulation<sup>31d)</sup> shall apply in cases where an abandoned vehicle is located on a roadway.

~~(7) (9) Persons entitled to collect, purchase, treat, recover and dispose of end-of life vehicles shall be obliged to~~

~~a) introduce a collection system for selected end of life vehicles and their components with an appropriate density of collection sites;~~

~~b) manage selected end-of life vehicles and their components in order to ensure that~~

~~1. no later than January 1, 2006, selected end of life vehicles are reused and recovered in a rate of at least 85 % of the average weight of all end of life vehicles accepted during a calendar year, and reused and subjected to material recovery in a rate of at least 80 % of the average weight of all end of life vehicles accepted during a calendar year, except for selected vehicles manufactured before January 1, 1980, where the rate of reuse and recovery has been set at 75 % and the rate of reuse and material recovery at 70 %;~~

~~2. no later than January 1, 2015, selected end of life vehicles are reused and recovered in a rate of at least 95 % of the average weight of all end-of life vehicles accepted during a calendar year, and reused and subjected to material recovery in a rate of at least 85 % of the average weight of all end of life vehicles accepted during a calendar year, c) conclude a written contract with registered importers and manufacturers of selected vehicles for the purpose of fulfillment of the duties set forth in subparagraphs a) and b) above.~~

**(9) The Ministry shall stipulate in a decree the technical requirements for facility intended for collection and treatment of end-of life vehicles as well as management of end-of life vehicles or their parts.**

~~(8) The obligations pursuant to paragraph 7 (b) above do not apply to three wheel motor vehicles and special purpose vehicles.<sup>31b)</sup>~~

~~(9) The Ministry shall stipulate in an implementing regulation the technical requirements for management of end-of life vehicles.~~

#### Section 37a

### **Obligations of Producers and Importers in Recovery of Waste from Selected End-of Life Vehicles**

~~(1) Registered importers<sup>31e)</sup>, or their legal successors, as appropriate (hereinafter “registered importers”) and producers shall be obliged to~~

~~a) provide persons treating end of life vehicles with all information that is required for substantively correct and environmentally sound treatment of a selected end of life vehicle in the form of manuals or on technical data carriers within six months of introducing the relevant vehicle to the market;~~

~~b) provide, at their own expense, for collection, treatment, recovery and disposal of selected end-of life vehicles with effect as of the date of legal force of this Act for new selected vehicles~~

~~introduced to the market in the Czech Republic after July 1, 2002, inclusive, and, as of January 1, 2007, for new selected vehicles introduced to the market in the Czech Republic prior to July 1, 2002,~~

~~e) provide for fulfillment of the requirements stipulated in Section 37 (7) (b).~~

~~(2) Each producer and registered importer shall be obliged to accept selected vehicles of his own make that were introduced to the market in the Czech Republic for the first time after July 1, 2002, inclusive, and, as of January 1, 2007, also selected vehicles introduced to the market in the Czech Republic prior to July 1, 2002, provided that such vehicles are handed over to a collection site stipulated by the producer or registered importer.~~

~~(3) The obligations pursuant to paragraph 1 (b) do not apply to special purpose vehicles.<sup>31b)</sup>~~

~~(4) The manufacturer and certified importer shall be obliged~~

~~a) to comply with obligations laid down in paragraph 1 (b), to conclude a written agreement with persons authorized for collection, purchase, treatment and, as appropriate, also recovery and disposal of selected end-of life vehicles, if he is not himself such person,~~

~~b) to prepare an annual report on meeting the targets laid down in Section 37 (7) (b) for the previous calendar year in the extent laid down by the implementing regulation and to send this report to the Ministry by March 31.~~

#### Section 37a

### **Obligations of Producers and Importers in Recovery of Waste from Selected End-of Life Vehicles**

**(1) Each producer shall be obliged to**

**a) provide, at its own expense, system for collection of selected end-of life vehicles and their parts, at a reasonable density of collection places. For this purpose a reasonable density of collection places shall mean establishing of at least one collection place in every district of administration of each municipality with extended competencies<sup>31f)</sup>,**

**b) ensure, at its own expense, reuse and recovery of at least 85% of average weight of all the selected end-of life vehicles and their parts of its own brand, accepted by operators of collection facilities in the specific calendar year, and reprocessing of at least 80% of the average weight of all the selected end-of life vehicles and their parts of its own brand, accepted by operators of collection facilities in the specific calendar year, except for selected vehicles and their parts manufactured before January 1<sup>st</sup>, 1980, for which a reduced level of reuse (75%) and material reprocessing (70%) is determined,**

c) not later than as of January 1<sup>st</sup>, 2015 ensure, at its own expense, reuse and recovery of at least 95% of the average weight of all the selected end-of life vehicles and their parts of its own brand, accepted by operators of collection facilities in the specific calendar year, and reprocessing of at least 85% of the average weight of all the selected end-of life vehicles and their parts of its own brand, accepted by operators of collection facilities in the specific calendar year,

d) ensure, at its own expense, disposal of unusable parts of selected end-of life vehicles collected,

e) provide processing facilities of selected end-of life vehicles with information on dismantling procedures for each new type of vehicle placed on the market not later than within 6 months after such placing. This information shall include listing of all vehicle components and materials as well as hazardous substances, if any, at the scope necessary for fulfilling legislative obligations, especially those mentioned under subparagraphs b) and c). The information shall be provided by the producers to end-of life vehicles processing facilities by means of operating manuals or using electronic media, as appropriate (e.g. CD-ROM, on-line service, etc.).

f) prepare an annual report on meeting the targets laid down in subparagraphs b) and c) for the previous calendar year in the extent laid down by the implementing regulation and to send this report in electronic form, through the waste data transport standard, to the Ministry by March 31.

g) inform consumers through its selling places on collecting facilities for selected end-of life vehicles and their components.

(2) Producers of parts used in vehicles shall provide the processing facilities with all the information necessary for proper dismantling, storage and testing of parts and components that may be reused.

(3) The Ministry shall stipulate in a decree a content of the annual report on meeting the targets by the producers.

#### Section 37b

#### ~~Obligations of Operators of Collection Facilities for End-of-Life Vehicles~~

~~(1) Operators of collection facilities for end-of life vehicles shall be obliged to~~

~~a) fulfill the obligations pursuant to Section 14 (1) and Section 18,~~

~~b) accept all end-of life vehicles or parts thereof in accordance with the operational rules and accept all used components removed during repairs of vehicles,~~

~~e) accept, without consideration, selected end-of life vehicles that were introduced to the market after July 1, 2002, provided that they contain the necessary components of a vehicle, particularly the driving generators and gear boxes, body, catalyst according to the homologization, and bumpers, and unless they contain components that were not approved by the producer and waste whose origin is other than the selected vehicle; for selected end of life vehicles introduced to the market before July 1, 2002, this obligation shall apply as of January 1, 2007,~~

~~d) upon acceptance of an end of life vehicle, issue a certificate of acceptance, whose requisites are stipulated in an implementing regulation;~~

~~e) provide for delivery of the end of life vehicle for treatment exclusively to persons treating end of life vehicles, unless the operator is himself such a person,~~

~~f) store end of life vehicles in accordance with the conditions stipulated in an implementing regulation,~~

~~g) keep records of accepted end of life vehicles and end of life vehicles dispatched for treatment and send the information to the competent authority within the scope and in the manner stipulated in an implementing regulation.~~

~~h) to join the information system for monitoring of flows of selected end of life vehicles, as stipulated in an implementing regulations.~~

~~(2) The Ministry shall stipulate in an implementing regulation the requisites for a certificate of acceptance of an end of life vehicle to a collection facility for end of life vehicles, the conditions for storage of end of life vehicles, and the scope and manner of keeping records of accepted end of life vehicles.~~

## **Section 37b**

### **Obligations of Operators of Collection Facilities for End of Life Vehicles**

#### **(1) Operators of collection facilities for end-of life vehicles shall**

**a) fulfil obligations pursuant to Section 18,**

**b) to accept all end-of life vehicles and their parts pursuant to Section 37 (2) and accept complete selected end-of life vehicles, without any consideration, provided that these do not incorporate non-interchangeable parts and waste not originating from selected end-of vehicle,**

**c) while accepting end-of life vehicle to verify information stated in registration papers with actual information and issue, free of charge, in two copies a confirmation on acceptance of end-of life vehicle, the sample and content of which shall be determined in an implementing regulation; one copy shall be provided to the seller and another one retained for at least 5 years,**

**d) to ensure hand-over of the end-of life vehicle and its parts for treatment exclusively to operator of facility designed for further processing of end-of life vehicles,**

**e) to keep records on accepted end-of life vehicles and their parts and on end-of life vehicles and their parts sent to facilities intended for further processing of end-of life vehicles and to provide the appropriate administration body with information as required in an implementing regulation,**

**f) immediately after the confirmation on acceptance of end-of life vehicle is issued, to provide the Ministry with information pursuant to paragraph 3 in electronic form, in the extent as determined in an implementing regulation, to information system for monitoring of end-of life vehicles data that is a part of the central information system of waste management.**

**(2) Confirmation on acceptance of end-of life vehicle shall not be issued if the end-of life vehicle does not contain relevant parts of end-of life vehicle, at least body works with identification number (VIN) and motor with identification number, if stated in the registration papers. Comparison of data from registration papers of the vehicle with actual data under paragraph 1, subparagraph c) is not required if a procedure pursuant to Section 37 (6) is applied.**

**(3) Operator of a facility for collection of end-of life vehicles shall enter in the data monitoring information system its identification data, identification data of the seller, information on consent with operation of facility for collection of end-of life vehicles and missing parts of the accepted end-of life vehicle, to the extent required in confirmation on acceptance of end-of life vehicle and by an implementing regulation.**

**(4) The Ministry shall allow access to data on collected end-of life vehicles in a manner allowing remote access by municipalities with extended competencies that pursuant to special legislation<sup>31fa)</sup> decides on permanent exclusion of the vehicle from register of vehicles, and also available to Police of the Czech Republic.**

**(5) The Ministry shall state in a decree**

**a) sample and required content of confirmation on acceptance of end-of life vehicle in the facility for collection of end-of life vehicles,**

**b) extent of records on end-of life vehicles and their parts to be kept by facility operators, and**

**c) form and required content of information to be reported (entered) to the information system for monitoring of end-of life vehicles data.**

Section 37c

~~Obligations of Persons Treating End-of-Life Vehicles~~  
**Obligations of Operators of Treatment Facilities for End-of Life Vehicles**

(1) ~~Persons treating end-of life vehicles~~ **Operators of treatment facilities for treatment of end-of life vehicles** shall be obliged to

- a) fulfil the obligations pursuant to Section 14 (1) and Section 19,
- b) prior to commencement of treatment operations related to an end-of life vehicle, provide for removing and separate collection of operational fluids,
- c) dismantle components of end-of life ~~vehicles~~ **vehicle** stipulated by an implementing regulation prior to further treatment to ensure limitation of unfavorable environmental impact,
- d) destroy the identification number of the selected end-of life vehicle (VIN) in a manner excluding any repeated use thereof,
- e) d) remove and separate from end-of life ~~vehicles~~ **vehicle** components and materials containing lead, mercury, cadmium and hexavalent chromium stipulated in an implementing regulation, and recover or dispose of these parts and materials separately,
- f) store and dismantle end-of life ~~vehicles~~ **vehicle** so that the individual components can be reused or subjected to material recovery,
- g) reuse or recover materials and components of end-of life ~~vehicles~~ **vehicle** to a maximum possible extent, or dispose of these materials and components, if appropriate, or hand them over to some other person to this end,
- ~~h) keep records of accepted end-of life vehicles and on the manners of their treatment and send the information to the competent authority within the scope and in the manner stipulated in an implementing regulation,~~
- h) keep records of accepted end-of life vehicles and their parts, methods of their treatment and wastes generated; to report these records to competent authorities within terms and to extent as determined by an implementing regulations.**
- ~~i) manage materials and components of selected end of life vehicles in accordance with Section 37 (7) (b).~~
- ~~j) participate in the information system for monitoring the flow of selected end of life vehicles, as stipulated by the implementing regulation. Unless they are themselves the final treatment operators for selected end of life vehicles, together with the waste from selected end of life vehicles, they shall be obliged to submit to each of the subsequent treatment operators information on partial treatment in accordance with the implementing regulation.~~

(2) ~~A person treating~~ **Operator of a facility for treatment of** end-of life vehicles may offer components of end-of life vehicles to the producer, ~~registered representative~~ or some other qualified interested person, as appropriate, for reuse. A qualified interested person shall be a legal or natural person authorized to operate a business in the sector of repairs and service of motor vehicles pursuant to the special regulation.<sup>12)</sup> **Besides ongoing records on waste management, the operator shall keep, in a similar way, records on materials and parts applicable for reuse. Such records shall be kept by the operator of a facility for treatment of end-of life vehicles for at least 5 years.**

Section 37d

**repealed**

Section 37e

### **Fees to Support Collection, Treatment, Recovery and Disposal of Selected End-of Life Vehicles**

(1) Registered importers and individual importers shall be obliged to pay a fee of 5,000 CZK for the import of selected vehicles to promote the collection, treatment, recovery and disposal of selected end-of life vehicles. If a registered importer or individual importer demonstrates that the imported used selected vehicle complies with the technical conditions for the emission limits in exhaust gases that are in accordance with the valid regulations of the European Communities<sup>31g)</sup> required for the manufacture of the same category of vehicle, he shall be exempt from payment of this fee. The level of compliance with emission limits shall be determined on the basis of a technical protocol on an emission test pursuant to the ECE emission regulations issued by an authorized testing facility.

(2) A fee pursuant to paragraph 1 above

a) shall be paid, for selected second-hand vehicles that meet the conditions for approval of roadworthiness of the vehicle pursuant to the special legal regulation,<sup>31h)</sup> on the basis of the technical protocol on compliance with the emission level according to the ECE emission test issued by the authorized testing facility prior to issuance of a certificate of registration<sup>31i)</sup> of the selected vehicle,

b) shall be paid, for selected second-hand vehicles that do not meet the conditions for approval of roadworthiness of the vehicle pursuant to the special legal regulation,<sup>31h)</sup> intended for reconstruction,<sup>31k)</sup> prior to marking the change in the certificate of registration of the selected vehicle,<sup>31l)</sup>

c) shall be paid, for selected second-hand vehicles that do not meet the conditions for approval of roadworthiness of the vehicle pursuant to the special legal regulation,<sup>31h)</sup> even after their

reconstruction,<sup>31k)</sup> imported as end-of life vehicles for the purpose of their dismantling to spare parts, prior to issuance of the consent of the Ministry to import waste pursuant to the legislation of the European Communities concerning supervision of shipments of waste within, into and out of the European Community.<sup>39)</sup>

(3) The fee pursuant to paragraph 1 above shall be paid into a special account of the State Environmental Fund of the Czech Republic<sup>31j)</sup> intended for management of selected end-of life vehicles. The funds in the special account must be used exclusively to support collection, treatment, recovery and disposal of selected end-of life vehicles and components thereof.

(4) The Ministry shall lay down details of payment of fees pursuant to paragraph 1 above in an implementing regulation.

## **Chapter 8**

### **Electrical and Electronic Equipment**

#### Section 37f

(1) In accordance with the law of the European Communities<sup>31m)</sup>, the provisions of this Chapter of the Act stipulate the duties of producers, ultimate sellers and distributors of electrical and electronic equipment falling under the categories set forth in Annex No. 7 to this Act, unless they are part of a different type of equipment that is not subject to this Chapter of the Act, and the duties of the treatment operators for such electrical and electronic equipment that has become waste.

(2) The Ministry shall stipulate in an implementing regulation a list of products that fall under the categories of electrical and electronic equipment set forth in Annex No. 7 to this Act.

#### Section 37g

### **Basic Terms**

For the purposes of this Act:

a) electrical or electronic equipment (EEE) means equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields falling under the categories set out in Annex No. 7 to this Act and designed for use with a voltage rating not exceeding 1 000 Volt for alternating current and 1 500 Volt for direct current, except for equipment intended exclusively for the purposes of state defense,

b) waste electrical and electronic equipment (WEEE) means electrical and electronic equipment which has become waste, including all components, subassemblies and consumables, which are part of the product at the time of discarding,

c) reuse means the use of returned or separately collected electrical and electronic equipment or components of such electrical and electronic equipment without their further reworking for the same purpose as they were originally intended,

d) treatment of waste electrical and electronic equipment means any activity after waste electrical and electronic equipment has been handed over to a facility for depollution disassembly, shredding, recovery or preparation for disposal and any other operation carried out for the recovery or disposal of waste electrical and electronic equipment;

e) producer means any natural or legal person authorized to operate a business who, irrespective of the selling technique used, including by means of distance communication<sup>31n)</sup>

1. manufactures and sells electrical and electronic equipment under his own brand, or

2. resells under his own brand electrical and electronic equipment produced by other suppliers, unless the brand of the person pursuant to point 1 appears on the equipment, or

3. imports electrical and electronic equipment to the Czech Republic or puts such electrical and electronic equipment on the market in the Czech Republic within his/her business activities,

f) electrical and electronic equipment from private households means used electrical and electronic equipment which comes from private households or waste electrical and electronic equipment of a similar character and amount which comes from legal persons and natural persons authorized to operate a business,

g) take-back of electrical and electronic equipment means the withdrawal of used electrical and electronic equipment which comes from private households from consumers without the right to consideration at a point designated for this purpose by the producer,

h) separate collection of waste electrical and electronic equipment means the withdrawal of used electrical and electronic equipment which does not come from private households from end users at a point designated for this purpose by the producer.

**i) a contribution means a sum of money paid by the producer into the collective system to fund handling of a piece or a kilogram of electrical or electronic equipment from private households and to fund handling of a piece or a kilogram of waste electrical or electronic equipment, including costs on operation of the system.**

**(2) In case of doubts the Ministry shall determine whether a specific type of product is electrical or electronic equipment pursuant to this part of the Act or not, and group pursuant to Annex No. 7 to this Act, to which the specific electrical or electronic equipment belongs. The Code of Administrative Procedure shall not apply on such a decision by the Ministry.**

## Section 37h

### **Basic Duties of Producers of Electrical and Electronic Equipment**

(1) The producer shall fulfil the duties stipulated for separate collection, taking-back, treatment, recovery and disposal of electrical and electronic equipment and waste electrical and electronic equipment

a) independently, at his own expense from organizational and technical viewpoints,

b) together with some other producer or producers on the basis of a written agreement; the parties shall be responsible for the performance of the duties stipulated in this Chapter of the Act jointly and severally,

~~e) by means of assignment of these duties to some other legal person providing for joint performance of the duties of producers pursuant to this Chapter of the Act; the responsibility of producers for performance of the duties stipulated in this Chapter of the Act shall not expire if the legal person fails to perform the duties.~~

**c) by entering into agreement on joint performance of the duties of producers pursuant to this Chapter of the Act (hereinafter referred to as "agreement on joint performance of the duties of producers of electrical and electronic equipment") with some other legal entity authorized to operate a collective system pursuant to Section 37ha (hereinafter referred to as "operator of collective system for electrical and electronic equipment and waste electrical and electronic equipment") (collective system).**

(2) The producer shall be obliged to draw up annual reports on the performance of the duties pursuant to paragraph 1 above for the previous calendar year (hereinafter the "annual report") and send it to the Ministry by March 31 of each year. If the producer performs the duties set forth in paragraph 1 above together with another producer, he may draw up a joint annual report with the other producer. In the case specified in paragraph 1 (c), the annual report shall be drawn up by the relevant legal person. This annual report shall not replace the annual report pursuant to Section 38 (10).

(3) The Ministry shall stipulate in an implementing regulation more detailed conditions of individual manners of performance of the duties of producers pursuant to paragraph 1 above and the contents of the annual report pursuant to paragraph 2 above.

## **§ 37ha**

### **Operator of Collective System for Electrical and Electronic Equipment and Waste Electrical and Electronic Equipment**

**Operator of collective system for electrical and electronic equipment and waste electrical and electronic equipment is a legal person established as an incorporated company or a**

limited company, possessing of permit to operate a collective system pursuant to Section 37hb, granted by the Ministry. Permit to operate a collective system shall mean permit granted by the Ministry to ensure joint performance of obligations set for separate collection, treatment, reuse and disposal of electrical and electronic equipment and waste electrical and electronic equipment (hereinafter referred to as "joint performance of duties of electrical and electronic equipment producers") and conclude agreements on joint performance of duties of electrical and electronic equipment producers, pursuant to Section 37h, paragraph 1, subparagraph c).

#### **§ 37hb**

(1) Permit to operate a collective system is issued for a specific group of electrical and electronic equipment, as set forth in Annex 7 to this Act of for more groups, jointly for all the electrical and electronic equipment belonging to a specific group, disregarding their purpose, origin, use and date of placing on market; This provision however does not limit a liability of the operator of collective system for electrical and electronic equipment and waste electrical and electronic equipment as well as producers to distinguish electrical and electronic equipment from households and other (not from households) and also electrical and electronic equipment placed on market before August 13<sup>th</sup>, 2005 and after August 13<sup>th</sup>, 2005, pursuant to this Act.

(2) Section 31l to Section 31r shall apply to terms and conditions for issue, extension or cancelling of permit to operate collective system, as well as to rights and obligations of the operator of collective system for electrical and electronic equipment and waste electrical and electronic equipment, if not stated otherwise in this Act.

(3) Only producers of electrical and electronic equipment may become partners of the operator of collective system for electrical and electronic equipment and waste electrical and electronic equipment.

#### **§ 37hc**

##### **Application for Issue of Permit for Operation of Collective System**

Application for issue of permit to operate a collective system shall be - besides appurtenances pursuant to Section 31l, paragraph 3 - further accompanied with:

a) documents demonstrating that the applicant has - for the period after issue of the permit - a collective system for collection of electrical and electronic equipment in collection facilities or in other places at least in 40% of municipalities of the Czech Republic. For this purpose a sufficient evidence are agreements on utilization of collection system and sorting of general waste, concluded with these municipalities pursuant to Section 38, paragraph 6, or contracts on future contracts, and

b) evidence proving establishing of financial reserve for handling with historical and other unsecured electrical and electronic equipment from households pursuant to Section 37hd, including documents proving crediting of the reserve (at least in the minimal amount) to the blocked bank account.

## § 37hd

### Financial Reserve for Provision of Handling with Historical and Other Unsecured Electrical and Electronic Equipment from Households

(1) Operator of collective system for electrical and electronic equipment is obliged to establish a financial reserve for provision of handling with historical and other unsecured electrical and electronic equipment from households (hereinafter referred to as "reserve"), for each group of electrical and electronic equipment pursuant to Annex 7 to this Act, for which a permission was granted in favour of the operator to operate a collective system for electrical and electronic equipment and waste electrical and electronic equipment. The reserve shall be created at least in the amount of CZK 15 000 000 for groups 1 and 3 of electrical and electronic equipment, in the amount of at least CZK 10 000 000 for groups 2, 4, 5 and 6 of electrical and electronic equipment and in the amount of at least CZK 5 000 000 for groups 7, 8, 9 and 10. For this purpose the operator of collective system for electrical and electronic equipment and waste electrical and electronic equipment shall establish a blocked bank account in bank in the Czech Republic or other bank, in accordance with special regulation<sup>31na)</sup> and deposit the reserve funds exclusively on this bank account.

