

# ACT ON LIABILITY FOR PREVENTING AND REMEDYING ECOLOGICAL DAMAGES

*Prom. SG. 43/29 Apr 2008, amend. SG. 12/13 Feb 2009, amend. SG. 32/28 Apr 2009, amend. SG. 35/12 May 2009, amend. SG. 77/1 Oct 2010, amend. SG. 98/14 Dec 2010, amend. SG. 92/22 Nov 2011, amend. SG. 14/17 Feb 2012, amend. SG. 53/13 Jul 2012, amend. and suppl. SG. 62/14 Aug 2015, amend. SG. 101/22 Dec 2015, amend. SG. 58/18 Jul 2017*

## Chapter one. GENERAL PROVISIONS

### Section I. Subject, Purpose and Scope

Art. 1. This Act shall regulate the liability for prevention and remedying of ecological damages while observing "the polluter pays" principle and the principle of sustainable development.

Art. 2. The law shall determine:

1. the ecological damages and the imminent threat for appearing of such damages;
2. the authorities of the executive bodies and the rights and obligations of the operators;
3. the procedures for choice and realizing preventive and remedial measures, including consultations with the public;
4. property liability of the operators and the financial-economical organization for providing the activities for prevention and remedying of ecological damages;
5. the requirements for cooperation and exchange of information in relation to ecological damages with other states and with the European Commission.

Art. 3. The law shall apply in the cases of caused ecological damages or imminent threat for appearing of ecological damages, caused by action or inaction:

1. as a result of actions, determined in Annex N 1;
2. as a result of activities outside those, determined in Annex N 1, where the operator or a third person has acted guiltily and through this he/she has caused damages over protected species and natural habitats;
3. as a result of pollution of diffuse nature, where it is possible to be established a reasonable connection between the activity of a single operator and the imminent threat for ecological damages or the caused ecological damages of this activity.

Art. 4. (1) Ecological damages in the meaning of this Act shall be the damages over:

1. protected species and nature habitats, which cause substantial negative impact on the achieving or keeping their favourable conservation state;
2. (amend. – SG 101/15, in force from 22.12.2015) waters which cause substantial negative impact over:
  - a) the ecological, chemical and quantitative status or ecological potential of surface and underground waters under the Waters Act, except for the negative effects, where shall apply the Art. 156 f of the Waters Act, or
  - b) the state of the environment in marine waters under the ordinance of Art. 135, para. 1, item 19 of the Waters Act, so far as certain aspects of the ecological state of the marine environment are not governed by the same law;
3. soils, which create substantial risk for human health as a result of pollution through direct or

indirect bringing in, on or under the soil of substances, preparations, organisms or micro-organisms.

(2) The importance of the impact under Para. 1. p. 1 shall be evaluated on the basis state in compliance with the criteria, according to Annex N 2.

(3) The type of the preventive and remedial measures in the provided by the law cases, as well as the minimal amount of costs for their fulfillment shall be determined by an ordinance of the Minister of Environment and Waters.

Art. 5. The provisions of this Act shall not apply in the cases of:

1. caused ecological damages or imminent threat for ecological damages as a result of:

a) act of an armed conflict, actions in military zones, civil war or riots;

b) natural phenomenon of an exceptional, inevitable or irresistible nature;

c) activities, whose main purpose is to serve the national defence or international security;

d) activities, whose only purpose is defence from natural disasters;

e) a incident, in which the liability or compensation for the damages falls in the scope of an international convention, determined in Annex N 3, Section I, party of which is the Republic of Bulgaria.

f) nuclear risks and activities, covered by the Treaty, Establishing the European Atomic Energy Community or caused by an incident or activity, during which the liability or compensation for the damages are provided according to determined by Annex n 3, Section II international conventions and protocols to them;

g) perfuming activities, allowed according to Art. 31, Para. 12, p. 1 and Art. 49 of the Biological Diversity Act;

2. ecological damages, where more than 30 years have passed from the occurrence of the emissions, event or incident, which have caused these damages;