(2) Financial means from the reserve kept on the blocked bank account may only be used for performance of duties of the operator of collective system for electrical and electronic equipment and waste electrical and electronic equipment, in relation to electrical and electronic equipment placed on the market before August 13<sup>th</sup>, 2005 and other unsecured electrical and electronic equipment, in relation to which the operator of the collective system for electrical and electronic equipment and waste electrical and electronic equipment obliged (him)/herself to ensure performance of duties of producers of electrical and electronic equipment, under the terms and conditions stated in a decision issued pursuant to paragraph 3. These financial means may even not be a subject to decision on execution, bankruptcy proceeding or other settlement of debts of the operator of collective system for electrical and electronic equipment and waste electrical and electronic equipment. Profits from financial reserve on the blocked bank account represent income from the bank accounts. The reserve is considered to be a deductible expense (from taxation point of view).<sup>31na)</sup>

(3) Should the Ministry decide on cancellation of permit to operate collective system, the decision shall incorporate a ministerial order stating how to split the financial reserve or which part of it shall be used for settlement of due obligations of the operator of collective system for electrical and electronic equipment and waste electrical and electronic equipment, related to provision of joint performance of duties of producers and in order to ensure continuity in handling with electrical and electronic equipment and waste electrical

and electronic equipment, or stating other way of required using of the reserve, with preferential settlement of claims of municipalities under agreements concluded pursuant to Section 38, paragraph 6; The reserve or its part shall be, usually on a basis of written agreement, provided to the operator of collective system for electrical and electronic equipment and waste electrical and electronic equipment, who possesses of a permit to operate a collective system for the group of electrical and electronic equipment, for which the reserve was created and who will oblige (her)himself to settle all the due obligations of the operator who lost the permit (on his/ her behalf), as relating to performance of joint duties of producers and continuous handling of electrical and electronic equipment and waste electrical and electronic equipment in the respective group of electrical and electronic equipment. The remaining (undistributed) part of the reserve (after all the due obligations were settled) shall not be blocked on the bank account pursuant to paragraph 1 any longer.

### § 37he

#### Duties and Obligations of Operator of Collective System for Electrical and Electronic Equipment and Waste Electrical and Electronic Equipment

(1) The operator of collective system for electrical and electronic equipment is obliged to keep records on collected electrical and electronic equipment and separately collected waste electrical and electronic equipment from the moment of acceptance until processing, reuse or disposal of the electrical and electronic equipment, pursuant to this Act, and submit these records for review to the competent authority, by request. The operator shall keep separately records on electrical and electronic equipment not coming from households and used electrical and electronic equipment, not coming from households; This does not apply to electrical and electronic equipment within group 5.

(2) If the electrical or electronic equipment fails to become a waste in the territory of the Czech Republic, the operator of collective system for electrical and electronic equipment shall return a contribution for provision of treatment of the electrical or electronic equipment to the person who proved that the objective equipment was exported to other Member State immediately after its placement on the market. Returning of the contribution represents settlement of the claim between operator of collective system for electrical and electronic equipment and waste electrical and electronic equipment and person who placed the objective electrical or electronic equipment on the market or exported it to other Member State.

(3) The operator of collective system for electrical and electronic equipment is obliged to enter in the contract on utilization of system for collection and sorting of general waste, as determined by municipalities pursuant to Section 38, paragraph 6, with every municipality concerned, under the similar terms and conditions as concluded with other municipalities.

(4) In the calendar year in which the permit to operate the collective system was issued (the first calendar year), the operator of collective system for electrical and electronic equipment shall ensure collection of electrical and electronic equipment in at least 40% of

**municipalities where the electrical and electronic equipment is sold, in the second calendar year it should be at least in 50%, in the third at least 70%, while in the fourth and follow-up years at least 90% of municipalities in the Czech Republic.**

**(5) The operator of collective system for electrical and electronic equipment is obliged, in every calendar year in which the permit to operate the collective system is effective, to ensure that the amount of electrical and electronic equipment in particular groups pursuant to Annex 7 of this Act, for which the operator of collective system for electrical and electronic equipment and waste electrical and electronic equipment concluded agreement on joint performance of duties of producers of electrical and electronic equipment, based on the permit to operate collective system, represents at least 15% of weight of all electrical and electronic equipment placed on the market in the Czech Republic in each particular group, while in case of group No. 5 it should be at least 15% of the total number of all the equipment placed on the market in the Czech Republic in group 5. The size of its share in the total number of all the electrical and electronic equipment placed on the market in the Czech Republic shall be reported to the Ministry by March 31<sup>st</sup> of the next calendar year at the latest, together with annual report pursuant to Section 37h, paragraph 2. The Ministry shall announce particular shares of operators of collective systems for electrical and electronic equipment and waste electrical and electronic equipment by May 31<sup>st</sup> of each calendar year on the public administration website; Proceeding pursuant to Section 31r, paragraph 1 shall be initiated against all the operators of the collective system for electrical and electronic equipment and waste electrical and electronic equipment who failed to fulfil their obligations (did not reach the required minimal share).**

**(6) The operator of collective system for electrical and electronic equipment is obliged, in every calendar year in which the permit to operate the collective system is effective, to ensure collection of electrical and electronic equipment to the extent as determined in Annex 8 to this Act; The information of fulfilment of this obligation shall be reported to the Ministry by March 31<sup>st</sup> of the following calendar year at the latest, together with the annual report pursuant to Section 37h, paragraph 2. At the same time the operator shall provide the Ministry with a current extract proving emission of registered shares of the operator of collective system for electrical and electronic waste.**

**(7) The operator of collective system for electrical and electronic equipment is obliged to keep end-users informed pursuant to Section 38, paragraph 4 of the Act, also through public media, direct mails to consumers and information boards in collective facilities or on collective containers.**

#### Section 37i

#### **List of Producers of Electrical and Electronic Equipment**

**(1) A producer of electrical and electronic equipment who is subject to the duties pursuant to this Chapter of the Act, shall be obliged to submit a proposal for registration in the List of Producers of Electrical and Electronic Equipment (hereinafter the “List”) within the scope**

pursuant to paragraph 3 hereof. Only those producers pursuant to ~~Section 37g (e)~~ **Section 37g, paragraph 1, subparagraph e)**, who operate a permanent business in the territory of the Czech Republic shall be registered in the List.

(2) The producer shall submit a proposal for registration in the List to the Ministry in two counterparts and on a technical data carrier, at the latest within 60 days of incurring the duty pursuant to paragraph 1 above.

(3) A proposal for registration in the List shall include

a) the name and surname, or business name, address of the place of residence, place of business, identification number, if assigned, and officially authenticated copy of the business license, e.g. the trade license, for a natural person; if the natural person is registered in the Commercial Register, also an extract from the Commercial Register which may not be older than 3 months,

b) the business name, legal form, address of the registered office, identification number, if assigned, and an extract from the Commercial Register which may not be older than 3 months, for a legal person, provided that it is registered in that register,

c) a list and description of the electrical and electronic equipment,

d) the manner of performance of the duties set forth in this Chapter of the Act,

e) the manner of providing financing pursuant to Sections 37n and 37o and documents thereon.

~~(4) A person registered in the List shall be obliged to notify the Ministry of any changes in the information submitted pursuant to paragraph 3 above within 14 days of the date of effecting the change. Within the same deadline, this person shall be obliged to notify the Ministry of cessation of the reasons for registration thereof in the List.~~

~~(5) On the basis of a notice or its own finding, the Ministry shall make a change in the entry in the List through a decision or shall delete a person, with respect to whom the legal reasons for registration in the List have ceased to exist.~~

~~(6) The List shall be publicly accessible. The Ministry shall make the List available on the public administration website.~~

~~(7) For the purposes of registration in the List, the Ministry shall stipulate in an implementing regulation more detailed conditions of the manner of performance of the duties and provision of financing pursuant to paragraph 3 (d) and (e) above.~~

**(4) The Ministry shall make entry to the List within 30 days after the proposal for registration is received, provided that the proposal fulfils all the requirements set in paragraph 3, and inform the submitter on completed registration process within 30 days after the entry to the List was made.**

**(5) Should the proposal for registration fail to fulfil the requirements set in paragraph 3, the Ministry shall invite the submitter of the proposal to complete the proposal within the term that shall not be shorter than 15 working days, including explicit information about what should be completed. If the submitter of the proposal fail to complete the missing information, as requested by the Ministry, the Ministry will make entry to the List based on the information available, but may ask the appropriate inspection authority to carry out inspection of the submitter.**

**(6) A person registered in the List shall be obliged to notify the Ministry of any changes in information submitted pursuant to paragraph 3 above within 30 days of the date of effecting the change. Within the same deadline the person shall notify the Ministry of cessation of the reasons for registration thereof in the List.**

**(7) On the basis of a notice pursuant to paragraph 6 or its own finding, the Ministry shall make a change in the entry in the List or shall delete a person with respect to whom the legal reasons for registration in the List have ceased to exist.**

**(8) The Ministry shall publish the List on the public administration website, including name, surname and business name of natural persons and business name of legal persons,**

**a) identification number, if any**

**b) group of electrical and electronic equipment, in relation to which the producer is registered in the List,**

**c) way of fulfilling the obligations of producer pursuant to Section 37h, paragraph 1, for particular groups of electrical and electronic equipment, in relation to which the producer is registered in the List, including stating the name of operator of the collective system for electrical and electronic equipment and waste electrical and electronic equipment, through that the producer fulfils its obligation related to electrical and electronic equipment placed on the market before August 13<sup>th</sup>, 2005, or related to electrical and electronic equipment placed on the market after this date, and**

**d) information on fulfilment of obligation to submit the annual report.**

**(9) The Code of Administrative Procedure shall not apply to making changes in entry in the List or deletion from the List by the Ministry.**

**(10) If the producer fulfils its obligations through a collective system pursuant to Section 37h, paragraph 1, subparagraph c) in relation to all the electrical and electronic equipment placed on the market, the liability pursuant to paragraph 1 shall not apply. Information on producers fulfilling their duties through collective system pursuant to Section 37h, paragraph 1, subparagraph c), received by the Ministry from operators of the collective system for electrical and electronic equipment and waste electrical and electronic equipment, shall be published pursuant to paragraph 8 to the extent determined in paragraph 8, subparagraphs a) to d).**

**(11) The Ministry shall determine in a decree more thorough terms and conditions for fulfilment of duties and assurance of financing pursuant to paragraph 3, subparagraphs d) and e).**

#### Section 37j

#### **Placement of Electrical and Electronic Equipment on the Market**

(1) Producers of electrical and electronic equipment shall ensure that electrical and electronic equipment is designed and produced so that its dismantling and recovery, in particular the reuse of electrical and electronic equipment and recycling of waste electrical and electronic equipment, its components and materials in accordance with the regulations for environmental protection and the regulations for the protection of public health,<sup>31o)</sup> is facilitated.

(2) Producers of electrical and electronic equipment that is placed on the market<sup>31p)</sup> later than August 13, 2005 shall ensure that it clearly follows from the labeling of the electrical and electronic equipment that it was placed on the market after this date and that it is possible to ascertain the producer, to whom the duties pursuant to this Chapter of the Act apply.

(3) The producer of electrical and electronic equipment that falls under categories 1 to 7 or 10 pursuant to Annex No. 7 to this Act, including electrical and electronic equipment intended exclusively for the purposes of state defense, and the producer of electrical light bulbs or lighting equipment intended for use in private households shall ensure that electrical and electronic equipment, which is placed on the market after June 30, 2006, does not contain lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB) and polybrominated diphenyl ethers (PBDE), unless this includes

a) use of substances pursuant to the list set forth in an implementing regulation, or

b) spare parts intended for repair or reuse of electrical and electronic equipment placed on the market prior to July 1, 2006.

(4) Any person who, in the framework of his/her business activities, sells electrical and electronic equipment that does not originate from producers registered in the List pursuant to Section 37i **or from producers who fulfil their duties through the collective system pursuant to Section 37h, paragraph 1, subparagraph c)**, shall bear the responsibility of a producer for performance of his/her duties set forth in this Chapter of the Act.

(5) The Ministry shall stipulate in an implementing regulation the manner of labeling electrical and electronic equipment pursuant to paragraph 2 above and the list of substances that are not subject to the provision of Section 37j (3) under the conditions stipulated in a decree.

Section 37k

**Taking-Back of Electrical and Electronic Equipment and Separate Collection of Waste Electrical and Electronic Equipment**

(1) Producers of electrical and electronic equipment shall provide for taking-back of electrical and electronic equipment that comes from private households. For waste electrical and electronic equipment that does not come from private households, the producer of electrical and electronic equipment shall provide for separate collection thereof.

(2) Producers of electrical and electronic equipment shall label electrical and electronic equipment with a graphic symbol for the purposes of taking-back electrical and electronic equipment and separate collection of waste electrical and electronic equipment. Where it is not possible to label electrical and electronic equipment in the above manner due to its size or function, the graphic symbol shall be placed on the packaging or the instructions for use or the warranty certificate of electrical and electronic equipment.

(3) Through the distributors<sup>31p)</sup>, producers shall ensure that the end users are informed of the manner of separate collection. Upon sale of electrical and electronic equipment, the distributor shall inform the end users of the manner of separate collection.

(4) The ultimate sellers shall ensure that the consumers<sup>31r)</sup> are able, upon their purchase of electrical and electronic equipment, to return used electrical and electronic equipment at the point of sale or supply of new electrical and electronic equipment, on a one-to-one basis as long as the equipment is of a similar type and has fulfilled similar functions as the supplied equipment; **in case of sale of the electrical and electronic equipment by means of distant communication<sup>31n)</sup> the ultimate seller shall ensure a possibility to return used electrical and electronic equipment at the point of sale. The ultimate seller shall further ensure that each consumer has a possibility, at the point of sale of new electrical or electronic equipment, to return used electrical or electronic equipment with a unit weight up to 5 kg, free of charge, disregarding the brand or whether the consumer is buying new equipment or not; This obligation shall not apply to ultimate sellers who sell electrical and electronic equipment in the selling area smaller than 200 m<sup>2</sup>. The ultimate seller is obliged to inform the end users of the possibility of returning the used equipment; In case of sale of the electrical or electronic equipment by means of distant communication, the information must be shared at the moment of sale, in written form. The ultimate seller in premises of whom the place for collection or separate collection of used electrical or electronic equipment was established by the producer, shall ensure posting of information board "Place for returning of electrical and electronic equipment" or "Place for separate collection of electrical and electronic equipment" in the objective area. Producer of the electrical or electronic equipment or collective system operator for electrical and electronic equipment as well as for waste electrical or electronic equipment shall ensure regular withdrawal of electrical and electronic equipment collected by the ultimate seller pursuant to this Act.**

(5) Waste electrical and electronic equipment or electrical and electronic equipment that comes from private households may be discarded by its holder only by means of its submission to

a treatment operator pursuant to Section 371 or to a take-back point or point of separate collection, **especially the electrical and electronic equipment that comes from private households shall not be disposed together with general mixed waste.** Electrical and electronic equipment from take-back points and waste electrical and electronic equipment from the points of separate collection must be submitted only to a treatment operator pursuant to Section 371, unless the electrical and electronic equipment is reused as a whole.

**(6) At the places for collection or separate collection of waste electrical or electronic equipment, neither the equipment coming from private households nor the collected waste electrical or electronic equipment may be dismantled or processed if its is not permitted pursuant to Section 14, paragraph 1.**

**(7) Operators of facility for collection or purchase of waste electronic or electrical equipment are not entitled to buy-back electrical or electronic equipment and waste electrical or electronic equipment from private households, or their parts, unless it is collected within the scope of the system for collection or separate collection of waste electrical or electronic equipment on behalf of the producer of the equipment.**

~~(6)~~ **(8)** The manner of taking-back electrical and electronic equipment and of separate collection of waste electrical and electronic equipment and its submission to the treatment operator may not hinder the reuse or recycling of the electrical and electronic equipment or its components or recycling recovery of the waste electrical and electronic equipment.

~~(7)~~ **(9)** The Ministry shall stipulate in an implementing regulation the graphic symbol for labeling electrical and electronic equipment for the purposes of taking-back of electrical and electronic equipment and separate collection of waste electrical and electronic equipment.

#### Section 371

#### **Treatment of Waste Electrical and Electronic Equipment**

(1) Producers of electrical and electronic equipment shall set up a system for treatment of waste electrical and electronic equipment ~~with the use of~~ **using** the best available techniques<sup>31s)</sup> of its treatment, recovery and recycling.

(2) Producers of electrical and electronic equipment shall provide operators carrying out treatment of waste electrical and electronic equipment with all information that is required for its treatment, particularly information on dangerous substances contained in the equipment, the possibilities of reuse of electrical and electronic equipment and recycling of waste electrical and electronic equipment, or the manner of disposal thereof. Producers of electrical and electronic equipment shall provide this information for each type of new electrical and electronic equipment within one year of the date when the product is placed on the market. Producers shall provide information within instructions for use or on a technical data carrier or by means of distance communication.

(3) Operators carrying out treatment of waste electrical and electronic equipment shall be obliged to

- a) operate the facility for treatment of waste electrical and electronic equipment in accordance with its operational rules and perform other duties of an authorized person,
- b) preferentially remove from waste electrical all substances and parts stipulated in an implementing regulation,
- c) store and treat waste electrical and electronic equipment in accordance with the technical requirements stipulated in an implementing regulation,
- d) provide for recovery of waste electrical and electronic equipment in accordance with Section 37m, **at the expense and in cooperation with producers,**
- e) keep, within the scope stipulated in an implementing regulation, records of accepted waste electrical and electronic equipment and the manner of treatment thereof and send to the competent authority information on the equipment.

(4) The decision on granting the consent to operation of a facility for treatment of waste electrical and electronic equipment and its operational rules (Section 14 (1)) must include the conditions required for compliance with the requirements pursuant to paragraph 3 (b) and (c) above and Section 37m.

(5) Waste electrical and electronic equipment may be transported across the border for treatment in accordance with the regulations of the European Communities providing for supervision of the transport of waste in the framework of the European Communities<sup>39)</sup> and in accordance with Part Nine hereof. Treatment of waste electrical and electronic equipment in a country that is not a Member State of the European Union may be taken into account for the purposes of compliance with the requirements stipulated in Section 37m provided that the producer demonstrates that recovery, reuse or recycling has taken place under conditions comparable to the conditions stipulated by this Act.

(6) This provision shall in no way prejudice the duties of the treatment operator stipulated by the special regulation<sup>31)</sup> for handling of controlled substances.

(7) The Ministry shall stipulate in an implementing regulation the technical requirements for preferential removal of substances and parts from waste electrical and electronic equipment, storage and treatment of waste electrical and electronic equipment, the scope and manner of keeping records of accepted waste electrical and electronic equipment and the manners of its treatment and recovery, and the manner of notifying facilities for collection, treatment and recovery of waste electrical and electronic equipment.

## Section 37m

### **Recovery of Waste Electrical and Electronic Equipment**

(1) Producers of electrical and electronic equipment shall set up a system to provide for recovery of waste electrical and electronic equipment related to taking-back electrical and electronic equipment or separate collection of waste electrical and electronic equipment.

(2) Prior to handing over to the treatment operator, the returned and separately collected electrical and electronic equipment shall be preferentially reused as a whole. Only electrical and electronic equipment or its components that comply with the requirements of the relevant regulations<sup>31o)</sup> may be reused.

(3) Producers of electrical and electronic equipment shall be obliged to provide for recovery of waste electrical and electronic equipment handed over to treatment operators in accordance with Section 37k (5), at least at the following rate:

a) for waste electrical and electronic equipment falling under categories 1 and 10 of Annex No. 7 to this Act, at the rate of 80 % of its average weight and, for the reuse and recycling of components, materials and substances, at the rate of 75 % of its average weight,

b) for waste electrical and electronic equipment falling under categories 3 and 4 of Annex No. 7 to this Act, at the rate of 75 % of its average weight and, for the reuse and recycling of components, materials and substances, at the rate of 65 % of its average weight,

c) for waste electrical and electronic equipment falling under categories 2, 5, 6, 7 and 9 of Annex No. 7 to this Act, at the rate of 70 % of its average weight and, for the reuse and recycling of components, materials and substances, at the rate of 50 % of their average weight,

d) for gas discharge lamps and fluorescent lamps, for the reuse and recycling of components, materials and substances, at the rate of 80 % of their average weight.

## Section 37n

### **Financing of Management of Electrical and Electronic Equipment from Private Households**

(1) Where electrical and electronic equipment is placed on the market later than August 13, 2005, the producer of electrical and electronic equipment shall be obliged to finance the collection, treatment, recovery and disposal of electrical and electronic equipment from private households that has been taken back pursuant to Sections 37k and 38, with respect to electrical and electronic equipment of which (s)he is the producer pursuant to this Act. The costs expended pursuant to this paragraph shall not be stated separately within the sale of new electrical and electronic equipment.

(2) Prior to placing electrical and electronic equipment pursuant to paragraph 1 above on the market, the producer shall be obliged to provide a guarantee showing that the management of all waste electrical and electronic equipment will be financed. This guarantee must be sufficient to cover financing of collection, treatment, recovery and disposal of electrical and electronic equipment from private households that has been handed over within a take-back system set up and operated pursuant to Sections 37k and 38. Producers who provide for performance of the duties pursuant to Section 37h (1) (a) shall provide the guarantee in the form of a blocked bank account or insurance under the terms stipulated by the special regulation. The producers shall provide information on the balance of and withdrawals from the blocked account or the amount of the insurance benefits for the previous year in an annual report. The funds deposited in the blocked account may be used only with the consent of the Ministry to provide for financing of collection, treatment, recovery and disposal of electrical and electronic equipment from private households; these funds may not be subject to an order for and implementation of enforcement of a decision or execution, and may not be included in the bankruptcy assets of the producer. **The funds may not be a subject to use in case of termination of the producer activities on the specific market. Proposal for registration in the List shall be accompanied by contract concluded with operator of collective system for electrical and electronic equipment and for waste electrical and electronic equipment, based on which the operator is obliged to ensure separate collection, treatment, use and disposal of electrical and electronic equipment or waste electrical or electronic equipment in case of termination of the producer's activities on the market. For this purpose the producer shall take all the steps necessary so in case of termination of his/ her activities on the market, the particular operator of collective system for electrical and electronic equipment or waste electrical or electronic equipment will become a fully authorized person with complete disposition rights in relation to funds kept on the blocked bank account for the purpose of financing the performance of duties pursuant to contract mentioned in the previous paragraph.** Producers who provide for the performance of the duties pursuant to Section 37h (1) ~~(b)~~ (c) shall not provide a guarantee.

(3) Where electrical and electronic equipment is placed on the market by August 13, 2005, **the producers shall be obliged to fulfil their duties by means pursuant to Section 37h (1) (c), especially by joining the collective system based on the contract on joint performance of duties of producers of electrical and electronic equipment concluded with the operator of collective system for electrical and electronic equipment and for waste electrical and electronic equipment, on a basis of which, to the extent necessary, especially considering the market share, all persons who operate a business at the instant of incurring the relevant costs shall contribute.** For a period of eight years from the date of effect of this Act and, for electrical and electronic equipment falling under category 1 of Annex No. 7 to this Act, for a period of ten years from the date of effect of this Act, these persons may separately state the costs of collection, treatment and disposal of electrical and electronic equipment placed on the market by August 13, 2005 upon sale of new electrical and electronic equipment; **The ultimate seller shall state the costs separately. Stating the costs shall mean indication of costs in tax document, for each type of electrical or electronic equipment separately.** If a producer states the costs separately in the sense of this provision, these costs shall be stated in this manner by each seller upon sale within his/her business activities. The stated costs may not exceed the actually incurred costs.

(4) The duties pursuant to paragraphs 1 and 2 above shall also be performed by producers pursuing trade by means of distance communication for electrical and electronic equipment supplied to a Member State of the European Union, where the purchaser has his place of residence or registered office.

(5) After consultation with the Ministry of Finance, the Ministry shall stipulate in an implementing regulation the terms of financing, particularly the manner of calculating the minimum amount of deposited funds in a blocked bank account and the minimum amount of an insurance benefit.

#### Section 37o

#### **Financing of Management of Waste Electrical and Electronic Equipment**

(1) Producers of electrical and electronic equipment shall provide for financing of separate collection, treatment, recovery and disposal of electrical and electronic equipment as follows:

- a) where electrical and electronic equipment is placed on the market later than August 13, 2005, they shall provide for its financing themselves,
- b) where electrical and electronic equipment is placed on the market by August 13, 2005 and if it is being replaced by products of an equivalent type or products that fulfil the same functions, the financing shall be ensured by the producer of the new product upon its supply, however, not exceeding a one-to-one basis,
- c) where electrical and electronic equipment is placed on the market by August 13, 2005 and is not being replaced by products of an equivalent type or products that fulfil the same functions, the financing shall be ensured by the end users who are not consumers.

**(2) Prior to placing electrical and electronic equipment pursuant to paragraph 1 (a) above on the market, the producer shall be obliged to provide a guarantee showing that the management of all the waste electrical and electronic equipment will be financed. This guarantee must be sufficient to cover financing of collection, treatment, recovery and disposal of electrical and electronic equipment not coming from private households that has been handed over within a separate collective system set up and operated pursuant to Sections 37k. Producers who provide for performance of the duties pursuant to Section 37h (1) (a) or (b) shall provide the guarantee in the form of a blocked bank account or insurance under the terms stipulated by the special regulation. The producers shall provide information on the balance of and withdrawals from the blocked account or the amount of the insurance benefits for the previous year in an annual report. The funds deposited in the blocked account may be used only with the consent of the Ministry to provide for financing of collection, treatment, recovery and disposal of electrical and electronic equipment not coming from private households; these funds may not be subject to an order for and implementation of enforcement of a decision or execution, and may not be included in the bankruptcy assets of the producer. Proposal for registration in the List shall be accompanied by contract concluded with operator of collective system for electrical and**

electronic equipment and for waste electrical and electronic equipment, pursuant to Section 37h (1) (c), based on which the operator is obliged to ensure separate collection, treatment, use and disposal of electrical and electronic equipment or waste electrical or electronic equipment in case of termination of the producer's activities on the market. For this purpose the producer shall take all the steps necessary so in case of termination of his/ her activities on the market, the particular operator of collective system for electrical and electronic equipment or waste electrical or electronic equipment will become a fully authorized person with complete disposition rights in relation to funds kept on the blocked bank account for the purpose of financing the performance of duties pursuant to contract mentioned in the previous paragraph. Producers who provide for the performance of the duties in relation to waste electrical and electronic equipment not coming from private households, placed on the market after August 13th, 2005 pursuant to Section 37h, (1) (c) shall not provide a guarantee.

(2) (3) After consultation with the Ministry of Finance, the Ministry shall stipulate in an implementing regulation more detailed conditions of financing pursuant to paragraph 1 above.

### Section 37p

Provisions of the Act related to electrical and electronic equipment coming from households shall also apply to waste electrical and electronic equipment belonging to group 5 pursuant to Annex 7. Before August 2001, the provisions of the Act related to electrical and electronic equipment placed on the market before August 13th, 2005 and coming from private shall be also applied on all the electrical and electronic equipment belonging to group 5 pursuant to Annex 7, disregarding its origin or date when the equipment was placed on the market.

## PART FIVE

### TAKING BACK OF CERTAIN PRODUCTS

#### Section 38

(1) The take-back duty applies to

~~a) oils other than raw mineral oils and raw oils produced from bituminous minerals, preparations not specified or included elsewhere containing a minimum of 70 % of oils by weight if these oils represent a significant component of such preparations,~~

**a) oils pursuant to special legislation,**

~~b) electrical accumulators,~~

~~c) galvanic cells and batteries,~~

d) b) discharge and fluorescent lamps,

e) c) tires,

f) d) electrical and electronic equipment from private households (~~Section 37g~~ (f) **Section 37g, (1) (f)**).

(2) Within the limits of the applicable regulations of the European Communities, the Government may stipulate in a regulation additional products to those set forth in paragraph 1 above that are subject to the take-back duty after their use.

(3) The duty to provide for taking back of used products, offered for taking back, shall be borne by the legal person or natural person authorized to operate a business who ~~manufactures the products set forth in paragraph 1 above or places on the market in the Czech Republic products of a foreign manufacturer~~ **introduces the products set forth in paragraph 1 on the market individually or incorporated in vehicles** (hereinafter the “obliged person”), without respect to the product brand and up to the quantity ~~manufactured or imported~~ **introduced on the market** by that person during the relevant period set pursuant to paragraph 10 hereof. Section 37n shall apply to taking back of electrical and electronic equipment from private households.

(4) Through a legal person or natural person authorized to operate a business who sells products set forth in paragraph 1 above to the consumers (hereinafter the “ultimate seller”), the obliged person must ensure that the consumers are informed of the manner of taking back these used products. Furthermore, the manufacturer of electrical and electronic equipment shall provide for informing the consumers of

a) the requirement that electrical and electronic equipment not be disposed of together with mixed municipal waste, but rather that it be discarded by natural persons at places intended therefor or at take-back sites,

b) their role in contributing to reuse of electrical and electronic equipment and recycling and other forms of recovery of waste electrical and electronic equipment,

c) the potential harmful effects of dangerous substances contained in electrical and electronic equipment on the environment and human health.

(5) In the sale of products that are subject to the take-back duty, the ultimate seller shall inform the consumers of the manner of ensuring the taking back of these used products. If (s)he fails to do so, (s)he shall be obliged to accept such used products directly on the business premises, without the right to consideration from the consumers, throughout the hours of operation and without binding the acceptance of used products intended for take-back on purchase of goods.

(6) On the basis of a written agreement with the municipality, the obliged person may use for fulfilment of its duty the system of collection and separation of municipal waste established by the municipality.

(7) Taking back of used products set forth in paragraph 1 above must be carried out without the right to consideration for acceptance of these products from the consumers and, in the case set forth in paragraph 6 above, also from the municipality. **Taking back of used products from consumers shall not be dependant on buying new product at the same time.** The take-back sites must be as accessible for the consumers as the sites of the sale of the products that are subject to the take-back duty. The obliged person shall be obliged to provide for the taking back in a manner corresponding to the normal capabilities of the consumers, without their excessive burdening. Used products may be refused if they endanger health of persons who provide for the taking-back due to their contamination.<sup>31u)</sup> The operator of a take-back site shall be obliged to issue to the consumer, at his request, a certificate that a product has been taken back, with requisites stipulated by an implementing regulation.

(8) A product that is taken back becomes waste upon its submission to the person licensed to recover or dispose of this product.

(9) The obliged person must provide for recovery or disposal of used products that have been taken back in accordance with this Act and implementing regulations, by the end of the calendar year following after the calendar year, during which they were accepted.

(10) The obliged person shall be obliged to draw up an annual report on fulfilment of the take-back duty for the previous calendar year within the scope stipulated in an implementing regulation and to send this report to the Ministry **in electronic form, through waste data transfer standard**, by March 31. **The annual report shall be kept by the obliged person for at least 5 years. The list of obliged persons who have submitted annual report to the Ministry, shall be published by the Ministry on public administration website.**

(11) The Ministry shall stipulate in a decree the details of the manner of taking back products, **content of the confirmation on take-back of the product** and the content of the annual report on fulfilment of the take-back duty for the previous calendar year.

## **PART SIX**

### **KEEPING RECORDS AND REPORTING OF WASTE AND FACILITIES**

#### Section 39

#### **Keeping Records and Reporting of Waste, Waste Management Facilities, ~~Accumulation and Collection Sites~~, Waste Storage Areas, PCBs, Equipment Containing PCBs and PCB Wastes**

(1) Waste generators and licensed persons managing waste shall be obliged to keep continuous records of waste and the manners of waste management. The records shall be kept for each independent establishment, **including each facility** and for each type of waste separately. The manner of keeping **ongoing** records for individual types of waste shall be stipulated in an implementing regulation.

(2) The waste generators and licensed persons, if they generate or manage more than 50 kg of hazardous waste during a calendar year or more than 50 tons of other waste during a calendar year, shall be obliged to send annually, by February 15 of the following year, a true and comprehensive report on the types, quantity and manners of management of waste and the waste generators to the municipal authority of the municipality with extended competence competent pursuant to the place of the establishment. Reports on generation and management of waste generated within the activities of the Ministry of Defense shall be submitted by the Ministry of Defense directly to the Ministry. The manner of reporting shall be stipulated in an implementing regulation.

~~(3) The operators of facilities for disposal and recovery of waste, the operators of facilities for collection and treatment of end of life vehicles, the operators of facilities for collection, treatment, recovery and disposal of waste electrical and electronic equipment (Section 37g) and the operators of facilities set forth in Section 14 (2), and carriers of waste, who are not a person authorized to accept waste pursuant to Section 12 (3), shall be obliged to send information on their facility or transport company to the municipal authority of the municipality with extended competence competent pursuant to the location of the facility or, for mobile facilities and carriers, pursuant to the registered office or place of residence of the operator, within 2 months of commencement or cessation of operation of the facility or transport company or, for facilities that are in operation on the date of effect of this Act, within 6 months of the date of effect of this Act. The manner of reporting shall be stipulated in an implementing regulation.~~

~~(4) The operators of landfills shall be obliged to send annually, by February 15 of the following year, information on the balance of the created financial reserve as of December 31 of the previous year, to the municipal authority of the municipality with extended competence competent pursuant to the location of the landfill. This information must be documented by a statement of the bank account of the operator of the landfill.~~

~~(5) The operators of facilities for collection and treatment of end of life vehicles shall be obliged to keep records of and send information on the number and state of accepted end of life vehicles and the manners of their treatment, and the operators of facilities for separate collection, treatment, recovery and disposal of waste electrical and electronic equipment shall be obliged to keep records of and send information on the type, quantity and the manners of treatment, recovery or disposal of waste electrical and electronic equipment within the scope stipulated in an implementing regulation annually by February 15 of the following year to the municipal authority of the municipality with extended competence competent pursuant to the location of the establishment.~~

~~(6) Municipalities and persons licensed to collect or purchase waste shall be obliged to send information on the accumulation sites for hazardous waste and the waste collection sites and waste storage areas used by them to the municipal authority of the municipality with extended competence competent pursuant to the location of the accumulation or collection site or the waste storage area, within 2 months of commencement or cessation of operation of the accumulation or collection site or waste storage areas or, for accumulation or collection sites or storage areas that are already in operation on the date of effect of this Act, within 6 months of the date of effect of~~

~~this Act. The scope and requisites of the information shall be stipulated in an implementing regulation.~~

~~(7) On the basis of reports pursuant to paragraphs 2 to 6 above, the municipal authority of a municipality with extended competence shall keep records of waste and the manners of its management, waste management facilities, facilities set forth in Section 14 (2), accumulation sites for hazardous waste, waste collection sites and waste storage areas, accepted end-of-life vehicles and the manners of their treatment, the type, quantity and manners of treatment, recovery or disposal of waste electrical and electronic equipment, and carriers of waste within the scope stipulated in an implementing regulation. The municipal authority shall send these records annually, by April 30 of the following year, to the Ministry and the competent regional authority through data transfer equipment or on a technical data carrier.~~

~~(8) Legal persons and natural persons authorized to operate a business who operate equipment containing PCBs subject to inventory pursuant to Section 26 (e) or operate equipment that may contain PCBs and is subject to inventory pursuant to Section 26 (d), or own or hold PCBs defined in Section 26 (a) shall be obliged to keep separate records of this equipment and PCBs within the scope stipulated in an implementing regulation and notify this fact to the Ministry by December 31, 2004, unless they have already done so. These persons shall be obliged to notify the Ministry of any changes in the recorded facts promptly after the change occurs. The manner of reporting changes in the recorded facts shall be stipulated in an implementing regulation. This duty shall not apply to laboratory standards.~~

~~(9) The Ministry of Defense, in cooperation with the Ministry, shall provide for keeping records of waste, waste management facilities, accumulation sites for hazardous waste, waste collection sites, waste storage areas and PCBs, PCB wastes and equipment containing PCBs subject to inventory generated within activities of the Ministry of Defense.~~

~~(10) The municipal authority of a municipality with extended competence and a regional authority shall be obliged to keep records of consents granted by them and other decisions issued pursuant to this Act. The municipal authority of a municipality with extended competence and a regional authority shall send these records to the Ministry by April 30 of the following year through data transfer equipment or on a technical data carrier. The scope and requisites of reporting shall be stipulated in an implementing regulation. The municipal authority of a municipality with extended competence and a regional authority shall publish the current list of facilities operated pursuant to Section 14 (1) and pursuant to Section 14 (2) on the public administration website and also in some other suitable manner, if appropriate.~~

~~(11) Unless this Act or an implementing regulation stipulates otherwise, legal persons, natural persons authorized to operate a business and administrative authorities that are obliged to keep records pursuant to paragraphs 1 to 10 above shall be obliged to file these records for a period of at least 5 years.~~

~~(12) The Ministry shall stipulate in a decree~~

~~a) the manner of keeping continuous records of waste and the period of filing these records for certain types of waste,~~

~~b) the manner of reporting waste, waste management facilities, accumulation sites for hazardous waste, waste collection sites, waste storage areas, carriers of waste, PCBs, PCB wastes and equipment containing PCBs, the number and state of accepted end of life vehicles and the manners of their treatment, and the type, quantity and manners of treatment, recovery or disposal of waste electrical and electronic equipment,~~

~~e) the manner of keeping records of granted consents and other decisions issued pursuant to this Act.~~

**(3) The operators of facilities for storage of waste and operators of facilities pursuant to Section 14 (3) shall be obliged to send information on their facility to the municipality with extended competence competent pursuant to the location of the facility, within 2 months of commencement or cessation of operation of the facility. In case of termination of the operation, the operators of facilities for storage of waste and operators of facilities pursuant to Section 14 (3) shall inform the regional authority, competent pursuant to the location of the facility, about the termination of operation, not later than within 1 months after such termination. Each waste carrier, who is not at the same time a person authorized to accept waste to its ownership pursuant to Section 12 (3), shall be obliged to send the information on the transport company performance to the municipal authority with extended competence, pursuant to the location of the facility, to which the waste is transported, not later than within 2 months after initiation of the transport company operation.**

**(4) Operators of landfills are obliged to send annually, by March 31st of the next year, report on results of landfill operation monitoring in the previous calendar year, and by February 15th of the next year report on state of the financial reserve, including a copy of a bank statement of the landfill operator, as well as information on free capacity of the landfill as of December 31st of the previous year, to the appropriate regional authority.**

**(5) Operators of facilities for collection or treatment of end-of life vehicles are obliged to keep records and report information on number of collected end-of life vehicles, number of end-of life vehicles released for further treatment, on methods of treatment of end-of life vehicles and amount of parts of end-of life vehicles and waste generated from end-of life vehicles, to the extent as determined in the appropriate regulation, by February 15<sup>th</sup> of the following calendar year (for the previous year) to the municipal authority with extended competence as appropriate to the location of the facility.**

**(6) The operators of facilities for separate collection, treatment, recovery and disposal of waste electrical and electronic equipment shall be obliged to keep records of and send information on the type, quantity and the manners of treatment, recovery or disposal of waste electrical and electronic equipment within the scope stipulated in an implementing regulation annually by February 15 of the following year to the municipal authority of the municipality with extended competence competent pursuant to the location of the establishment.**

**(7) Municipal authority with extended competency shall prepare, based on information reported to it pursuant to paragraphs 2, 5 and 6, records on waste and waste treatment methods, records of collected end-of life vehicles and methods of their treatment and records on type, amount and methods of treatment or disposal of waste electrical and electronic equipment within the scope stipulated in an implementing regulation. These records shall be annually, by April 30<sup>th</sup> of the following year, sent to the Ministry, Czech Statistical Institute and the appropriate regional authority.**

**(8) The municipal authority of a municipality with extended competence and a regional authority shall be obliged to keep records of consents granted by them and other decisions issued pursuant to this Act. The municipal authority of a municipality with extended competence and a regional authority shall send these records to the Ministry by April 30 of the following year. Regional authority shall provide the Ministry with the records on consents granted, waste storage facilities and facilities pursuant to Section 14 (3) within 10 days after end of each calendar month. Regional authority shall provide the Ministry with information on financial reserves and free capacity of landfills by April 30<sup>th</sup>, of the following year at the latest. The extent of reporting shall be determined in an implementing regulation. Regional authority shall publish on the public administration website or by other means, as appropriate, the up-to-date list of facilities operated pursuant to Section 14 (1) and (3) and the waste storage facilities within the appropriate administrative area.**

**(9) Legal persons and natural persons authorized to operate a business who operate equipment containing PCBs subject to inventory pursuant to Section 26 (c) or operate equipment that may contain PCBs and is subject to inventory pursuant to Section 26 (d), or own or hold PCBs defined in Section 26 (a) or own waste with persistent organic pollutants pursuant to Section 27a, (1) shall be obliged to keep separate records of this equipment, PCB and waste with persistent organic pollutants within the scope stipulated in an implementing regulation and notify this fact to the Ministry not later than within 1 year after this Act came into force, unless they have already done so. These persons shall be obliged to notify the Ministry of any changes in the recorded facts promptly after the change occurs. The manner of reporting changes in the recorded facts shall be stipulated in an implementing regulation. This duty shall not apply to laboratory standards applied in research, development, testing or medical centers.**

**(10) The Ministry of Defense, in cooperation with the Ministry, shall provide for keeping records of waste, waste management facilities, accumulation sites for hazardous waste, waste collection sites, waste storage areas and PCBs, PCB wastes and equipment containing PCBs subject to inventory generated within activities of the Ministry of Defense.**

**(11) Unless this Act or an implementing regulation stipulates otherwise, legal persons, natural persons authorized to operate a business and administrative authorities that are obliged to keep records pursuant to paragraphs 1 to 10 above shall be obliged to file these records, including general description of wastes and other reported information, for a period of at least 5 years. Waste originators and authorized persons are obliged to keep general description of waste for the whole operation period of particular facilities or period in the course of which the waste producing activities are carried out.**

**(12) Legal persons and natural persons authorized to operate a business and administrative bodies pursuant to paragraphs 2 to 8 shall report the required information in electronic form, through waste data transfer standard. The Ministry shall publish on the public administration website, by December 31<sup>st</sup> of each calendar year, the waste data transfer standard performance of reporting duties.**

**(13) The Ministry shall stipulate in a decree**

- a) the manner and scope of keeping the ongoing records on waste,**
- b) the manner of reporting waste, waste management and storage facilities, facilities pursuant to Section 14 (3), carriers of waste, number of accepted end-of life vehicles and manners of their treatment, type and quantity of collected waste electrical and electronic equipment and methods of its treatment, recovery or disposal,**
- c) the manner and scope of reporting of waste with persistent organic pollutants, PCBs, PCB wastes and equipment containing PCB,**
- d) scope of keeping records on consents granted pursuant to this Act.**

### **Section 39a**

#### **Central Information System for Waste Management**

**(1) The Ministry shall establish, administer and operate central information system for waste management, as the public administration information system.<sup>31w)</sup>**

**(2) Central information system for waste management is a part of the integrated environmental information system.**

**(3) Central information system for waste management covers**

- a) information on reported wastes and methods of their treatment,**
- b) records on consents granted to operate facilities pursuant to Section 14 (1),**
- c) records on waste storage facilities pursuant to Section 16 (3) and facilities pursuant to Section 14 (3),**
- d) records on PCBs, equipment containing PCB and PCB wastes,**
- e) annual reports pursuant to this Act,**
- f) records on collected end-of life vehicles and methods of their treatment,**

- g) records on issued confirmations on acceptance of end-of life vehicles,**
- h) records on accepted (collected) waste electrical and electronic equipment and methods of its treatment,**
- i) list of producers of electrical and electronic equipment and batteries,**
- j) information on packages pursuant to special regulations,<sup>31x)</sup>**
- k) state of financial reserve and free capacity of landfills, and**
- l) cross-border transport of waste.**

**(4) Central information system for waste management is a public list in the section containing summarized information on**

- a) data from records on registered wastes and methods of their treatment,**
- b) permissions granted to operate facilities for reuse, disposal, collection or purchase of waste,**
- c) facilities for reuse, disposal, collection or purchase of waste, facilities pursuant to Section 14 (3) and waste storage (accumulation) facilities pursuant to Section 16 (3), and**
- d) packages pursuant to special regulations.<sup>31x)</sup>**

#### Section 40

#### **Keeping Records in Shipment of Hazardous Waste**

(1) In shipment of hazardous waste, the consignor and the consignee shall be obliged to complete a consignment note within the scope stipulated in an implementing regulation. Records of shipped hazardous waste shall not be kept in case of internal shipment carried out by own means of transport provided that the shipment is effected within the premises of an establishment.

(2) The consignor of the waste shall be obliged to:

- a) enclose with the consignment of hazardous waste a completed consignment note,
- b) send the consignment note to the municipal authority of the municipality with extended competence that is competent pursuant to the place of dispatch of the shipment, within 10 days of its commencement,
- c) notify the municipal authority of the municipality with extended competence that is competent pursuant to the place of dispatch of the shipment and the Inspection if (s)he does not receive from

the consignee the confirmed consignment note on acceptance of the hazardous waste within 20 days of dispatch of the waste.

(3) The consignee of the shipment shall be obliged to send the consignment note concerning the shipment of hazardous waste with confirmation of acceptance of the waste to the consignor and the municipal authorities of municipalities with extended competence that are competent pursuant to the place of dispatch and place of destination of the shipment within 10 days of its acceptance.

(4) The consignor of the waste and the consignee of the waste shall be obliged to file the records pursuant to paragraphs 1 to 3 above for a period of at least 5 years.

(5) The Ministry shall stipulate in a decree the manner of keeping records of waste in shipment of waste.

## **PART SEVEN**

### **WASTE MANAGEMENT PLANS**

#### **Section 41**

##### **Joint provisions**

(1) The Ministry, regions within independent competence and waste generators shall draw up a waste management plan.

(2) The waste management plan shall be drawn up for the purpose of creating preconditions for prevention of waste generation and management of waste pursuant to this Act.

(3) The Code of Administrative Procedure shall not apply to processing, discussion and approval of draft waste management plans.

(4) The Waste Management Plan of the Czech Republic and waste management plans of the regions shall be publicly available for inspection and for making excerpts or copies thereof.

#### **Section 42**

##### **Waste Management Plan of the Czech Republic**

(1) The Ministry shall draw up the draft Waste Management Plan of the Czech Republic. The Ministry shall discuss the Waste Management Plan of the Czech Republic with the regions within their independent competence.

(2) The Waste Management Plan of the Czech Republic shall contain evaluation of the state of the waste management sector, a binding part and a directive part.

(3) The Government shall promulgate the binding part of the Waste Management Plan of the Czech Republic in its regulation.

(4) The binding part of the Waste Management Plan of the Czech Republic shall stipulate the framework objectives and framework measures for achieving thereof, and a set of indicators for evaluation thereof with respect to

- a) prevention of waste generation, and reduction of the quantity and hazardous properties thereof,
- b) management of selected waste pursuant to Part Four of this Act,
- c) management of other waste, particularly hazardous waste,
- d) management of packaging waste,
- e) recovery of waste,
- f) reduction of the share of waste deposited in landfills and the share of the biologically degradable component thereof,
- g) establishment of an integrated waste management system.

(5) The Waste Management Plan of the Czech Republic shall be drawn up for a period of at least 10 years and must be amended immediately after each fundamental change in the conditions, on the basis of which it was drawn up.

(6) The binding part of the Waste Management Plan of the Czech Republic, including amendments thereto, shall be a binding basic document for drawing up waste management plans of the regions and for decision-making and other activities of the competent authorities, regions and municipalities in the waste management sector.

(7) The Ministry shall evaluate implementation of the Waste Management Plan of the Czech Republic on the basis of a set of indicators annually by December 31 of the following year.

(8) The Ministry shall publish the Waste Management Plan of the Czech Republic and amendments thereto on the public administration website or in some other suitable manner.

#### Section 43

### **Waste Management Plan of a Region**

(1) Regions, within their independent competence, shall draw up a waste management plan of a region for their jurisdiction and make amendments thereto.

(2) The waste management plan of a region must be in accordance with the binding part of the Waste Management Plan of the Czech Republic and amendments thereto.

(3) The waste management plan of a region shall consist of a binding part and a directive part.

(4) The binding part of the waste management plan of a region shall stipulate the specific objectives and specific measures for achieving thereof, with respect to

- a) prevention of waste generation, and reduction of the quantity and hazardous properties thereof,
- b) municipal waste management,
- c) management of selected waste pursuant to Part Four of this Act,
- d) management of other waste, particularly hazardous waste,
- e) management of packaging waste,
- f) recovery of waste,
- g) reduction of the share of waste deposited in landfills and the share of the biologically degradable component thereof,
- h) establishment of an integrated waste management system.

(5) If it is necessary to establish a waste management facility or deal with movement of waste across boundaries of the regions, the regions, within their independent competence, shall be obliged to cooperate with one another in drawing up waste management plans of the regions and amendments thereto.

(6) Regions, within their independent competence, shall be obliged to draw up and approve the draft waste management plan of a region or amendments thereto within 18 months of the legal force of a Government regulation promulgating the binding part of the Waste Management Plan of the Czech Republic or amendment thereto in the Collection of Laws.

(7) The waste management plan of a region shall be drawn up for a period of at least 10 years and must be amended upon each fundamental change in the conditions, on the basis of which it was drawn up.

(8) Regions, within their independent competence, shall be obliged to notify, in a locally usual manner, within 10 days of the date of drawing up the draft waste management plan or amendment thereto, when and where this draft may be inspected and excerpts and copies thereof may be acquired. Public inspection of the draft waste management plan of a region or amendment thereto must be allowed for a period of at least 30 calendar days from the date of notification of the possibility of public inspection; written standpoints on the draft waste management plan of a

region or amendment thereto may also be lodged within this deadline. The region shall be obliged to respond to the comments and publish the response.

(9) Regions, within their independent competence, shall be obliged to send a copy of the waste management plan of a region or amendment thereto to the Ministry within 1 month of approval thereof.

(10) Regions shall promulgate the binding part of the waste management plan of a region or amendment thereto in a generally binding edict.<sup>32)</sup> The binding part of the waste management plan of a region shall be a binding basic document for drawing up waste management plans of waste generators and for decision-making and strategic activities of the competent authorities, regions and municipalities in the waste management sector.

(11) Regions shall send an evaluation of implementation of the waste management plan of a region to the Ministry annually by November 15 of the following year. The evaluation shall be carried out on the basis of a set of indicators stipulated in the binding part of the Waste Management Plan of the Czech Republic.

(12) The regions shall publish the waste management plan of a region and amendments thereto on the public administration website or in some other suitable manner.

#### Section 44

##### **Waste Management Plan of a Waste Generator**

(1) The waste management plan of a waste generator shall be drawn up by waste generators who generate more than 10 tons of hazardous waste or more than 1000 tons of other waste annually.

(2) The waste management plan of a waste generator must be in accordance with the binding part of the waste management plan of the region and amendments thereto.

(3) The waste management plan of a waste generator shall be drawn up for a period of at least 5 years and must be amended upon each fundamental change in the conditions, on the basis of which it was drawn up, at the latest within 3 months of the change in the conditions.

(4) A waste generator who generates waste in a quantity exceeding the limit value stipulated in paragraph 1 above on the date of promulgation of the binding part of the waste management plan of the region or amendment thereto shall be obliged to draw up a draft waste management plan within 1 year of promulgation of the binding part of the waste management plan of the region or amendment thereto. Other generators shall be obliged to draw up a draft waste management plan within 1 year of the date when the quantity of waste generated exceeds the limit stipulated in paragraph 1 above.

(5) A waste generator shall be obliged to send a copy of his/her draft waste management plan or draft amendment thereto to the regional authority competent pursuant to the address of the

establishment of the waste generator within 3 months of drawing up thereof. If the draft waste management plan of the waste generator lacks the requisites stipulated by this Act and an implementing regulation or is at variance with the binding part of the waste management plan of the region or amendment thereto, the competent regional authority shall communicate to the waste generator its comments within 3 months of the date of receipt of the draft waste management plan of the waste generator.

(6) Within 3 months of the date of delivery of the comments of the competent regional authority, the waste generator shall be obliged to send to this regional authority a modified waste management plan with incorporated comments.

(7) The waste management plan of a waste generator shall be a binding basic document for activities of the waste generator.

(8) Municipalities that have established a voluntary association of municipalities for the purpose of fulfilment of their duties in management of municipal waste<sup>34)</sup> may, on the basis of a written agreement, draw up a common waste management plan of a waste generator, defining the scope and manner of management of the municipal waste.

(9) The Ministry shall stipulate in an implementing regulation the contents of the waste management plan of a waste generator.

## **PART EIGHT**

### **ECONOMIC INSTRUMENTS**

#### **TITLE I**

#### **FEES FOR DEPOSITING WASTE**

##### **Section 45**

~~(1) Waste generators shall be obliged to pay a fee for depositing waste in landfills.~~

~~(2) The fee shall also be paid by a waste generator who is the landfill operator and this landfill is located on his/her own property.~~

~~(3) Fees shall not be paid for depositing waste as technological materials for securing the landfill for the purpose of technical securing of the landfill in accordance with the approved project and rules of operation of the landfill. Waste that is deposited over and above the framework of the project specifying the required amount shall not considered a technological material. The Ministry shall stipulate in an implementing regulation the requirements for depositing waste as a technological material for securing a landfill.~~

#### Section 46

~~(1) The fee for depositing waste in landfills shall consist of two components. The basic component of the fee shall be paid for depositing waste and an additional risk component shall be paid for depositing hazardous waste.~~

~~(2) The fee shall be collected from the waste generator by the landfill operator upon depositing the waste in the landfill. The landfill operator shall certify the collection of the fee to the waste generator. The landfill operator shall levy the collected fees to the recipient of the fee, always by the last day of the subsequent calendar month, and shall simultaneously inform the recipient of any outstanding fees. If the waste generator fails to pay the fee in the set amount, the duty to pay the fee shall be imposed thereon by the regional authority that granted the consent to operate the landfill, through a decision issued on the basis of a proposal of the recipient of the fee.~~

~~(3) Within the scope stipulated by this Act, the fee shall be an income for the municipality, within whose cadastral territory the landfill is located, and the State Environmental Fund of the Czech Republic.<sup>35)</sup>~~

~~(4) Where the generator is a municipality, which deposits the waste in a landfill that is located within its cadastral territory, the basic component of the fee shall not be collected from this municipality.~~

~~(5) Payment of fees by the landfill operator shall be controlled by the municipality and the regional authority, within whose cadastral territory the landfill is located.~~

#### Section 47

~~(1) If the landfill operator has failed to levy to the municipality or the State Environmental Fund the collected fee within the set deadline, the duty to pay the fee shall be imposed thereon by the regional authority that has issued the consent to operate the landfill, by means of a decision adopted on the basis of a proposal of the recipient of the fee. A fine of 0.5 % of the withheld amount per day shall be payable in case of failure to levy the fee. The fine shall be an income for the municipality.~~

~~(2) Fees and fines shall be exacted by the financial authorities that are locally competent for the cadastral territory, where the landfill is located; in this, they shall proceed pursuant to the special regulations,<sup>36)</sup> unless this Act stipulates otherwise.~~

#### Section 48

~~(1) The basic component of the fee shall be an income for the municipality, within whose cadastral territory the landfill is located. If the landfill is located in cadastral territories of several~~

~~municipalities, this income shall be divided pro rata according to the size of the parts of the landfill located in the cadastral territories of these municipalities.~~

~~(2) The amount of the basic component of the fee is stipulated in Annex No. 6 to this Act.~~

~~(3) The risk component of the fee shall be an income for the State Environmental Fund.~~

~~(4) The amount of the risk component of the fee is stipulated in Annex No. 6 to this Act.~~

~~(5) Fees for asbestos waste shall be imposed in an amount applicable to depositing of other waste.~~

## **TITLE I**

### **FEES**

#### **Section 45**

**(1) For waste disposal by means designated by codes D1, D2, D3, D4, D5, D10 and D12 pursuant to Annex 4 of this Act, a fee shall be paid by the operator of the facility for waste disposal (hereinafter referred to as "operator of the facility").**

**(2) No fee is required for disposal of municipal (general) waste by means designated by codes D1 and D5 pursuant to Annex 4 of this Act, provided that such a waste was generated in the territory of municipality, in the cadastral territory of which the facility for waste disposal by means designated by codes D1 and D5 pursuant to Annex 4 of this Act is located.**

**(3) Fee shall be paid also for depositing of technological waste material used in the landfills with an intention of technical securing of the landfills.**

#### **Section 46**

**(1) The fee is due for each calendar year and its amount is set based on the waste category, means of waste disposal and type of technical waste material, pursuant to Annex 6 to this Act.**

**(2) Fees under CZK 500,- shall neither be set nor charged.**

**(3) For the purpose of this Act the general fee period shall be a calendar year.**

**(4) Collection and imposing of due fees is ensured by customs authorities with local competency pursuant to place where the facility is located, based on order issued by regional authorities. In this respect the customs authorities shall proceed in accordance with special regulations,<sup>35</sup> if not stated otherwise by this Act.**

## Section 47

(1) To determine the correct amount of fee for the next calendar year, the operator of the facility is obliged to prepare a fee report where he/ she states his/ her identification data pursuant to special regulations<sup>35)</sup> and other relevant information necessary for calculation of the advance payment based on his/ her activities in the previous year or based on estimations with regard to new facilities and also information on amount of waste disposed, categorized pursuant to this Act, and means of waste disposal and also information on amount of technical material used for securing the landfill. In the fee report the operator shall calculate the amount of advance payment for the next calendar year and submit the report to the appropriate regional authority by October 15<sup>th</sup>, of the current calendar year. Late changes to the report, especially to data used for calculation of the advance payment of the fee, except for corrections of obvious typing errors, are not allowed, unless required by the regional authority in written form.

(2) Based on the fee report and verification of all the data relevant for calculation of the advance payment, the regional authority shall decide on the amount of the advance payment and also the quarterly or monthly instalments, in a written order sent to the operator of the facility, customs authority with a local competence pursuant to place where the facility is located and recipients of the fee, not later than by December 15<sup>th</sup> of the current calendar year. Appeal against this order has no deferring effect. Copy of the fee report shall be sent by the regional authority to the State Environmental Inspection of the Czech Republic.

(3) Advance payments for fees, as stated in the decision pursuant to paragraph 2, shall be paid by the operator in advance, as follows:

- a) amounts over CZK 1 000 000 per year in monthly advance payments as of the last day of each calendar month at the latest,
- b) amounts over CZK 10 000 but less than or equal to CZK 1 000 000 per year in quarterly advance payments as of the last day of each quarter,
- c) amounts over CZK 2 000 but less than or equal to CZK 10 000 per year in semi-annual advance payments as of June 30<sup>th</sup> and December 30<sup>th</sup> of the appropriate calendar year. The fee administrator may, based on the request of the operator of the facility, considering other than financial reasons, set other terms for payments than stated under subparagraphs a) to c), however in such a case the advance payment for the current year shall be paid in a single payment (in full amount) by December 30<sup>th</sup> of the current calendar year at the latest.

(4) Fees under CZK 2 000 per year shall be paid by the operator of the facility in a single payment, not later than within 30 days after the decision on imposing of the fee came to force.

**(5) Not later than by February 15<sup>th</sup> the operator of the facility shall submit to the regional authority a fee statement for the previous calendar year, containing all the information necessary for settlement of the advance payments, such as amount of advance payments reimbursed, actual amount of waste disposed (in categories pursuant to this Act) and means of waste disposal as well as technical material used for securing the landfill. The fee statement shall include calculation of the annual fee for the past calendar year. The statement shall be submitted to the regional authority for review. If the facility is discontinued in the respective year, the operator shall submit a statement covering activities in the part of the year in which the facility was operating (before its discontinuing), not later than within 30 days after the facility was closed or discontinued. Late changes to the statement, especially to data used for settlement of advance payments pursuant to the first sentence of this paragraph or to calculation of the total fee amount for the previous calendar year, except for corrections of obvious typing errors, are not allowed, unless required by the regional authority in written form.**

**(6) Based on the fee statement and verification of all the data relevant for calculation of the total fee for the previous calendar year and settlement of advance payments, the regional authority shall decide on the amount of the fee for the past calendar year and the means of advance payments settlement, so called annual settlement. The annual settlement shall be sent to the operator of the facility, customs authority with a local competence pursuant to place where the facility is located and recipients of the fee settlement, not later than within 30 days after the fee statement was received, including notification on date on which the fee settlement came into force.**

**(7) If the sum of advance payments reimbursed by the operator are lower than the imposed fee, the operator of the facility shall pay the due amount of the fee to the bank account of the appropriate customs authority not later than within 30 days after the fee order came into force. If the sum of advance payments reimbursed by the operator is higher than the imposed fee, the customs authority shall proceed according to special regulations.<sup>36)</sup>**

## **Section 48**

**(1) A part of the income from the fee for disposal of the municipal and other waste by means pursuant to Annex 4 of this Act, designated by codes D1, D3, D4, D5 a D12, amounting to 80%, is considered to be an income of the region, in the territory of which the facility for waste disposal is located. The remaining part of the fee is an income of the municipality, in the territory of which the facility for waste disposal is located. If the facility for waste disposal is located in cadastral territories of more municipalities or regions, the income shall be split on a pro rata basis, considering the portion of the facility size located in particular regions or municipalities. Fees that represent the income of the region may only be used for implementation of targets set in the waste management plan of the respective region, prepared in accordance with the head 7 of this Act and for administration purposes related to the collection or imposing of the fee.**

**(2) Income from the fee for disposal of municipal and other waste by means designated by codes D2 and D10 pursuant to Annex 4 of this Act, fee for disposal of hazardous waste by means designated by codes D1, D2, D3, D4, D5, D10 and D12 pursuant to Annex 4 of this Act, fee for incineration of municipal waste in incineration facilities and fee for depositing of technical material in the landfills with intention of technical security of the landfills is considered to be income of the State Environmental Fund of the Czech Republic.**

## TITLE II

### FINANCIAL RESERVE FOR RECLAIMING AND DECONTAMINATION OF LANDFILLS

#### Section 49

(1) A landfill operator shall be obliged to create a financial reserve for recovery and maintenance of the landfill and for its decontamination after cessation of its operation **and for works related to elimination of effects of accident or their mitigation** (hereinafter the “financial reserve”).

(2) Creation of the financial reserve shall be included in the costs of the landfill operator and creation of this reserve shall constitute an expenditure provided for obtaining, maintaining and securing income.<sup>37)</sup> Interest accrued on the financial reserve shall be part thereof.

(3) The funds constituting this reserve shall be deposited in a special bank account. The financial reserve may not be subject to an order for and implementation of enforcement of a decision or included in the bankruptcy assets of the landfill operator, landfill owner or their legal successors.

#### Section 50

(1) ~~As of the date of effect of this Act~~ **Prior to initiation of first phase of the landfill operation**, the landfill operator shall be obliged to create a special escrow account for the purposes of depositing funds for creation of the financial reserve. A separate special escrow account must be created for each landfill, for which a separate decision has been issued pursuant to the special regulation.<sup>24)</sup>

(2) The agreement with the bank on establishment of a special escrow account must indicate which landfill is covered by the financial reserve and must contain a provision that the relevant account is a special escrow account managed by the bank pursuant to Sections 49 to 51. This account may be disposed of, after the date of its establishment, only with the consent of the regional authority competent pursuant to the location of the landfill.

(3) The landfill operator shall transfer the funds constituting the financial reserve to the special escrow account established pursuant to paragraph 1 above always by the last day of the subsequent calendar month.

(4) An agreement on transfer of the financial reserve to a new landfill operator shall be an essential requisite of a contract for the transfer of the right to use the waste landfill to the new landfill operator. Without such agreement on transfer of the financial reserve, the contract for the transfer of the right to use the waste landfill to the new landfill operator shall be void.

## Section 51

(1) Funds may be drawn from the financial reserve only with the consent of the competent regional authority for work related to reclamation, maintenance of the landfill ~~after cessation of its operation and decontamination~~ **in second and third phase of landfill operation or for works related to elimination of effects of accident or their mitigation in the first phase of the landfill operation.** ~~The regional authority shall grant the consent on the basis of a decision on commencement of reclamation work issued pursuant to the special legal regulations.<sup>387</sup>~~ **The regional authority shall grant the consent on the basis of a decision on commencement of activities pursuant to this Act or special regulations.<sup>38)</sup>**

(2) If the landfill operator expires prior to termination of ~~maintenance of the landfill activities pursuant to paragraph 1~~ and the legal successor of the operator is not known or does not exist, the bank shall transfer the unused part of the financial reserve to the State Environmental Fund of the Czech Republic and notify the regional authority that is locally competent pursuant to the location of the landfill of this fact. The State Environmental Fund shall assign these funds to a special escrow account pursuant to this Act in favor of the person who will provide for ~~the mandatory reclamation, maintenance of the landfill and decontamination after cessation of its operation~~ **completion of these activities.** The financial reserve shall be drawn from this account pursuant to paragraph 1 above.

(3) After termination of maintenance of the landfill, the unused part of the financial reserve shall be released in favor of the landfill operator or his/her legal successor; if the legal successor is not known or does not exist, this unused part shall be transferred to the budget of the municipality, within whose cadastral territory the landfill is located. If the landfill is located in cadastral territories of several municipalities, this income shall be divided pro rata according to the size of the parts of the landfill located in the cadastral territories of these municipalities.

(4) ~~The amount of the financial reserve shall equal~~

a) ~~CZK 100 per 1 ton of deposited hazardous waste or municipal waste, except for waste asbestos;~~

b) ~~CZK 35 per 1 ton of deposited other waste, waste deposited as technological materials for securing the landfill and waste asbestos.~~

**(4) The amount of the financial reserve shall be equal to**

**a) 10 - 30% of budget costs on establishment of landfill or its part, deposited prior to initiation of the first phase of the landfill operation (or its part); The actual amount of this financial reserve shall be determined by the regional authority in a decision on permit to initiate the first phase of the landfill operation (or its part),**

**b) CZK 150 per 1 ton of deposited hazardous waste or municipal waste, except for waste asbestos,**

**c) CZK 50 per 1 ton of deposited other waste, waste asbestos and waste deposited as technological materials for securing the landfill.**

(5) The Ministry shall stipulate in a decree the manner of creation and withdrawal of the financial reserve.

#### ~~Section 52~~

~~The competent regional authority shall stipulate the period and conditions of maintenance of a landfill after cessation of its operation, reclamation and decontamination separately for each landfill within its rules of operation. This period may not be less than 30 years.~~

#### Section 52

**The competent regional authority shall stipulate the period of the third phase of landfill operation and conditions of maintenance of completed and closed landfill for each landfill separately, in a decision on permit to initiate the third phase of the landfill operation. The period of the third phase of landfill operation shall correspond to requirements pursuant to Section 21 (1) (c).**

### **PART NINE**

#### **TRANSBORDER SHIPMENT OF WASTE**

#### Section 53

(1) Transborder shipments of waste into, from and via the Czech Republic (hereinafter “transborder shipment of waste”) is regulated by the legislation of the European Communities on the supervision of shipments of waste within, into and out of the European Community.<sup>39)</sup> This Act stipulates provisions required for its implementation.

(2) The Ministry shall be the competent authority for transborder shipments of waste and the focal point for the Czech Republic.

## Section 54

### **title repealed**

(1) Waste generated in the Czech Republic shall be preferentially disposed of in the Czech Republic.

(2) Transborder shipments of waste to the Czech Republic for the purpose of disposal shall be prohibited, except for wastes generated in the neighboring countries as a consequence of natural disasters or state of emergency.

(3) Waste generated in the Czech Republic shall be preferentially recovered in the Czech Republic, unless it is recovered in other Member States of the European Union.

## Section 55

### **Notification of Transborder Shipment of Wastes**

(1) A notification of transborder shipment of wastes shall be lodged by the notifier pursuant to the legislation of the European Communities on the supervision of shipments of waste within, into and out of the European Community.<sup>39)</sup> in Czech Slovak or English language. Only the notifier shall be a party to the proceedings initiated by a notification pursuant to this paragraph.

(2) The Ministry shall stipulate in a decree the details information and accompanying documents pursuant to Division 3, Annex II, of the applicable legislation of the European Communities on the supervision of shipments of waste<sup>39)</sup> for particular means of transport.

## Section 56

### **Bans and Objections**

(1) If the notifier or consignee has been validly convicted of a criminal offense committed in relation to management of hazardous waste,<sup>41)</sup> the Ministry may ban all transborder shipments of waste concerning this person.

(2) An appeal against a decision of the Ministry on objections against transborder shipment of waste shall not have deferring effect.

## Section 56a

### **Changes in Transport after Confirmation/ Cancelling of the Consent**

(1) On the basis of notification on change in the transborder shipment of waste pursuant to Section 17 (1) of the directly applicable legislation of the European Communities on the supervision of shipments of waste<sup>39)</sup>, the Ministry shall decide on change or objections to the change pursuant to Section 56 above.

(2) In cases pursuant to Article 9, paragraphs 8 and 9 of the directly applicable legislation of the European Communities on the supervision of shipments of waste<sup>39)</sup>, the Ministry shall cancel its consent granted pursuant to Article 9 of the directly applicable legislation of the European Communities on the supervision of shipments of waste<sup>39)</sup>.

## Section 57

### **Financial Guarantee and Insurance**

(1) A financial guarantee pursuant to the legislation of the European Communities on the supervision of shipments of waste within, into and out of the European Community<sup>39)</sup> must be provided or the corresponding insurance pursuant to that legislation must be documented prior to commencement of the transborder shipment of waste.

(2) If the Ministry has a justified doubt as to whether the provided financial guarantee or insurance is adequate in accordance with the legislation of the European Communities on the supervision of shipments of waste within, into and out of the European Community<sup>39)</sup>, it shall stipulate the amount and type of financial guarantee or specify the type of insurance and the insured amount for this purpose. **Methods and conditions for setting the amount of the financial reserve, documentation and other information necessary for calculation of the financial reserve are set forth in Annex 10.**

(3) **The Ministry will not approve calculation of the waste amount pursuant to paragraph 7.2 of Annex 9 while reviewing new notification, if in within three years preceding to submission of the new notification the condition pursuant to paragraph 7.2 of Annex 9, set on a basis of the ministerial decision, was breached, and the same notifier and receiver is named in the new notification, as was in the last one.**

## Section 58

### **Duty to Return Waste**

(1) The Ministry may stipulate in a decision a duty to

- a) take back the waste by the notifier pursuant to Article 22, paragraph 2 of the directly applicable legislation of the European Communities on the supervision of shipments of waste<sup>39)</sup>,
- b) reuse or dispose waste pursuant to Article 22, paragraph 3 of the directly applicable legislation of the European Communities on the supervision of shipments of waste<sup>39)</sup>,
- c) take back the waste by the notifier pursuant to Article 24, paragraph 2, subparagraph (a) of the directly applicable legislation of the European Communities on the supervision of shipments of waste<sup>39)</sup>,
- d) take back the waste by the notifier pursuant to Article 24, paragraph 2, subparagraph (b) of the directly applicable legislation of the European Communities on the supervision of shipments of waste<sup>39)</sup>,
- e) reuse or dispose waste pursuant to Article 24, paragraph 3 of the directly applicable legislation of the European Communities on the supervision of shipments of waste<sup>39)</sup>,
- b) reuse or dispose waste by other person than the notifier or recipient pursuant to Article 24, paragraph 5 of the directly applicable legislation of the European Communities on the supervision of shipments of waste<sup>39)</sup>,

(2) Should the Ministry ensure fulfilment of duties pursuant to Article 22 or 24 of the directly applicable legislation of the European Communities on the supervision of shipments of waste<sup>39)</sup>, it may, in a decision, impose a duty to recover costs on transport, reuse, disposal or storage of waste. The Ministry may impose a duty to recover these costs in advance. Persons who are responsible for the unauthorized transport are jointly liable to recovery of the costs.

(3) Safe storage of waste pursuant to Article 22, paragraph 9 and Article 24, paragraph 7 of the directly applicable legislation of the European Communities on the supervision of shipments of waste<sup>39)</sup> shall be ensured by the municipal authority with extended competency, in the territory of which the waste was found, if human health or environment is in jeopardy. Such a municipal authority will impose, in a decision, recovery of the related costs to persons responsible for unauthorized or unfinished transport. These persons are jointly liable for recovery of the costs pursuant to the decision.

(4) An appeal against the decision of the Ministry pursuant to paragraphs 1 and 2 shall not have a suspensory effect.

## Section 59

### **Commencement of Transborder Shipment of Waste**

Upon receipt by the Ministry of a copy of the consignment note with the stated date of shipment and other relevant data in accordance with the legislation of the European Communities on the supervision of shipments of waste within, into and out of the European Community<sup>39)</sup> prior to expiry of the deadline for lodging an appeal, the notifier waives the right to appeal (lodge a remonstrance) against the consent granted by the Ministry.

Section 60

**Transborder Shipment of Waste to and from Non-Member States of the European Union**

The Ministry may stipulate in a decree the competent customs authorities for transborder shipment of waste to and from non-Member States of the European Union.

Sections 61

**repealed**

Sections 62

**repealed**

Sections 63

**repealed**

Sections 64

**repealed**

Sections 65

**repealed**

## PART TEN

### PENALTIES

#### TITLE I

#### FINES FOR NATURAL PERSONS AUTHORIZED TO OPERATE A BUSINESS AND LEGAL PERSONS

##### Section 66

(1) The municipal authority shall impose a fine of up to CZK 300,000 on a natural person authorized to operate a business or a legal person who utilizes the system established by the municipality for management of municipal waste without a written contract with the municipality or who has not provided for recovery and disposal of waste in accordance with this Act.

(2) The Inspection or the competent municipal authority of a municipality with extended competence shall impose a fine of up to CZK 1,000,000 on a natural person authorized to operate a business or a legal person who

a) fails to keep records of waste and facilities within the scope and manner stipulated in Part Six of this Act or fails to fulfill the reporting duty within the set scope **or by set means** or fails to send to the competent authority information concerning the waste management facility within the set deadline or within the set scope, or fails to ~~file~~ **keep** the records for the set period of time,

b) fails to safeguard waste against undesirable devaluation, theft or escape,

c) fails to allow control bodies to perform control activities or fails to provide truthful or comprehensive information related to waste management, ~~or~~

d) fails to draw up an identification sheet for hazardous waste or display this sheet at the places of management of hazardous waste.

e) as owner of PCBs or owner/ operator of the equipment containing PCBs fails to send a plan for elimination of PCBs, PCB waste or equipment containing PCBs and plan for decontamination of equipment containing PCBs for the period of 2009 to 2010 or fails to prepare a list of owned or operated equipment containing PCBs in contrast to Section 27 (9) or fails to send it to the Ministry by December 31st, 2008, **or**

**f) fails to prepare a true and accurate fee report pursuant to Section 47 (1) or fails to submit it to the regional authority or fails to prepare a true and accurate fee statement pursuant to Section 47 (5) or fails to submit it to the regional authority within the appropriate deadline.**

(3) The Inspection, **appropriate regional authority or municipal authority with extended competency** shall impose a fine of up to CZK 10,000,000 on a natural person authorized to operate a business or a legal person who

- a) fails to classify waste pursuant to the Catalogue of Waste,
- b) submits waste to a person who is not licensed to accept the submitted waste pursuant to this Act,
- c) accepts waste without authorization to accept such waste pursuant to this Act,
- d) operates a facility for recovery or disposal of waste without the required consent of the competent administrative authority or at variance with this consent or operates a facility for recovery or disposal of waste at variance with the approved rules of operation of the facility,
- e) operates a facility for collection or purchase of waste without the required consent of the competent administrative authority or at variance with this consent or operates a facility for collection or purchase of waste at variance with the approved rules of operation of the facility,
- f) fails to keep records of PCBs, PCB wastes and equipment containing PCBs subject to inventory within the set scope,
- g) fails to provide for taking back of used products intended for taking back or fails to fulfill some other duty related to taking back of products, or
- h) fails to appoint a waste manager under the conditions stipulated by this Act,
- i) issues a certificate of absence of the hazardous properties of waste, for which (s)he is responsible as the generator or licensed person, or evaluates hazardous properties, for the evaluation of which (s)he is not authorized,
- j) fails to execute a decontamination or disposal of equipment pursuant to Section 27 (1) by December 31st, 2010.

(4) The Inspection, **appropriate regional authority or municipal authority with extended competency** shall impose a fine of up to CZK 50,000,000 on a natural person authorized to operate a business or a legal person who

- a) classifies waste set forth in Section 6 (1) (a), (b) or (c) as other waste or manages such waste as other waste without having a certificate issued by an authorized person pursuant to Section 9 that the waste does not have hazardous properties,
- b) manages waste in facilities where management of waste is prohibited or is not permitted,
- c) dilutes or mixes wastes for the purpose of complying with the criteria for their acceptance to a landfill or mixes hazardous wastes with other hazardous wastes or other wastes without the consent of the competent authority,
- d) manages hazardous waste without the required consent of the competent authority or at variance therewith,

e) deposits in a landfill wastes, the landfilling of which is prohibited by this Act or an implementing regulation, or fails to comply with the conditions stipulated in an implementing regulation in depositing waste in a landfill,

f) fails to fulfill the duties stipulated by this Act in management of selected products or wastes or equipment pursuant to Part Four, or

g) breaches the duties stipulated by the legislation of the European Communities on the supervision of shipments of waste within, into and out of the European Community<sup>39)</sup> and by this Act for transborder shipment of wastes, fails to meet the conditions stipulated by the Ministry in a decision with respect to transborder shipment of wastes or fails to fulfil duties pursuant to Head 9 of this Act, or

h) treats waste with persistent organic contaminants in contrast to the requirements stipulated by the legislation of the European Communities on the persistent organic contaminants<sup>30a)</sup> or fails to keep records on waste with persistent organic contaminants or report information pursuant to Section 39 (8),

**i) provides for a joint performance of duties of producers or joint performance of duties of producers of the electrical and electronic equipment without the permit, despite a permit to operate a collective system pursuant to Section 31l or Section 37hb is required, or offers, without the appropriate permit, to third parties a conclusion of agreement, the content of which are activities, for which the permit is required.**

j) as the operator of system pursuant to Section 31k or Section 37ha breaches his/ her duties, set in this Act, or

**k) fails to prepare a detailed description of waste in accordance with an implementing regulation or fails to provide this description to the authorized person with every single delivery or the first one of multiple deliveries of waste to the facility, or by request to the person accepting waste to its ownership.**

(5) The competent municipal authority of a municipality with extended competence or the Inspection shall impose a fine of up to CZK 1,000,000 on a natural person authorized to operate a business or a legal person who breaches some other duty stipulated by this Act or a duty imposed through a decision on the basis of this Act.

**(6) The regional veterinary authority shall impose a fine of up to CZK 1,000,000 on a natural person or legal person who operates a facility for treatment of biologically degradable wastes and processing of animal products, but fails to fulfil its duties set for handling with animal waste in accordance with the appropriate permit, consent or operating regulations of the facility.**

## Section 67

(1) A procedure on imposing a fine may be commenced at the latest within 1 year of the day when the competent authority learned of the breach of duties; however, a fine may be imposed at the latest within 3 years from the day when the breach of duties occurred.

(2) In determining the amount of the fine, account shall be taken of the seriousness of the danger for the environment or the degree of environmental damage, as appropriate.

(3) If a legal person or a natural person authorized to operate a business again breaches the same duty, for which a fine has been imposed, within 1 year from the legal force of the decision on imposing a fine pursuant to this Act, the competent authority shall impose another fine of up to two times the upper limit of the fine.

(4) The period pursuant to paragraph 1 above shall not include the period of the criminal proceedings held pursuant to the special legal regulation with respect to the same act.

**(5) Legal entity or physical person who is authorized to carry out business activities is not liable for breaching of duties set for collection of batteries and accumulators, separate collection of waste batteries and accumulators, treatment of waste batteries and accumulators as well as for breaching duties set for separate collection collection, treatment, reuse or disposal of electrical and electronic equipment and waste electrical and electronic equipment, if such a breach occurred within 3 months after the date when the operator of system or operator of collective system for electrical and electronic equipment or waste electrical and electronic equipment, with whom the legal entity or physical person entered into contract on joint performance of duties pursuant to Section 31j (1) (c) or agreement on joint performance of duties of producers of electrical and electronic equipment pursuant to Section 37h (1) (c) lost its license for operating of the business.**

## Section 68

(1) Fines shall be imposed, collected and exacted by the administrative authority that commenced proceedings on imposing the fine first; fines imposed by the Inspection shall be exacted by the competent financial authority. If proceedings were commenced on the same day by the Inspection and a municipal authority of a municipality with extended competence, the proceedings on imposing of the fine shall be held by the Inspection. The Inspection and the municipal authority of a municipality with extended competence shall inform each other of commencement of proceedings on imposing a fine. The procedure pursuant to the special legal regulation<sup>43)</sup> shall apply to payment and exacting of imposed fines.

(2) The Ministry shall make decisions on appeals against decisions of the Inspection on imposing fines. The regional authority shall make decisions on appeals against decisions of municipal authorities of municipalities with extended competence.

(3) 50 % of fines imposed by the Inspection shall be an income for the municipality, within whose cadastral territory the legal regulations were breached, and 50 % of fines imposed by the Inspection shall be an income for the State Environmental Fund.<sup>44)</sup> A fine imposed by the Inspection on a municipality shall be an income for the State Environmental Fund.

(4) 50 % of fines imposed by the municipal authority of a municipality with extended competence shall be an income for the municipality, within whose cadastral territory the legal regulations were breached, and 50 % of these fines shall be an income for the municipality with extended competence that imposed the fine. 50 % of fines imposed by the municipal authority of a municipality with extended competence on a municipality shall be an income for the State Environmental Fund and 50 % of these fines shall be an income for the municipality with extended competence.

(5) Imposing of a fine for breach of duties following from this Act shall in no way prejudice the applicable provisions of the Criminal Code.

## TITLE II

### MISDEMEANORS

#### Section 69

(1) The municipal authority **or municipality with extended competency** shall impose a fine of up to CZK ~~20,000~~ **500,000** on a natural person who is not an entrepreneur and commits a misdemeanor in that (s)he

- a) discards an end-of life vehicle removed from the register of vehicles at variance with this Act,
- b) discards electrical or electronic equipment outside designated places or outside take-back sites,
- c) accepts waste to its ownership,
- d) accumulates waste or handles waste in areas or premises that are not considered to be facilities or areas intended for handling with wastes pursuant to this Act or rents areas or facilities to third persons for accumulation or handling with wastes.**

~~(2) The Inspectorate shall impose a fine of up to CZK 1,000,000 on a natural person who is not an entrepreneur and commits a misdemeanor in that (s)he~~

- ~~a) accepts waste to his/her ownership,~~
- ~~b) pursues illegal traffic of waste pursuant to Article 26 of Council Regulation (EEC) No 259/93 on the supervision and control of shipments of waste within, into and out of the European Community<sup>39)</sup> or undertakes cross-border transportation of waste at variance with the permit,~~

~~e) accumulates or otherwise manages waste at places or on premises other than facilities designated for management of waste pursuant to this Act or leases such places or premises for the purpose of accumulation or other management of waste to a third party.~~

**(2) The Inspectorate shall impose a fine of up to CZK 1,000,000 on a natural person who is not an entrepreneur and commits a misdemeanor in that (s)he pursues illegal traffic of waste pursuant to Article 2, paragraph 35 of the directly applicable legislation of the European Communities on the supervision of shipments of waste<sup>39)</sup>.**

#### Section 70

(1) A fine imposed by the municipal authority shall be an income for the municipality, within whose cadastral territory the duty was breached.

(2) Unless this Act stipulates otherwise, the legal regulations on misdemeanors shall apply to misdemeanors and discussion thereof.<sup>45)</sup>

### PART ELEVEN

#### EXECUTION OF PUBLIC ADMINISTRATION IN THE WASTE MANAGEMENT

#### SECTOR

#### Section 71

##### **Public Administrative Bodies in the Waste Management Sector**

Public administration in the waste management sector shall be executed by

- a) the Ministry,
- b) the Ministry of Health,
- c) the Ministry of Agriculture,
- d) the Inspection,
- e) Czech Commercial Inspection**
- ~~e) f) the Central Agricultural Control and Testing Institute,~~
- ~~f) g) customs authorities and customs directorship,~~

- g) h) the Police of the Czech Republic,
- h) i) bodies for protection of the public health,
- i) j) regional authorities,
- j) k) municipal authorities of municipalities with extended competence,
- k) l) municipal authorities and domain authorities.

## Section 72

### Ministry

#### (1) The Ministry shall

- a) be the central public administrative body in the waste management sector,
- b) execute supreme state supervision in the waste management sector, with the exception of protection of the public health in waste management,
- c) perform the duties of a focal point for the Basel Convention,
- d) perform the duties of the competent authority and contact body for transborder shipment of waste,
- e) make decisions on imposing the duty to return wastes to the Czech Republic, on the duty to provide for environmentally sound disposal or recovery of waste pursuant to Section 58 and on the duty to pay the costs of returning and environmentally sound disposal or recovery of waste,
- f) authorize legal persons or natural persons to evaluate hazardous properties of waste, prolong the term of this authorization and withdraw this authorization pursuant to Sections 7 and 8,
- g) approve the curriculum of training in evaluation of hazardous properties of waste,
- h) classify waste in cases where waste cannot be unambiguously classified pursuant to the Catalogue of Waste pursuant to Section 5 (2),
- i) draw up and keep summary records of the types of waste, its quantity and the manners of its management, waste management facilities, facilities set forth in ~~Section 14 (2)~~ **Section 14 (3)**, accumulation sites for hazardous waste and waste collection sites, waste storage areas, accepted end-of life vehicles and the manners of their treatment, the type, quantity and manners of treatment, recovery or disposal of waste electrical and electronic equipment, carriers of waste, PCBs, PCB wastes and equipment containing PCBs subject to inventory, and consents and other decisions issued pursuant to this Act and make these records available to the public,

j) cooperate with the Ministry of Defense in keeping records of waste, waste management facilities, accumulation sites for hazardous waste and waste collection sites, waste storage areas and PCBs, PCB wastes and equipment containing PCBs subject to inventory generated within activities of the Ministry of Defense,

k) draw up the Waste Management Plan of the Czech Republic within the scope stipulated by this Act and, where the conditions stipulated by this act are met, draw up amendments thereto,

l) submit to the Government for approval the draft binding part of the Waste Management Plan of the Czech Republic and draft amendments thereto,

m) provide to the relevant units of the European Commission and bodies of international treaties and protocols in the waste management sector, to which the Czech Republic has acceded, within the required scope and form, and with the required frequency, information on the state of the waste management sector in the Czech Republic,

n) appoint representatives of the Czech Republic to committees, commissions, expert and working groups and other panels established on the basis of the legislation of the European Communities in the waste management sector or in the framework of international conventions in this area, to which the Czech Republic has acceded,

o) make decisions on appeals against decisions of the Inspection and regional authorities,

p) keep the List pursuant to Chapter 8 of Part Four **and publish the List on the public administration website,**

r) enforce statement to territorial planning policy.

s) **keep the List of producers pursuant to Section 31 (e) and publish the List of producers on the public administration website,**

t) **grant permits to operate collective system and decide on extension of effectiveness period of permits to operate the collective system pursuant to Section 31l and Section 37hb, decide on cancelling of permits to operate collective system pursuant to Section 31r and Section 37hb; it is further entitled to state specific conditions as binding for issue of the specific permit,**

u) **keep a list of issued permits to operate collective system with indication of effectiveness dates and a list of decisions on cancelling of permits and publish the list on the public administration website,**

v) **supervise activities of system operators, impose corrective measures and submit requests for initiation of inspection or initiate proceeding on sanction imposing on system operator pursuant to Section 31p and Section 37hb,**

w) establish, administer and operate the central information system for waste management, publish the waste data transfer standard on the public administration website by December 31st of each calendar year (for the current year) to ensure performance of reporting duties,

x) decide, based on discussion with the Ministry of Industry and Commerce, in case of any doubts, whether a specific type of battery or accumulator belongs to a group of portable batteries or accumulators, industrial batteries and accumulators or automotive batteries and accumulators,

y) decide, in case of any doubts, whether a specific type of product is electrical and electronic equipment pursuant to this Act or not, or to which group pursuant to Annex 7 to this Act the equipment shall belong,

z) maintain and operate central information system for waste management.

(2) Supreme state supervision in the waste management sector shall consist in supervision of how administrative authorities executing state administration in the waste management sector comply with the legal regulations in this area and also in supervision of compliance with the provisions of the legal regulations and decisions of the competent authorities in the area of waste management.

#### ~~Section 73~~

#### ~~Ministry of Agriculture~~

~~The Ministry of Agriculture shall coordinate the performance of control of compliance with the duties in the use of treated sludge on agricultural soil.~~

#### Section 73

#### Ministry of Agriculture

Ministry of Agriculture coordinates execution of inspections to verify adherence to duties and obligations related to

a) using of treated sludge in agricultural land,

b) treating of animal products in facilities for processing of biologically degradable wastes (composting facilities and bio-gas stations).

Section 73a

**Central Agricultural Control and Testing Institute**

The Central Agricultural Control and Testing Institute shall perform control of compliance with the duties in the use of treated sludge on agricultural soil and impose penalties for breach of these duties pursuant to Act No. 156/1998 Coll., on fertilizers, auxiliary soil substances, auxiliary plant preparations and substrates and on agro-chemical testing of agricultural land (Act on Fertilizers), as amended by Act No. 308/2000 Coll., Act No. 147/2002 Coll. and Act No. 317/2004 Coll.

Section 73b

**Regional Veterinary Authority**

**Regional Veterinary Authority**

a) is a body that issues a binding statement<sup>45a)</sup> regarding granting of consent to operate a facility for processing of biologically degradable wastes pursuant to Section 14 (1), if animal products will be treated there as well, and

b) shall inspect handling with animal products and impose sanctions for breaching of requirements pursuant to Section 66 (6).

Section 74

**Ministry of Health**

The Ministry of Health shall

a) execute supreme state supervision and direct the execution of state administration in the area of protection of public health in waste management,

b) authorize legal persons or natural persons to evaluate the hazardous properties of waste, prolong the term of this authorization and withdraw this authorization pursuant to Section 7 and Section 8.

Section 75

**Bodies for Protection of Public Health**

The bodies for protection of public health shall

- a) be the affected administrative authority in decision-making on matters concerning the interests protected pursuant to this Act in the area of protection of human health,
- b) evaluate and control health risks and issue professional standpoints from the viewpoint of protection of human health on proposals related to waste management, particularly on recovery, treatment and disposal of waste,
- c) cooperate with other administrative authorities in the area of protection of human health in waste management,
- d) express their standpoint on operational rules for recovery, disposal, collection or purchase of waste.

## Section 76

### **Inspection**

#### (1) The Inspection

- a) shall control how legal persons, natural persons authorized to operate a business and municipalities comply with the provisions of the legal regulations and decisions of the Ministry and other administrative authorities in the waste management sector and whether the authorized persons comply with the set manner of evaluation of the hazardous properties of wastes,
- b) at least once annually, shall control how the generator of waste from the production of titanium dioxide complies with the provisions of the legal regulations and decisions of the Ministry and other administrative authorities in the waste management sector,
- c) shall impose fines on legal persons and natural persons authorized to operate a business for breach of the set duties pursuant to Section 66 (2) to (5); simultaneously, in a separate decision, it may stipulate measures and deadlines for ensuring a remedy,
- d) may suspend the validity of a certificate of absence of hazardous properties of waste issued by an authorized person or withdraw the certificate pursuant to Section 9 (3) and (4),
- e) shall give instigations to the Ministry for execution of the supreme state supervision,
- f) shall give instigations to a regional authority to prohibit the operation of a facility for disposal of waste if the operator of the facility does not comply with the legal regulations concerning waste management and if this could result in serious environmental harm,
- g) shall control whether the persons using excavated soil, gangue or sediments from river courses or water reservoirs as a material for filling underground areas and land surface modifications have documents certifying, pursuant to the implementing regulation, that the excavated soil, gangue or sediment from river courses or water reservoirs complies with the pollution limit values for their use for filling underground areas and land surface modifications (terrain

modifications); it may take samples thereof and control the actual concentrations of harmful substances, whose pollution limit values are stipulated in an implementing regulation.

h) shall inspect whether the waste containing persistent organic pollutants is handled in accordance with the directly applicable regulation of European Communities on persistent organic pollutants<sup>30a)</sup> and pursuant to this Act,

**i) may forbid, until the required corrective actions are taken, placing of batteries and accumulators on the market or into circulation, if these batteries and accumulators fail to fulfil requirements stated in division 4, head 3 of this Act or postpone placing of such batteries and accumulators on the market or into circulation; in case of human health jeopardy or environmental hazard it may further impose on a producer of batteries and accumulators not fulfilling requirements stated in division 4, head 3 of this Act, a duty to ensure taking of these batteries and accumulators back from the market,**

**j) shall decide on corrective actions and measures to be taken in relation to vehicles and loads carried in cases where customs authorities ordered interruption of transport and pulling vehicles over to the designated place,**

**k) shall impose a penalty on physical persons for behaving explicitly indicated as an offence pursuant to this Act.**

(2) In the framework of transborder shipment of waste, the Inspection shall be authorized to perform control at the place of generation of the waste, at the notifier and the consignee ~~and at border crossings~~. It shall also be authorized to perform control of documents pursuant to the legislation of the European Communities on the supervision of shipments of waste within, into and out of the European Community<sup>39)</sup> and pursuant to this Act and physical control of waste, and take and analyze samples.

(3) The Inspection shall cooperate with the municipal authorities, bodies for protection of the public health, customs authorities, the Fire Rescue Service, the Police of the Czech Republic and territorial financial bodies and other administrative authorities, regions and municipalities, and provide them with professional assistance.

(4) The tasks of the Inspection shall be carried out by inspectors. Inspectors shall prove their identity in control work using Inspection identity cards.

## **Section 76a**

### **Czech Commercial Inspection**

**(1) Czech Commercial Inspection shall**

a) inspect performance of duties related to placing of electrical and electronic equipment on the market or into circulation, its labelling and reuse, as well as methods of stating the separate costs pursuant to Section 37n (3),

b) inspect whether the electrical and electronic equipment placed on the market after June 30<sup>th</sup>, 2006 fulfils requirements stated in Section 37j, (3),

c) inspect performance of duties related to placing of batteries and accumulators on the market or into circulation, their labelling and collection by persons who place batteries or accumulators on the market or into circulation by their selling to end-users; These persons are obliged to demonstrate means of fulfilling their obligations in the field of collection of used batteries and accumulators, if asked to do so,

d) inspect collection by persons who place some products pursuant to Section 38 (1) on the market or into circulation by their selling to end-users; These persons are obliged to demonstrate means of fulfilling their obligations in the field of collection of used products, if asked to do so.

(2) While carrying out inspections, the Czech Commercial Inspection shall proceed in accordance with special regulations.<sup>45b)</sup>

#### Section 77 Customs Bodies

(1) The customs authorities and customs directorship<sup>46)</sup> shall

a) control domestic and transborder shipment of waste,

b) control import of batteries or accumulators from non-Member States of the European Union,

c) give instigations to the Ministry for execution of the supreme state supervision,

d) impose remedial measures in cases of violation of obligations related to the transport of wastes.

e) collects and imposes fees; in this relation they shall proceed in accordance with the special regulations<sup>35)</sup> if not stated otherwise by this Act,

f) inspect whether the electrical and electronic equipment placed on the market fulfils requirements stated in Section 37j (3).

(2) The customs authorities **and customs directorship** shall control whether the ban set forth in ~~Section 31 (5)~~ **Section 31 (1)** is not breached in import of batteries or accumulators and whether the imported goods are labelled pursuant to ~~Section 31 (2)~~ **Section 31 (c)**.

(3) In domestic shipment of hazardous waste, the customs authorities **and customs directorship** shall control whether the waste is accompanied by documents pursuant to this Act and implementing regulations and whether the waste corresponds to the information stated in the documents.

(4) In transborder shipment of waste, the customs authorities **and customs directorship** shall also control

a) whether the waste is accompanied by documents pursuant to the legislation of the European Communities on the supervision of shipments of waste within, into and out of the European Community<sup>39)</sup>, this Act and implementing regulations,

b) whether the waste corresponds to the data stated in the accompanying documents pursuant to the legislation of the European Communities on the supervision of shipments of waste within, into and out of the European Community<sup>39)</sup>, this Act and implementing regulations,

c) that the shipped goods that are not accompanied by documents required for shipment of goods are not waste,

d) that the transborder shipment of waste is not at variance with the legislation of the European Communities on the supervision of shipments of waste within, into and out of the European Community<sup>39)</sup> and this Act.

(5) In performing control pursuant to paragraphs 3 and 4 above, the customs authorities **and customs directorship** shall be authorized to stop vehicles, order that a vehicle is parked at a suitable place, control documents accompanying the waste and goods, documents proving the identity of the person shipping the waste, perform physical control of the waste and goods, take and analyze samples and draw up photographic documentation.

(6) ~~If the customs authorities ascertain~~ **If the customs authorities and customs directorship have gained a reasonable suspicion** during control of shipment of waste that the legislation of the European Communities on the supervision of shipments of waste within, into and out of the European Community<sup>39)</sup> or this Act has been violated, they shall be authorized, within the proceedings, to perform investigation also at the place of generation of the waste on the premises of the waste generator, holder or notifier and at the place of destination on the premises of the final consignee.

(7) ~~If the customs office ascertains~~ **If the customs authorities and customs directorship have gained a reasonable suspicion** that the cross-border transportation is an illegal traffic of waste pursuant to Article 26 of Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community<sup>39)</sup> or that the cross-border transportation of waste is implemented at variance with the permit, it may order that the transportation be interrupted and the vehicle placed on a site intended therefor.

(8) ~~In case of breach of regulations specified in paragraph 7 above, the customs office may stipulate a deposit in an amount from CZK 10 000 to CZK 50 000.~~

~~(9) If the driver, who shall always represent the carrier for the purposes of collection of deposits during control<sup>47)</sup> fails to provide the required deposit, the customs offices shall be authorized to order that the driver park the vehicle at the nearest place that is suitable from the viewpoint of safety and smoothness of traffic, seize the documents for the vehicle and the load from the driver and prohibit the driver from continuing his journey. The costs connected with driving the vehicle to the parking place shall be borne by the carrier. This shall in no way prejudice the liability of the carrier for the vehicle, load and transported persons.~~

~~(10) The driver of the vehicle may continue his journey after paying the required deposit by the driver or carrier, or after payment of a fine to the Inspection. The seized documents shall be submitted to the driver at the place of payment of the deposit or fine.~~

~~(11) Upon collection of the deposit, the customs offices shall be obliged to submit to the driver a receipt of acceptance of the deposit, draw up four counterparts of a protocol on the ascertained breach and advise the carrier that (s)he is obliged to provide the Inspection with his/her standpoint in the Czech language on the relevant matter at the latest within two weeks. One counterpart of the protocol shall be submitted to the driver of the vehicle, the other shall be retained by the customs office and the remaining two counterparts, together with the deposit and the documents for the vehicle and the load, shall be delivered to the Inspection within the jurisdiction of the customs office at the latest on the following working day. In an implementing regulation, the Ministry shall stipulate the form of the receipt on acceptance of the deposit.~~

~~(12) The document on acceptance of the deposit shall be issued in the Czech language. The document on acceptance of the deposit must specify the place of the administrative proceedings on the fine.~~

~~(13) The vehicle that has been immobilized and parked by the customs offices on the designated parking lot shall be handed over to the carrier after payment of the required deposit or after payment of the fine imposed by the Inspection for the commitment of the administrative tort during control activities by the customs offices.~~

~~(14) The proceedings concerned with the deposit shall be held in the Czech language.~~

~~(15) The proceedings on imposing of a fine pursuant to paragraph 10 above may be commenced within one year of the day when the Inspection learnt of the breach of the relevant obligations, however, not later than three years of the day when the breach of obligations occurred.~~

**(8) Costs on immobilization and parking the vehicle on the designated parking lot, especially costs on driving to the parking lot, parking of the vehicle and possible unloading/loading, storage or other handling with goods, shall be covered by the carrier. Customs authority and customs directorship shall not be held liable to any defects resulting from immobilization and parking of the vehicle on the designated parking lot pursuant to paragraphs 5 and 7. Provisions of special regulations on liability to defects caused by illegal or incorrect administration proceeding<sup>48)</sup> may be applied.**

~~(16)~~ **(9)** The customs authorities **and customs directorship** shall promptly notify the Ministry and the Inspection of the ascertained violation of the legislation of the European Communities on the supervision of shipments of waste within, into and out of the European Community<sup>39)</sup> or this Act in shipment of wastes.

~~(17)~~ **(10)** The customs authorities shall not release the goods to the proposed procedure pursuant to the special legal regulation,<sup>47)</sup> if

a) goods that are not declared as waste are waste,

b) goods declared as waste are not accompanied by documents pursuant to the legislation of the European Communities on the supervision of shipments of waste within, into and out of the European Community<sup>39)</sup> and pursuant to this Act and implementing regulations, or the waste does not correspond to the information stated in these documents,

c) exportation of goods declared as waste to non-Member States of the European Union or importation of these goods from these States is prohibited, or

d) importation of batteries or accumulators from non-Member States of the European Union breaches the ban stipulated in Section 31 (5) or batteries or accumulators are not labelled pursuant to Section 31 (2).

~~(18)~~ **(11)** In control pursuant to the previous paragraphs, customs authorities **and customs directorship** may request professional assistance from the Inspection.

~~(19)~~ **(12)** In case of doubt as to whether or not the shipped goods are waste, the customs authority **and customs directorship** shall request that the decision be made by the regional authority that is locally competent pursuant to the place of the control.

~~(20)~~ **(13)** ~~If the customs authority makes a decision on not releasing the goods to the proposed procedure pursuant to paragraph 13 above, the relevant natural and legal persons shall be obliged to promptly export the waste back to the non Member State of the European Union. The customs authorities shall promptly notify the Ministry of not releasing the goods to the proposed procedure pursuant to paragraph 13 above.~~

**(13)** Customs authority shall promptly notify the Ministry of not releasing the goods to the proposed procedure pursuant to paragraph 10 above.

~~(21)~~ **(14)** ~~The Ministry of Finance~~ **General Customs Directorship** shall provide the Ministry, **Inspection and Czech Commercial Inspection** with information from its records and information systems concerning waste exported from the Czech Republic to non-Member States of the European Union or imported from these countries to the Czech Republic, and also concerning batteries or accumulators, **as well as other products to which the obligation of**

**collection applies**, imported to the Czech Republic from non-Member States of the European Union.

~~(22)~~ **(15)** The Ministry shall give instructions to the General Directorate of Customs to perform controls pursuant to the special legal regulations.

~~(23)~~ **(16)** Fines imposed by the Inspection and forfeited deposits shall be an income for the State Environmental Fund.

## Section 77a

### **Police of the Czech Republic**

~~(1)~~ The Police of the Czech Republic shall

~~a) within border control and in the zone of 25 km from the state border<sup>48b)</sup> record and, where possible, document suspicious phenomena and circumstances indicating illegal cross border transport of waste to the Czech Republic,~~

~~b) submit instructions to the bodies of the Inspectorate and customs offices for the performance of remedial measures,~~

~~c) cooperate and, within collaboration, provide professional assistance and appropriate conditions for the bodies of the Inspectorate and customs offices.~~

**(1) The Police of the Czech Republic shall**

**a) monitor and if possible also document suspicious phenomena and circumstances indicating illegal cross border transport of waste to the Czech Republic,**

**b) submit instructions to bodies of the Inspection and Customs authorities for the performance of remedial measures,**

**c) cooperate and, within collaboration, provide professional assistance for the bodies of the Inspection and Customs authorities,**

**d) provide professional assistance for the bodies of Inspection during inspections of performance of duties in the field of waste management.**

(2) Within its collaboration and in obtaining information required for the performance of the tasks pursuant to paragraph 1 above, the Police of the Czech Republic shall proceed and exercise authorization pursuant to the applicable regulations.<sup>48c)</sup>

(3) In the performance of the tasks pursuant to paragraph 1 above, the Police of the Czech Republic may request professional assistance from the bodies of the Inspectorate or customs offices.

## Section 78

### Regions

(1) A region shall

- a) draw up a waste management plan of a region for its jurisdiction within the scope stipulated by this Act; make amendments to the plan,
- b) send a copy of the approved waste management plan of a region to the Ministry,
- c) promulgate in a generally binding edict of the region the binding part of the waste management plan of a region and amendments thereto,
- d) state its comments on the draft Waste Management Plan of the Czech Republic.

(2) The regional authority

~~a) shall grant its consent to operate a facility and to the plan of modification of a landfill; it may bind the consent on certain conditions;~~

**a) shall grant consent to operate a facility and to the plan of modification of a landfill and carry out its own survey to verify information stated in the application submitted by the applicant as well as verification of performance of duties and obligations set for initiation of operation of particular landfill phases; granting of the consent may be dependant on specific conditions and requirements to be fulfilled by the applicant; as for the decision on approval of operation of the facility for treatment of biologically degradable waste, in which the animal product is processed, it is dependant on statement (decision) by the regional veterinary administration,**

b) shall control how legal persons, natural persons authorized to operate a business and municipalities comply with the provisions of the legal regulations and decisions of the Ministry and other administrative authorities in the waste management sector and whether the authorized persons comply with the set manner of evaluation of hazardous properties of wastes,

c) shall grant the consent to mixing of hazardous wastes with other hazardous wastes or with other wastes; it may bind the consent on certain conditions,

~~d) shall impose through a decision on the waste generator the duty to pay a fee for depositing waste in a landfill if the waste generator failed to pay this fee within the set deadline;~~

**d) on the basis of the fee report and verification of information decisive for calculation of advance payments of fees it shall decide on amount of the advance payment and quarterly or monthly instalments, through an advance payment order, pursuant to Section 47 (2) and on the basis of the fee statement and verification of information decisive for calculation of settlement of the advance payments it shall decide on amount of the fee for the previous**

**calendar year and its settlement towards advance payments already reimbursed, through an annual settlement pursuant to Section 47 (6),**

e) shall stipulate the period and conditions of maintenance of a landfill after cessation of its operation, reclamation and decontamination pursuant to Section 52,

f) shall draw up and continuously keep records of consents granted by it and other decisions issued pursuant to this Act,

g) shall make decisions on appeals against decisions of municipal authorities of municipal authorities of municipalities with extended competence,

h) shall make decisions in case of doubt as to whether a movable thing belonging to a waste category stipulated in Annex No. 1 to this Act is considered to be waste, on the basis of a proposal of the owner of the movable thing, **of its originator** or of the administrative authority that holds the proceedings during which this issue was raised or that requires a decision on this issue for its further activities, **in case of transborder shipping of movable assets, it shall decide on the basis of a proposal of administrative body, not later than within three days.**

i) shall grant its consent to manage hazardous waste pursuant to Section 16 (3) in a quantity exceeding one hundred tons of hazardous waste per annum; it may bind the consent on certain conditions,

j) shall grant its consent to waiver of separation or separate accumulation of waste pursuant to Section 16 (2) to the waste generator who manages waste in a quantity exceeding 100 tons of hazardous waste per annum. It may bind the consent on certain conditions,

k) shall grant its consent to waiver of separation or separate accumulation of waste pursuant to Section 18 (2). It may bind the consent on certain conditions,

l) shall grant its consent to disposal of a special escrow account and to withdrawal of the financial reserve pursuant to Section 50 (2) and Section 51 (1), (2) and (3). It may bind the consent on certain conditions,

m) may prohibit the operation of a facility for disposal of waste if the operator of the facility does not comply with the conditions stipulated in the special legal regulations for waste management and if this could result in serious environmental harm,

n) may limit or prohibit the operation of a facility for management of waste from the production of titanium dioxide if monitoring of environmental components shows acute toxicity exceeding the limit values stipulated in an implementing regulation or a different deterioration of the state of the environment, which is as serious as the aforementioned excess of the limit values,

o) may suspend the validity of a certificate of absence of hazardous properties of waste issued by an authorized person or withdraw the certificate pursuant to Section 9 (3) and (4),

~~p) shall keep, regularly update and publish the list of persons licensed to treat end-of-life vehicles, complete the information system for monitoring of flow of selected end-of-life vehicles by means determined in an implementing regulations~~

**p) shall keep, regularly update and publish, on the public administration website or by other appropriate means, the list of facilities operated pursuant to Section 14 (1), Section 14 (3) and facilities for storage of waste in its administrative area and shall complete information system for monitoring of flow of the selected end-of life vehicles by means determined in an implementing regulations,**

r) shall state its comments on the draft waste management plan of a waste generator,

~~s) shall control that the landfill operators pay fees for depositing waste in landfills,~~

~~t) shall impose through a decision on the operator of a landfill the duty to pay the collected fee for depositing waste on the landfill, if (s)he has failed to levy this fee within the set deadline to the recipient.~~

**s) shall impose through a decision on the operator of a landfill the duty to eliminate emergency condition or remove consequences of accident,**

**t) shall impose, on legal persons and physical persons authorized to carry out business activities, a duty to pay a penalty for breaching their obligations pursuant to Section 66, paragraphs 3 and 4, and at the same time it may determine corrective actions to be taken and deadlines for remedy, through a separate decision**

**u) shall enforce its opinion to principles of territorial development,**

v) shall decide pursuant to Article 7, paragraph 4, subparagraph b) of the directly applicable regulation of European Communities on persistent organic pollutants<sup>30a)</sup>, and at the same time it may determine special conditions to be fulfilled. It shall inform the Ministry about each decision made by April 30<sup>th</sup>, of each calendar year.

**w) shall decide, in case of any doubts, whether the objective facility is a facility pursuant to Section 14 (1) or Section 14 (3), based on a proposal by the owner or operator of the facility or the administration body who executes proceeding in which this question appeared or who needs this decision for further proceeding in the objective matter.**

(3) When assessing an application for granting a consent pursuant to paragraph 2 above, the regional authority shall evaluate particularly its compliance with the duties following from this Act and implementing regulations and compliance with the binding parts of the waste management plan of a region and the Waste Management Plan of the Czech Republic.

(4) A regional authority shall cancel or change a decision on granting the consent that falls within its competence pursuant to this Act if

a) there is a change in the conditions decisive for issuance of a decision on granting the consent, **including change in waste handling legislation,**

b) the operator of a facility for recovery, disposal, collection or purchase of wastes is not able to ensure the conditions for environmental protection stipulated in the legal regulations or if the operator of a landfill has not created a financial reserve pursuant to Sections 49 to 51 and a remedy is not provided within the set deadline, or

c) a legal regulation or a natural person authorized to operate a business, to whom the consent has been granted, repeatedly breaches the duties stipulated by this Act or repeatedly fails to fulfil the conditions, on which the consent is bound.

(5) A regional authority may cancel a decision on granting the consent that falls within its competence pursuant to this Act if a new waste manager is not appointed at the latest within 30 days of the date of cessation of activities of the waste manager and the appointment of the new waste manager is not notified to the regional authority or if the new waste manager does not meet the conditions for professional qualification.

(6) Unless this Act or a special legal regulation stipulates otherwise, a decision pursuant to paragraph 2 above shall be made by the regional authority, within whose jurisdiction the facility or activity, with which the decision is concerned, is operated or where the thing, with which the decision is concerned, is located.

(7) The activities set forth in paragraphs 2 to 5 above may be performed by employees of the competent regional authority after demonstrating their special professional qualification.<sup>48a)</sup>

## Section 79

### **Municipal Authorities of Municipalities with Extended Competence**

(1) A municipal authority of a municipality with extended competence

a) shall submit to the Ministry a proposal for classification of waste pursuant to the Catalogue of Waste pursuant to Section 5 (2),

b) shall grant its consent to management of hazardous waste pursuant to Section 16 (3), except for cases set forth in Section 78 (2) (i); it may bind the consent on certain conditions,

c) shall grant its consent to waiver of separation or separate accumulation of waste pursuant to Section 16 (2), except for cases set forth in Section 78 (2) (j); it may bind the consent on certain conditions,

d) shall keep and process records of waste and the manners of its management, end-of life vehicles and the manners of their treatment, the type, quantity and manner of treatment, recovery or disposal of waste electrical and electronic equipment, ~~equipment set forth in Section 14 (2),~~

~~accumulation sites for hazardous waste and waste collection sites and waste storage areas, carriers of waste, consents issued by it and other decisions issued pursuant to this Act, and, at request, provide information to applicants concerning the location of facilities suitable for disposal or recovery of waste generated by the applicants~~ **equipment set forth in Section 14 (3), facilities for storage of waste, waste carriers and consents issued to them regarding handling with hazardous waste pursuant to Section 16 (3) and, by request, provide information to applicants concerning facilities appropriate for disposal or treatment of waste generated by the applicants in the particular region,**

e) shall control how legal persons, natural persons authorized to operate a business and municipalities comply with the provisions of the legal regulations and decisions of the Ministry and other administrative authorities in the waste management sector and whether the authorized persons comply with the set manner of evaluation of hazardous properties of wastes,

f) if there is a danger of harm to human health or the environment or if such harm has already occurred, may provide for protection of human health and the environment at the expense of the responsible person,

g) shall impose on the operator of a facility for waste disposal, in extraordinary cases, if this is required from the viewpoint of environmental protection and if this is technically feasible for the operator, the duty to dispose of waste. The costs incurred as a consequence of this decision shall be paid by the municipal authority of the municipality with extended competence that issued the decision; the person who is responsible for this waste pursuant to this Act shall be obliged to reimburse the thus expended costs to the municipal authority of the municipality with extended competence,

h) shall impose fines on legal persons and natural persons authorized to operate a business for breach of the set duties pursuant to Section 66 ~~(2) and (5)~~ **(2) to (5)**; simultaneously, in a separate decision, it may stipulate measures and deadlines for ensuring a remedy,

i) may prohibit the waste generators from performing activities causing generation of waste if the waste generator has not provided for recovery or disposal of waste and if the waste generated as a consequence of continuation of this activity could cause environmental damage,

j) shall enforce its opinion to principles of territorial development,

k) shall ensure safe storage of wastes pursuant to Section 58 (3),

**l) shall impose a penalty to physical persons for failures pursuant to Section 69; at the same time it may set corrective actions to be taken as well as deadlines for their implementation in a separate decision.**

(2) The municipal authority of a municipality with extended competence shall cancel a decision on granting the consent that falls within its competence pursuant to paragraph 1 (b) if the person to whom the consent was granted repeatedly breaches the duties stipulated by this Act or repeatedly fails to meet the conditions, on which the consent is bound.

(3) Unless this Act or a special legal regulation stipulates otherwise, a decision pursuant to paragraph 1 above shall be made by the locally competent municipal authority of the municipality with extended competence, within whose jurisdiction the activity, with which the decision is concerned, is performed or where the thing, with which the decision is concerned, is located.

(4) A municipal authority of a municipality with extended competence shall provide its standpoint particularly

- a) on the establishment of facilities for waste disposal,
- b) in land-use and construction proceedings from the viewpoint of waste management,
- c) on the prepared changes in the production process or production that have effect on waste management,
- d) on introduction or extension of production of titanium dioxide.

(5) The standpoint pursuant to paragraph 4 above shall include assessment of the application from the viewpoint of its compliance with the duties following from this Act and implementing regulations. A standpoint shall not replace consents granted pursuant to this Act.

(6) Standpoints pursuant to paragraph 4 (a) to (d) above shall be issued by the municipal authority of the municipality with extended competence, within whose jurisdiction a facility designed for waste management is located.

(7) The activities set forth in paragraphs 1 to 4 above may be performed by employees of the municipal authority of a municipality with extended competence after demonstrating their special professional qualification.

## Section 80

### **Municipal Authority and Domain Authority**

(1) A municipal authority and domain authority shall

- a) control whether legal persons and natural persons authorized to operate a business utilize the system established by a municipality for management of municipal waste only on the basis of a written contract with the municipality and whether natural persons who are not entrepreneurs discard waste only in accordance with this Act,
- b) impose fines on legal persons and natural persons authorized to operate a business for breach of the duties pursuant to Section 66 (1); simultaneously, in a separate decision, they may stipulate measures and deadlines for ensuring a remedy,

c) impose on natural persons fines for misdemeanors set forth in Section 69; simultaneously, in a separate decision, they may stipulate measures and deadlines for ensuring a remedy,

d) control whether legal persons and natural persons authorized to operate a business have provided for recovery or disposal of waste in accordance with this Act **and waste management plan of the Czech Republic**,

~~e) control that the landfill operators pay fees for depositing waste in landfills.~~

(2) The domain authorities shall execute public administration within the scope of Section 78 (2) (a) to (f), Section 78 (3), (4), (5) and (6), Section 79 (1) (a) to (e), (g) to (i), (k) to (n), Section 79 (2) to (7), and Section 80 (1) for the purposes of providing for defense of the State and training of military forces in the territory of a military domain<sup>49</sup>). The provisions of Sections 17 and 17a shall not apply to domain authorities and inhabitants of a military domain.

## Section 81

### **Rights and Duties of Inspectors and Authorized Employees of the Ministry and other Administrative Authorities**

(1) Inspectors and authorized employees of the Ministry and other administrative authorities and employees of the regions and municipalities assigned to regional and municipal authorities executing competence in the waste management sector shall be authorized, within the performance of their control activities

a) to the necessary extent, to enter or drive onto properties of other persons or enter buildings of other persons used for business activities or operation of other economic activities, unless this requires a permit pursuant to the special legal regulations.. Buildings important for state defense<sup>50</sup>) may be entered only with the consent of the statutory body or head of an organizational unit of the state or persons authorized by this body or head of a unit, within whose competence the building important for state defense falls. The State shall be liable for any damage caused in the performance of control activities; it cannot be relieved from this liability,

b) to request the required documents, information and written or oral explanations concerning the subject of the control,

c) to take samples and draw up photographic documentation.

(2) Inspectors and authorized employees of the Ministry and other administrative authorities and employees of the regions and municipalities assigned to regional and municipal authorities executing competence in waste management shall be obliged, within the performance of their control activities

a) to prove their identity by means of an identity card,

- b) to maintain confidentiality of facts subject to commercial or service secrecy, of which they learned in relation to the performance of their control activities,
- c) to inform the relevant operator prior to entering his premises,
- d) to respect operational, safety and other regulations concerning the activities of the operator,
- e) to draw up a protocol of the performed control,
- f) to save the property of the controlled entity.

(3) At request of the customs authorities and in their presence, the inspectors may enter places where they perform control and carry out professional control activities aimed at fulfillment of duties in the area of transborder shipment of waste following from the legislation of the European Communities on the supervision of shipments of waste within, into and out of the European Community,<sup>39)</sup> this Act and legal regulations issued for its implementation.

#### Section 81a

The competence of regional authorities, municipal authorities of municipalities with extended competence or municipal authorities pursuant to this Act shall constitute performance of delegated competence.

## **PART TWELVE**

### **JOINT AND TRANSITORY PROVISIONS**

#### Section 82

##### **Joint provisions**

(1) Unless this Act stipulates otherwise, the Code of Administrative Procedure<sup>13)</sup> shall apply to the proceedings pursuant to this Act.

(2) The consent to operation of a facility pursuant to Section 14 (1) and Section 16 (3), and standpoints pursuant to Section 79 (4) (b) to (e) shall not be issued pursuant to this Act if the issuing thereof is replaced by a procedure in proceedings on issue of an integrated permit pursuant to the Act on integrated pollution prevention and control, on the integrated pollution register and on amendment to some laws (Act on Integrated Prevention). This shall in no way prejudice other provisions of this Act.

## Section 83

### **Transitory Provisions**

(1) The term of decisions issued to date pursuant to Section 5 (2) and (5), Section 6 (1) (f) and (2), Section 7 (1), Section 11 (3) and (4), Section (15) (1) and Section 34 (1) of Act No. 125/1997 Coll., on waste, as amended, is limited to 2 years from the date of effect of this Act.

(2) A certificate of properties of waste issued pursuant to the former legal regulations shall be considered to be a certificate of absence of hazardous properties of waste pursuant to this Act.

(3) Persons who operate, as of the date of effect of this Act, a facility for disposal or recovery of waste, whose operation pursuant to Act No. 125/1997 Coll., on waste, as amended, did not require the consent of the competent state administrative body, may operate this facility after expiry of 1 year from the date of effect of this Act only with the consent to operate these facilities pursuant to this Act.

(4) Persons who pursue, as of the date of effect of this Act, collection or purchase of waste and intend to continue this activity shall be obliged to acquire the consent to operate a facility for collection or purchase of waste pursuant to this Act, at the latest within 1 year of the date of effect of this Act.

(5) The duty to appoint a waste manager pursuant to Section 15 of this Act shall also apply to the waste generator and licensed persons who have managed hazardous waste in a quantity exceeding 100 tons of hazardous waste annually during the last 2 years, also entirely or partly prior to the legal force of this Act. The waste generators and licensed persons who have managed hazardous waste in a quantity exceeding 100 tons of hazardous waste annually during the last 2 years before the legal force of this Act shall be obliged to appoint a waste manager within 3 months of the legal force of this Act.

(6) The types and quantity of waste and the manners of management thereof for the year 2001 shall be reported pursuant to the former regulations.

(7) A financial reserve for reclaiming, maintenance of a landfill and decontamination after cessation of its operation created by the landfill operator pursuant to the former legal regulations shall be considered to be a financial reserve created pursuant to this Act. An escrow account created for depositing funds within the financial reserve established by the landfill operator pursuant to Section 32 of Act No. 125/1997 Coll., on waste, as amended, shall be considered to be a special escrow account established pursuant to this Act.

(8) Proceedings on fines commenced before the date of effect of this Act shall be completed pursuant to the former regulations. Other commenced proceedings shall be completed pursuant to this Act.

(9) The Ministry shall submit to the Government for approval the draft Waste Management Plan within 1 year of the date of effect of this Act.

(10) The management of packages and packaging waste shall be governed by the former regulations, including Sections 18 and 19, Section 39 (1) (g) (h), (l) and (m) and Section 39 (3) (i) of Act No. 125/1997 Coll., on waste, as amended, until the legal force of the new statutory regulation of management of packages and packaging waste.

(11) If a duty is incurred to pay a fee for municipal waste prior to the legal force of this Act, the former legal regulations shall apply. The fee for municipal waste shall be paid (assessed) pro rata for the period until December 31, 2001. If the fee for municipal waste has been paid prior to the date of effect of this Act also for a period after the date of effect of this Act, the part exceeding the proportional part of the fee corresponding to the period until December 31, 2001 shall be considered to be an advance payment for the local fee that has not yet fallen due. If this procedure is not applicable, the relevant part of the fee shall be considered to be overpayment.

(12) The provisions of this Act shall also apply to legal relations arisen prior to the date of effect of the Act, whose subject consists in payment for accumulation, collection, shipment, separation, recovery and disposal of municipal waste from natural persons; the arising of such legal relations and the rights arising therefrom shall be governed by the former legal regulations.

## **PART THIRTEEN**

### **Change to Act on local fees**

#### **Section 84**

Act No. 565/1990 Coll., on local fees in the wording of Act No. 184/1991 Coll., Act No. 338/1992 Coll., Act No. 48/1994 Coll., Act No. 305/1997 Coll. and Act No. 149/1998 Coll., shall be amended as follows:

1. The full point at the end of letter g) in Section 1 shall be replaced by a comma and a new letter h) shall be added as follows:

"h) fee for the operation of a system of gathering, collection, transport, sorting, recovery and disposal of municipal waste."

2. A new Section 10b shall be inserted after Section 10a as follows:

#### **Section 10b**

(1) Fee for the operation of a system of gathering, collection, transport, sorting, recovery and disposal of municipal waste shall be paid by:

a) a natural person with permanent residence in the municipality; a joint representative may pay the fee for a household, the owner or manager may pay the fee for a family or apartment house; these persons are obliged to inform the municipality about the names and dates of birth of persons in respect of which the fee is paid,

b) a natural person who is the owner of a building designed or used for individual recreation in which no natural person has a permanent residence; if the ownership rights to such building are shared by more persons, the joint owners are responsible jointly and severally in the proportionate amount per one natural person.

(2) The fee is payable to the municipality in the territory of which the natural person has a permanent residence or where the building designed or used for individual recreation is located.

(3) The fee comprises:

a) an amount of up to CZK 250 per person specified under par. 1 and calendar year, and

b) an amount stipulated based on the actual costs incurred by the municipality in the previous year for the collection and transport of unsorted municipal waste, up to CZK 250 per person stipulated under par. 1 and calendar year; in a generally binding decree the municipality will stipulate the break down of costs incurred for the collection and transport of unsorted municipal waste per person.

(4) In case of a permanent residence change or change in ownership of the building designed or used for individual recreation during the calendar year, the fee will be payable in a proportionate amount according to the number of calendar months of permanent residence or building ownership in the respective calendar month. If a change occurs in a calendar month, the balance at the end of this month shall be decisive for the stipulation of the number of months."

## **Part FOURTEEN**

**repealed**

Section 85

repealed

## **PART FIFTEEN**

**Amendment to Act No. 167/1998 Coll. on habitual substances and amendment to some other acts, as amended**

Section 86

Part six of Act No. 167/1998 Coll., on habitual substances and amendment to some other acts, in the wording of Act No. 354/1999 Coll., Act No. 117/2000 Coll. and Act No. 132/2000 Coll., shall be cancelled.

## **Part SIXTEEN**

### **Amendment to Act No. 130/1974 Coll., on state administration in the water management sector, as amended**

#### **Section 87**

The last sentence in Section 24i of Act No. 130/1974 Coll. on state administration in the water management sector in the wording of Act No. 425/1990 Coll., Act No. 23/1992 Coll., Act No. 114/1995 Coll., Act No. 238/1999 Coll., Act No. 132/2000 Coll. and Act No. 240/2000 Coll., shall be cancelled.

## **PART SEVENTEEN**

### **REPEALING PROVISIONS**

#### **Section 88**

The following shall be repealed:

1. Act No. 125/1997 Coll., on waste, as amended.
2. Act No. 37/2000 Coll., amending Act No. 125/1997 Coll., on waste, as amended by Act No. 167/1998 Coll.

## **PART EIGHTEEN**

### **LEGAL FORCE**

#### **Section 89**

This Act entered into effect on January 1, 2002, except for Section 31 (5) and Section 38 (3), (4), (5), (6), (7), (8) and (9) which enter into effect on February 23<sup>rd</sup>, 2002 and Part Sixteen which enter into effect on the day of announcement. Provision of Section 38 (1) (f) shall enter into force on January 1<sup>st</sup>, 2003.

**Klaus, in his own hand**

**Havel, in his own hand**

**Zeman, in his own hand**

## Annex 1 - Categories of Waste

Code	Waste category
Q1	Production and consumption residues not otherwise specified below
Q2	Off-specification products
Q3	Products whose date for appropriate use has expired
Q4	Products spilled, lost or having undergone other mishap including any materials, equipment parts, etc. which were contaminated as a result of a mishap
Q5	Materials contaminated or soiled as a result of planned actions (e.g. residues from cleaning operations, packaging materials, containers, etc.)
Q6	Unusable parts (e.g. reject batteries, catalysts, etc.)
Q7	Substances, which no longer perform satisfactorily (e.g. contaminated acids, solvents, tempering salts, etc.)
Q8	Residues of industrial processes (e.g. slags, still bottoms, etc.)
Q9	Residues from pollution abatement processes (e.g. scrubber sledges, backhouse dusts, spent filters, etc.)
Q10	Machining/ finishing residues (e.g. lathe turnings, mill scales, etc.)
Q11	Residues from raw materials transport and processing (e.g. from mining, oil transport, etc.)
Q12	Adulterated materials (e.g. PCB-contaminated oils, etc.)
Q13	Any materials, substances or products whose use has been banned by law
Q14	Products for which the holder has no further use (e.g. agricultural, household, office, commercial and workshop discards, etc.)
Q15	Contaminated materials, substances or products resulting from remedial action with respect to land
Q16	Any materials, substances or products which are not contained in the above categories

## Annex 2 - List of Hazardous Properties of Waste

Code	Hazardous property of waste
H1	Explosiveness
H2	Oxidative ability
H3-A	High inflammability
H3-B	Inflammability
H4	Irritability
H5	Harmfulness to human health
H6	Toxicity
H7	Carcinogenicity
H8	Corrosiveness
H9	Infectiousity
H10	Teratogenity
H11	Mutagenity
H12	Ability to release very toxic or toxic gases in contact with water, air or acids
H13	Ability to release hazardous substances in the environment during disposal
H14	Ecotoxicity

### Annex 3 - Waste Recovery Operations

<b>Code</b>	<b>Waste recovery operation</b>
R1	Waste recovery in a manner similar to fuel use or in another manner for energy generation
R2	Solvent acquisition/regeneration
R3	Acquisition/regeneration of organic substances not used as solvents (including composting and other biological processes)
R4	Recycling/reclamation of metals and metal compounds
R5	Recycling/reclamation of other inorganic materials
R6	Regeneration of acids or bases
R7	Regeneration of substances used for pollution abatement
R8	Generating catalyst components
R9	Oil re-finishing or other re-uses of oil
R10	Application into land that is beneficial for the agriculture or improves environment
R11	Use of wastes obtained through the application of one of the procedures stipulated under R1 through R10
R12	Pre-treatment of waste for the application of one of the procedures stipulated under R1 through R11
R13	Storage of materials prior to the application of one of the procedures stipulated under R1 through R12, (except for temporary storage in the location where the waste was produced prior to its collection)

## Annex 4 - Waste Disposal Operations

Code	Waste disposal operation
D1	Depositing on or below the terrain surface (e.g. depositing in dump, etc.)
D2	Land treatment (e.g. biological degradation of liquid or sludge discards in soils, etc.)
D3	Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)
D4	Surface impoundment (e.g. placement of liquid or sludge discards into pits, ponds or lagoons, etc.)
D5	Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)
D6	Release into a water body, except seas/oceans
D7	Release into seas/oceans including seabed insertion
D8	Biological treatment not specified elsewhere in this Annex, which results in final compounds or mixtures that are disposed of by means of the procedures specified under D1 through D12
D9	Physico-chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures that are disposed of by means of the procedures specified under D1 through D12 (e.g. evaporation, drying, calcination)
D10	Incineration on land
D11	Incineration at sea
D12	Ultimate or permanent storage (e.g. emplacement of containers in a mine)
D13	Composition amendment or mixture prior to waste disposal using one of the procedures specified under D1 through D12
D14	Treatment of other waste attributes (except for treatment under D13) prior to their disposal using one of the procedures specified under D1 through D13
D15	Waste storage prior to its disposal through the application of one of the procedures stipulated under D1 through D14, (except for a temporary storage in the location where the waste was produced prior to the collection of a sufficient quantity)

## Annex 5 - List of Components Rendering Waste Hazardous pursuant to this Act

Code	Component rendering waste hazardous pursuant to this Act
C1	beryllium; beryllium compounds
C2	vanadium compounds
C3	hexavalent chromium compounds (VI)
C4	cobalt compounds
C5	nickel compounds
C6	copper compounds
C7	zinc compounds
C8	arsenic; arsenic compounds
C9	selenium; selenium compounds
C10	silver compounds
C11	cadmium; cadmium compounds
C12	tin compounds
C13	antimony; antimony compounds
C14	tellurium; tellurium compounds
C15	barium compounds, except for barium sulphate
C16	mercury; mercury compounds
C17	thallium; thallium compounds
C18	lead; lead compounds
C19	inorganic sulphides
C20	inorganic fluorine compounds, except for calcium fluoride
C21	inorganic cyanides
C22	the following alkaline metals and alkaline earth metals: lithium, sodium, potassium, calcium, magnesium in uncombined form
C23	acidic solutions or acids in solid form
C24	basic solutions or bases in solid form
C25	asbestos (dust and fibres)
C26	phosphorus; phosphorus compounds, except for mineral phosphates
C27	metal carbonyls
C28	peroxides
C29	chlorates

C30	perchlorates
C31	azides
C32	PCBs and/or PCTs
C33	pharmaceutical or veterinary preparations
C34	biocides and phyto-pharmaceutical preparations (e.g. pesticides, etc.)
C35	infectious substances
C36	creosotes
C37	isocyanates; thiocyanates
C38	organic cyanides (e.g. nitriles, etc.)
C39	phenoles; phenol compounds
C40	halogenated solvents
C41	organic solvents, except for halogenated solvents
C42	organohalogen compounds, except for inert polymerized materials and other substances included in this Annex
C43	aromatic compounds; polycyclic and heterocyclic organic compounds
C44	aliphatic amines
C45	aromatic amines
C46	ethers
C47	substances of explosive nature, except for substances included elsewhere in this Annex
C48	organic sulphur compounds
C49	any polychlorinated dibenzo-furan congener
C50	any polychlorinated dibenzo-p-dioxine congener
C51	hydrocarbons and their compounds with oxygen, nitrogen and/or sulphur, unless specified elsewhere in this Annex

## Annex 6

### Basic Fee Rate for Depositing Waste in Landfill

(CZK/ton)  
(calendar year)

Waste category	2002 through 2004	2005 through 2006	2007 through 2008	2009 and on
Hazardous	1100	1200	1400	1700
Municipal and other	200	300	400	500

### Basic Fee Rate for Depositing Hazardous Waste

(CZK/ton)  
(calendar year)

Waste category	2002 through 2004	2005 through 2006	2007 through 2008	2009 and on
Hazardous	2000	2500	3300	4500

### Annex 6 - Fee rate

(CZK/ ton)  
(calendar year)

	Disposal of waste by means designated by codes D1, D3, D4, D5 and D12 pursuant to Annex 4		Depositing of technological material for technical securing of landfill	Disposal of waste by means designated by codes D2 and D10 pursuant to Annex 4, except for incineration in facilities for incineration of municipal waste		Incineration of waste in facilities for incineration of municipal waste
	Municipal and other waste	Hazardous waste		Municipal and other waste	Hazardous waste	
2009-2010	700	7000	700	300	3000	200
2011-2012	1000	10000	1000	400	4000	250
from 2013	1500	15000	1500	600	6000	300

## Annex 7 - Categories of Electrical and Electronic Equipment

1. Large household appliances
2. Small household appliances
3. IT and telecommunications equipment
4. Consumer equipment
5. Lighting equipment
6. Electrical and electronic tools (with the exception of large-scale stationary industrial tools)
7. Toys, leisure and sports equipment
8. Medical devices (with the exception of all implanted and infected products)
9. Monitoring and control instruments
10. Automatic dispensers

## Annex No. 8 - Substances contained in waste of persistent organic pollutants

Substance	CAS No.	ES No.
Aldrin	309-00-2	206-215-8
Chlordane	57-74-9	200-349-0
Dieldrin	60-57-1	200-484-5
Endrin	72-20-8	200-775-7
Heptachlor	76-44-8	200-962-3
Hexachlorbenzene	118-74-1	200-273-9
Mirex	2385-85-5	219-196-6
Toxafen	8001-35-2	232-283-3
PCB (polychlorinated biphenyls)	1336-36-3 and others	215-648-1
DDT (1, 1, 1-trichloro-2,2-bis(4-chlorophenyle) ethane)	50-29-3	200-024-3
Chlordekon	143-50-0	205-601-3
Polychlorinated dibenzo-p-dioxines and dibenzophuranes (PCDD/PCDF)		
suma alfa-, beta- and gama-HCH	58-89-9, 319-84-6, 319-85-7	206-270-8, 206-271-3, 200-401-2
Hexabrombiphenyle	36355-01-8	252-994-2

## Annex 9

Producers of electrical and electronic equipment shall ensure collection and separate collection of electrical and electronic equipment placed onto or introduced in the market by them, to the following extent:

EEZ group name and sequential number	EEZ group No.	Targets to be achieved by December 31st, 2008		Targets to be achieved by December 31st, 2012	
		Minimal amount of collected electrical and electronic equipment or separately collected waste electrical and electronic equipment for each 1000 kilograms of electrical and electronic equipment placed on the market	From that the minimal share of electrical and electronic equipment collected from municipalities within the scope of collective systems for collection and sorting of municipal waste	Minimal amount of collected electrical and electronic equipment or separately collected waste electrical and electronic equipment for each 1000 kilograms of electrical and electronic equipment placed on the market	From that the minimal share of electrical and electronic equipment collected from municipalities within the scope of collective systems for collection and sorting of municipal waste
<b>1. Large home equipment</b>	1.	310 kg	60%	560 kg	60%
- from that minimal share of cooling, freezing and air-conditioning units	1.1, 1.2, 1.3, 1.4, 1.17, 1.18	280 kg	60%	280 kg	60%
<b>2. Small home equipment</b>	2.	75 kg	30%	210 kg	30%
<b>3. IT and telecommunication units</b>	3.	250 kg	60%	425 kg	60%
- from that the minimal share of monitors	-	150 kg	60%	150 kg	60%
<b>4. Consumer appliances</b>	4.	280 kg	60%	475 kg	60%
- from that the minimal share of TVs	4.2	225 kg	60%	225 kg	60%
<b>5. Lighting equipment</b>	5.	250 kg	60%	500 kg	60%
- from that the minimal share of lighting sources	5.2-5.5	50 kg	30%	50 kg	30%
<b>6. Electrical and electronic tools</b>	6.	15 kg	30%	45 kg	30%
<b>7. Toys, leisure time and sporting items</b>	7.	15 kg	30%	45 kg	30%
<b>8. Medical instruments</b>	8.	15 kg	10%	45 kg	10%
<b>9. Monitoring and inspection units</b>		15 kg	0%	45 kg	0%
<b>10. Vending machines</b>	10.	15 kg	0%	45 kg	0%
- from that the minimal share of vending machines for cold and frozen products	-	5 kg	0%	5 kg	0%

Percentual share for the particular calendar year is calculated by dividing the total weight of collected electrical and electronic equipment in the particular calendar year by average weight of electrical and electronic equipment either sold by producers to end-users or delivered to third parties with intention of further sale to end-users in the Czech Republic in the particular calendar year and in another two preceding calendar years. This procedure shall apply also to weight share calculation.

## Annex 10

### *Methods and conditions for determination of the amount of financial guarantee, documentation and information necessary for calculation of the financial guarantee*

#### **1. GENERAL PRINCIPLES**

Financial guarantee is established and kept in favour of the Ministry. The Ministry uses the financial guarantee to finance alternative handling with waste or possible return of waste to the Czech Republic if the duties pursuant to Articles 22 to 25 of the directly applicable regulations of the European Communities providing for supervision of the transport of waste in the framework of the European Communities<sup>39)</sup> are not followed by the applicant, recipient or other responsible person, at its own expense. The financial guarantee must fulfil the following requirements:

**1.1** The guarantee certificate must clearly state that it is a bank guarantee pursuant to Article 6 of the directly applicable regulations of the European Communities providing for supervision of the transport of waste in the framework of the European Communities<sup>39)</sup>.

**1.2** The bank guarantee or the amount of insurance coverage must correspond to the minimal value approved by the Ministry.

**1.3** The part of the whole financial amount shall be immediately, on the basis of notice received from the Ministry, released by the bank, without any investigation or verification procedures applied by the bank, insurance company or other financial institute. Financial amount may be, on the basis of the notice by the Ministry, in accordance with the Article 6, paragraph 7 of the directly applicable regulations of the European Communities providing for supervision of the transport of waste in the framework of the European Communities<sup>39)</sup> provided to other governmental authority as well, pursuant to Article 2, paragraph 7 of the directly applicable regulations of the European Communities providing for supervision of the transport of waste in the framework of the European Communities<sup>39)</sup>.

**1.4** If the financial guarantee is kept for a limited period, it shall be effective at least 16 months after expiration of the particular decision of the Ministry regarding transport of waste. This period may be reduced in cases pursuant to Article 9, paragraph 7 of the directly applicable regulations of the European Communities providing for supervision of the transport of waste in the framework of the European Communities<sup>39)</sup>. If the waste is transported for preparation of other proceeding, the effectiveness period of the financial guarantee must be prolonged accordingly.

**1.5** Financial guarantee in the particular amount may relate to a single notification only.

## 2. FINANCIAL GUARANTEE CALCULATION

The basic formula to calculate the financial guarantee to be established and kept in relation to notification on intention to carry out waste transport from the Czech Republic to foreign countries:

$$Z = M \times (A + T + S) (1)$$

**Z** – required amount of financial guarantee in [CZK] or [EUR]. Minimal amount of guarantee disregarding the result of calculation using the formula (1) is CZK 10.000,-

**M** – weight of waste in tons [t], to which the financial guarantee relates

**A** – price for alternative use/ disposal of one ton of waste

**T** – price for transport of one ton of waste from the facility in the place of destination back to the Czech Republic

**S** – price for storage of one ton of waste for 90 days

Parameters T, A and S are represented as [CZK × t -1], [EUR × t -1] etc. Before using these parameters in the formula (1) it is necessary to convert them to a single unit ([CZK × t -1] or [EUR × t -1]) based on the current exchange rate announced by the Czech national bank at the time of submission of the notice or at the time of calculation.

## 3. DOCUMENTS AND DATA REQUIRED FOR CALCULATION OF FINANCIAL GUARANTEE

*Calculation of financial guarantee may be carried out by the applicant (notifier). For this purpose he/ she shall have available all the documents and data required for the calculation, to the extent necessary. The following documents and data shall be available:*

**3.1** Address of the facility in the Czech Republic that will carry out alternative treatment of waste in cases pursuant to Article 22 to 25 of the directly applicable regulations of the European Communities providing for supervision of the transport of waste in the framework of the European Communities<sup>39)</sup>. Such a facility shall not be a facility for preliminary use or disposal of waste pursuant to Article 2, paragraphs 5 and 7 of the directly applicable regulations of the European Communities providing for supervision of the transport of waste in the framework of the European Communities<sup>39)</sup>.

**3.2** Document demonstrating legitimacy of the facility pursuant to paragraph 3.1 to carry out alternative treatment of the waste pursuant to Section 14 of the Act or the act on integrated prevention.

**3.3 Contract concluded with the operator of the facility pursuant to paragraph 3.1, containing an obligation that the facility will ensure alternative treatment of waste or its disposal in cases pursuant to Articles 22 to 25 of the directly applicable regulations of the European Communities providing for supervision of the transport of waste in the framework of the European Communities<sup>39)</sup>; the contract shall further state information on price for alternative use or disposal of waste.**

**3.4 Transport distance between the facility of the foreign recipient of the waste and facility for alternative treatment of waste pursuant to paragraph 3.1.**

**3.5 Declaration of the facility in the foreign country regarding its ability to ensure storage of the waste in the place of destination for 90 days. Such a declaration shall cover also the price of the storage.**

**If these documents and information pursuant to paragraphs 3.1 to 3.5 are not submitted or only partially, the calculation of the financial guarantee will be carried out by the Ministry.**

*Method for determining the values „A“, „T“, „S“ and „M“ for both cases, i.e. for calculation carried out by the notifier as well as for calculation carried out by the Ministry, is described in the following paragraphs 4 to 7:*

**4. PRICE FOR ALTERNATIVE TREATMENT OF WASTE - "A" MEMBER IN THE FORMULA (1)**

**4.1 Calculation carried out by the notifier: instead of "A" member in the formula (1) use price documented pursuant to paragraph 3.3. If the positive market value is documented, apply 0 in the formula instead of "A" member.**

**4.2 Calculation carried out by the Ministry: Use a appropriate value from the following table:**

**Table 1: Determination of "A" member for the formula (1)**

<b>Method of alternative treatment of waste</b>	<b>Price in CZK/ ton</b>
<b>Storage of "O" category of waste</b>	<b>1 100*)</b>
<b>Storage of "N" category of waste</b>	<b>5 800*)</b>
<b>Incineration of waste w/o PCB and freons</b>	<b>8 000</b>
<b>Neutralization of waste sulphuric acid</b>	<b>11 000</b>
<b>Used cooling units</b>	<b>12 000</b>
<b>Dental amalgam in NO incineration facility</b>	<b>50 000</b>
<b>Incineration of freons</b>	<b>250 000</b>
<b>Incineration of waste with 50-100 ppm of PCB content</b>	<b>18 000</b>
<b>Other waste not containing Hg, PCB, PCT, freons, etc.</b>	<b>20 000**)</b>

**\*) prohibition of storage shall not apply to the objective waste**

**\*\*\*) minimal value - price shall be determined based on the waste character**

**If the Ministry decides that the waste has a positive market value, zero (0) shall be used in the formula (1) instead of "A" member.**

## 5. PRICE FOR TRANSPORT - "T" MEMBER IN THE FORMULA (1)

### 5.1 Calculation by the notifier:

Price for transport of one ton of waste is calculated using the following formula:

$$T = 10 + 0,1 \times L \quad (2)$$

10 – constant equal to [EUR × t<sup>-1</sup>]

0,1 – constant equal to [EUR × t<sup>-1</sup> × km<sup>-1</sup>]

L – distance in kilometres [km] from the waste processing facility in foreign country and the facility for alternative treatment of waste in the Czech Republic pursuant to paragraph 3.1

T – "T" value shall be calculated in [EUR × t<sup>-1</sup>].

### 5.2 Calculation by the Ministry

If the alternative treatment of waste in the Czech Republic is not well demonstrated in the documentation submitted, the formula shall be adjusted as follows:

$$T = 10 + 0,1 \times (LS + 500) \quad (3)$$

500 – constant equal to [km]

LS - distance in kilometres [km] from the waste processing facility in foreign country and facility for storage of waste in case of its return back to the Czech Republic, the address of which must be stated in the notification.

## 6. PRICE FOR STORAGE OF WASTE FOR 90 DAYS - "S" MEMBER IN THE FORMULA (1)

For both methods of calculations, the following table shall apply:

Table No. 2 - Prices for storage of waste for 90 days

Waste type	Price in CZK/ ton
Solid waste	1 000
Liquid waste	8 000

## **6.1 Calculation by the notifier**

**The notifier shall convert the value pursuant to paragraph 3.5 to CZK and compare it with the values in the table No. 2. Then the higher of the both values shall be put in the formula (1) instead of "S" member.**

## **6.2 Calculation by the Ministry**

**Value from the table No. 2 shall be used.**

## **7. AMOUNT OF WASTE TO WHICH THE FINANCIAL GUARANTEE RELATES - MEMBER "M" IN THE FORMULA (1)**

**Amount of waste in tons shall be used in the general formula for calculation of the financial guarantee. The amount of waste shall correspond either to:**

**7.1 Information on the total planned amount of waste pursuant to column 5 of the notification form, or**

**7.2 a sum of weights of so called "living shipments". Living shipment shall mean every shipment that was shipped by the notifier to the recipient, however the recipient still has not confirmed processing of the shipment. Determination of "M" member value depends on weight of particular shipments, frequency of shipments and speed of treatment of the waste by the recipient. The Ministry shall determine the appropriate condition pursuant to Article 9 of the directly applicable regulations of the European Communities providing for supervision of the transport of waste in the framework of the European Communities<sup>39)</sup>.**

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1) Council Directive of 15 July 1975 on waste (75/442/EEC).

Council Directive of 18 March 1991 amending Directive 75/442/EEC on waste (91/156/EEC).

Council Directive of 16 July 1975 on the disposal of waste oils (75/439/EEC).

Council Directive of 22 November 1986 amending Directive 75/439/EEC on the disposal of waste oils (87/101/EEC).

Council Directive of 20 February 1978 on waste from the titanium dioxide industry (78/176/EEC).

Art. 11 of Council Directive of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances (80/68/EEC).

Council Directive of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture (86/278/EEC).

Council Directive of 19 March 1987 on the prevention and reduction of environmental pollution by asbestos (87/217/EEC)

Council Directive of 18 March 1991 on batteries and accumulators containing certain dangerous substances (91/157/EEC)

Commission Directive 98/101/EEC of 22 December 1998 adapting to technical progress Council Directive 91/157/EEC on batteries and accumulators containing certain dangerous substances.

Council Directive of 12 December 1991 on hazardous waste (91/689/EEC ).

Council Directive of 23 December 1991 standardizing and rationalizing reports on the implementation of certain Directives relating to the environment (91/692/EEC)

Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT).

Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste.

Council Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles.

1a) Act No. 17/1992 Coll., on the environment, as amended.

2) Act No. 138/1973 Coll., on waters (the Water Act), as amended.

3) Act No. 44/1988 Coll., on the protection and utilization of mineral resources (the Mining Act), as amended.

4) Act No. 539/1992 Coll., on hallmarking and precious metals testing (the Hallmarking Act), as amended by Act No. 19/1993 Coll.

5) Act No. 18/1997 Coll., on peaceful use of nuclear energy and ionizing radiation (the Atomic Act) and amending and supplementing some Acts, as amended.

6) Act No. 258/2000 Coll., on care for the health of the population, as amended.

7) Act No. 166/1999 Coll., on veterinary care and amending some related laws (the Veterinary Act), as amended.

8) Act No. 309/1991 Coll., on protection of the air and amending some other laws (the Clean Air Act), as amended.

Act No. 389/1991 Coll., on state administration in air protection and fees for pollution thereof, as amended.

8a) Act No. 100/2001 Coll., on environmental impact assessment and on amendment to some related laws (the Act on Environmental Impact Assessment), as amended.

9) Act No. 61/1998 Coll., on mining activities, explosives and the state mining administration, as amended.

10) Act No. 167/1998 Coll., on dependency producing substances and on amendment to some other laws, as amended.

Act No. 79/1997 Coll., on pharmaceuticals and amending and supplementing some related laws, as amended.

11) E.g. Act No. 258/2000 Coll., Act No. 634/1992 Coll., on the protection of consumers, as amended.

11a) Decree of the Ministry of the Environment No. 381/2001 Coll., laying down the Catalogue of Waste, List of Hazardous Waste and List of Waste for the purposes of export, import and transit of wastes and the procedure in granting consent to the export, import and transit of wastes (Catalogue of Waste).

12) E.g. Act No. 455/1991 Coll., on business in trade (the Trade Act), as amended, Act No. 513/1991 Coll., the Commercial Code, as amended, Act No. 138/1973 Coll., as amended, and Act No. 309/1991 Coll., as amended

13) Act No. 71/1967 Coll., on administrative proceedings (the Code of Administrative Procedure), as amended

13a) Act No. 18/2004 Coll., on recognizing professional qualification and other qualifications of citizens of the Member States of the European Union and on amendment to some laws (Act on Recognizing Professional Qualification), as amended

14) Section 45 of Act No. 77/1981 Coll., on health-care workers and other professional workers in health care, as amended by Act No. 425/1990 Coll.

15) E.g. Act No. 114/1992 Coll., on nature conservation and landscape protection, as amended, Act No. 289/1995 Coll., on forests and amending and supplementing some laws (the Forest Act), as amended.

16) E.g. Act No. 138/1973 Coll., as amended, Act No. 133/1985 Coll., of fire protection, as amended, and Act No. 258/2000 Coll.

17) E.g. Act No. 309/1971 Coll., as amended, Act No. 138/1973 Coll., as amended.

18) E.g. Act No. 133/1985 Coll., as amended.

19) Sections 11 and 12 of Act No. 157/1998 Coll., on chemical substances and chemical preparations, as amended.

The European Agreement Concerning the International Carriage of Dangerous Goods by Road - ADR (Geneva 1957), promulgated in the Collection of Laws under No. 64/1987 Coll.

Rules for International Carriage of Dangerous Goods by Rail (RID).

20) E.g. Act No. 138/1973 Coll., as amended, Act No. 309/1991 Coll., as amended, and Act No. 258/2000 Coll.

21) Act No. 50/1976 Coll., on land-use planning and the construction procedure (the Construction Code), as amended.

22) E.g. Act No. 229/1992 Coll., on commodity exchanges, as amended.

23) Act No. 111/1994 Coll., on highway transport, as amended.

24) Act No. 50/1976 Coll., as amended.

25) E.g. Act No. 309/1991 Coll., as amended, Act No. 389/1973 Coll., as amended.

25a) Section 10b of Act No 565/1990 Coll., on local fees, as amended.

25b) Act No. 337/1992 Coll., on administration of taxes and fees, as amended.

26) Act No. 101/2000 Coll., on personal data protection, as amended.

~~27) Section 8 of Act No. 50/1976 Coll., as amended.~~

**27) Section 36 and other provisions of Act No. 183/2006 Coll. on land-use planning and construction procedure (the Construction Code), as amended by the Act 68/2007 Coll.**

**27a) For example Act No. 183/2006 Coll. on land-use planning and construction procedure (the Construction Code), as amended by the Act 68/2007 Coll., Act No. 254/2001 Coll., on Waters (the Water Act), as amended.**

28) Act No. 309/1991 Coll., as amended. Act No. 389/1991 Coll., as amended.

29) Act No. 406/2000 Coll., on energy management

30) E.g. Act No. 111/1994 Coll., as amended, the European Agreement Concerning the International Carriage of Dangerous Goods by Road - ADR (Geneva 1957), promulgated in the Collection of Laws under No. 64/1987 Coll., the Rules for International Carriage of Dangerous Goods by Rail (RID).

30a) Directive No. 850/2004 of the European Parliament and of the Council (EC) of April 29<sup>th</sup>, 2004 on persistent organic pollutants and change of Directive 79/117/EHS, Commission Directive (EC) No. 1195/2006 of July 18<sup>th</sup>, 2006 changing Annex IV to the Directive No. 850/2004 of the European Parliament and of the Council (EC) on persistent organic pollutants.

**30b) Directive No. 2006/66/ES of the European Parliament and of the Council of September 6<sup>th</sup>, 2006 on batteries and accumulators and waste batteries and accumulators and on cancellation of the Directive No. 91/157/EHS.**

**30c) Act No. 227/2000 Coll., on electronic signature, as amended.**

**30d) Commercial Act No. 513/1991 Coll., as amended.**

**30e) Section 73, paragraph 3 of the Labor Act No. 262/2006, as amended.**

**30f) Section 116 of the Civil Act.**

**30g) Act No. 552/1991 Coll., on state inspection, as amended.**

**30h) Act No. 182/2006 Sb., on bankruptcy and its solution (Insolvency Act), as amended.**

31) Act No. 114/1992 Coll., as amended.

31a) Annex A to Act No. 56/2001 Coll., on the conditions for operation of vehicles on roadways and on amendment to Act No. 168/1999 Coll.

31b) Annex No. 1 to Decree No. 341/2002 Coll., on approval of the road worthiness and on technical conditions for operation of vehicles on roadways, as amended by Decree No. 100/2003 Coll.

31c) Section 14 of Act No. 114/1992 Coll., on nature conservation and landscape protection.

31d) Sections 2, 19 and 40 of Act No. 13/1997 Coll., on roadways, as amended.

31e) Section 2 (10) of Act No. 56/2001 Coll., on the conditions for operation of vehicles on roadways and on amendment to Act No. 168/1999 Coll., as amended by Act No. 103/2000 Coll.

**31f) Decree No. 388/2002 Coll., on determination of administrative areas of municipalities.**

**31fa) Act No. 56/2001 Sb., on conditions of operation of vehicles on land communications and on change of the Act No. 168/1999 Coll., on insurance of liability for defects caused by operation of vehicles and change of some legislations (act on insurance of liability to defects caused by vehicle operation), as amended by Act No. 307/1999 Coll.**

31g) E.g. Commission Directive 98/77/EC of 2 October 1998 adapting to technical progress Council Directive 70/220/EEC on the approximation of the laws of the Member States relating to measures to be taken against air pollution by emissions from motor vehicles; Directive 2001/1/EC of the European Parliament and of the Council of 22 January 2001 amending Council Directive 70/220/EEC concerning measures to be taken against air pollution by emissions from motor vehicles.

31h) Sections 34 and 35 of Act No. 56/2001 Coll., on the conditions for operation of vehicles on roadways and on amendment to Act No. 168/1999 Coll.

31i) Section 3 and Section 7 of Act No. 243/2001 Coll., on registration of vehicles, as amended.

31j) Act No. 388/1991 Coll., on the State Environmental Fund of the Czech Republic, as amended.

31k) Section 73 and Section 74 of Act No. 56/2001 Coll.

31l) Section 4 of Decree No. 243/2001, as amended.

31m) Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment, as amended by Directive 2003/108/EC of the European Parliament and of the Council. Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment.

31n) Section 53 of Act No 40/1964 Coll., the Civil Code, as amended.

**31na) Act No. 593/1992 Coll., on income tax reserves, as amended.**

31o) E.g. Act No. 102/2001 Coll., on general safety of products, as amended, Act No. 258/2000 Coll., on protection of public health, as amended, Act No. 634/1992 Coll., on protection of consumers, as amended, Act No. 22/1997 Coll., on technical requirements for products and amending and supplementing some laws, as amended.

31p) Section 2 of Act No. 22/1997 Coll., on technical requirements on products and amending and supplementing some laws, as amended.

31s) Act No. 76/2002 Coll., on integrated pollution prevention and control, the integrated pollution register and amending some laws (Act on Integrated Prevention), as amended by Act No. 521/2002 Coll.

31t) Act No. 86/2002 Coll., on protection of the air and amending some other laws (the Clean Air Act), as amended. Regulation (EC) No. 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer, as amended by subsequent regulations.

31u) E.g. Decree No. 184/1999 Coll., laying down the procedure for evaluation of the risk of dangerous chemical substances for human health, Decree No. 89/2001 Coll., laying down the conditions for classification of works in categories, limit values of indicators of biological exposure tests and requisites for reporting work with asbestos and biological agents.

**31v) For example Act No. 191/1999 Coll., on measures related to export, import and re-export of goods breaching some intellectual property rights, as amended.**

**31w) Section 2, subparagraph t) of the Act No. 365/2000 Coll., on information systems of public administration and change of some other legislations.**

**31x) Act No. 477/2001 Coll., on packages and change of other legislation (Act on Packages), as amended.**

32) Act No. 129/2000 Coll., on regions (the regional order).

34) Act No. 128/2000 Coll., on municipalities (the Municipal Order).

~~35) Act No. 388/1991 Coll., on the State Environmental Fund of the Czech Republic, as amended by Act No. 334/1992 Coll.~~

~~36) Act No. 337/1992 Coll., on administration of taxes and fees, as amended.~~

**35) Act No. 337/1992 Coll., on administration of taxes and fees, as amended.**

**36) Section 64 of the Act No. 337/1992 Coll., on administration of taxes and fees, as amended.**

37) Act No. 586/1992 Coll., on income taxes, as amended.

**38) For example Act No. 183/2006 Coll. on land-use planning and construction procedure (the Construction Code), as amended by the Act 68/2007 Coll., Act No. 254/2001 Coll., on Waters (the Water Act), as amended, Act No. 76/2002 Coll., on integrated prevention and change of other legislations, as amended.**

39) Directive 1013/2006 of the European Parliament and of the Council No. on waste transport, dated June 14th, 2006.

41) Section 181e (2) of Act No. 140/1961 Coll., the Criminal Code, as amended.

43) Part Six of Act No. 337/1992 Coll., as amended

44) Section 2 of Act No. 388/1991 Coll., as amended by Act No. 334/1992 Coll.

45) Act No. 200/1990 Coll., on misdemeanors, as amended.

**45a) Section 149 of the Act No. 500/2004 Coll., on administrative procedure.**

**45b) Act No. 64/1986 Coll., on Czech commercial inspection, as amended. Act No. 552/1991 Coll., as amended.**

46) Act No. 185/2004 Coll., on the Customs Administration of the Czech Republic.

47) Act No 13/1993 Coll.

**48) Act No. 82/1998 Coll., on liability to defects caused by enforcing of public authority by incorrect decision or inappropriate proceeding, as amended, and on the change of the Czech national council Act No. 358/1992 Coll., on registrars (Notary Act), as amended.**

48a) Section 72 of Act No. 129/2000 Coll.

48b) Section 2 of the Act No. 216/2002 Coll., on protection of state borders of the Czech Republic and on change of other legislation, as amended.

48c) For example Act No. 283/1991 Coll., on the Police of the Czech Republic, as amended, Act No. 216/2002 Coll., Act No. 200/1990 Coll., on violations, as amended.

49) Act No. 222/1999 Coll., on the provision for defense of the Czech Republic, as amended by Act No. 320/2002 Coll.

50) Section 29 (3) of Act No. 222/1999 Coll., on the provision of defense of the Czech Republic