3. presence of right to compensation for damages over the health of natural persons, occurred as a result of caused ecological damages or imminent threat for ecological damages;

4. presence of right to compensation for property damages and missed benefits of natural and legal persons;

5. damages, envisaged in international agreements, party of which is the Republic of Bulgaria, for which the right to compensation is provided according to the principle of the civil liability;

6. passed ecological damages, determined under § 9 of the Transitional and Final Provisions of the Environmental Protection Act;

7. (amend. - SG, 35/2009, in force from 12.05.2009; suppl. – SG 62/15, in force from 14.08.2015) activities during declared disastrous situation under the Protection from Disasters Act, except for where the disastrous situation is a result of cases within the meaning of Art. 3.

## **Section II.**

### **Authorities of the Executive Bodies**

Art. 6. Competent bodies under this Act shall be:

1. the Minister of Environment and Waters;

2. the directors of the Regional inspectorates on environment and waters (RIEW);

3. the directors of the Basin directorates for water management

4. the directors of the national parks.

Art. 7. (1) The Minister of Environment and Waters shall:

1. issue and order for applying preventive and remedial measures in the cases, provided by the law;

2. conduct consultations with the public and operators while determining the remedial measures;

3. apply compulsory administrative measures and impose administrative punishments, provided by

the law;

4. represent the Republic of Bulgaria before other states and before the European Commission in relation to procedures, related to ecological damages;

5. provide methodical direction and control of the bodies under Art. 6, p. 2 – 4 on the application of the law;

6. inform the Minister of Health and the Minister of Foreign Affairs during suspicions of risk for the human health as a result of caused ecological damages of trans-border nature;

7. create and maintain an information system for collecting and processing of the information, needed for preparation of reports to the European Commission.

(2) The Minister of Environment and Waters shall conduct the procedures for determining preventive and remedial measures, where the imminent threat for occurring ecological damages or the caused ecological damages under Art. 4, Para. 1, p. 1 and 3 refer to the territory of 2 or more RIEWs or during an imminent threat or ecological damages under Art. 4, Para. 1, p. 2 on the territory of more than 1 region for basin management of waters.

(3) The Minister of Environment and Waters shall conduct the procedures for determining preventive and remedial measures, where the imminent threat for occurring ecological damages or caused ecological damages refer to more than one nature resource.

Art. 8. (1) The directors of RIEW, at occurring of an imminent threat or caused ecological damages under Art. 4, Para. 1, p. 1 and 3, shall:

1. perform checkups for establishing the operator and finding the imminent threat or caused ecological damages;

2. determine representatives for participation in the commission under the Law on Public Procurement in the cases under Art. 12, p. 4;

3. examine requests of representatives of the public for adopting preventive and remedial measures;

4. conduct consultations with the public and with the operators while determining remedial measures;

5. draw up proposals to the Minister of Environment and Waters for undertaking preventive and remedial measures in the cases, provided by the law;

6. issue orders for application of the preventive and remedial measures in the cases, provided by the law;

7. (amend. - SG, 98/2010, in force from 01.01.2011) notify in writing the director of the relevant Regional health inspectorate under the Minister of Health at an imminent threat of occurring ecological damages or at caused ecological damages in view to evaluate the risk for the human health.

(2) The directors of RIEW, at an imminent threat of occurring ecological damages under Art. 4, Para. 1, p. 2 of activities as a result of which waste waters are formed, shall:

1. perform checkups for establishing the operator and the imminent threat;

2. immediately inform the directors of basin directorates in the scope of the relevant region of basin management;

3. issue an order for applying preventive measures.

Art. 9. (1) Apart from the cases under Art. 8, Para. 2, the director of a basin directorate shall undertake the actions under Art. 8, Para. 1, p. 1 – 7 at occurring an imminent threat or caused ecological damages under Art. 4, Para. 1, p. 2 in the scope of the region for basin management of waters.

(2) The director of a basin directorate shall issue an order for determining the remedial measures during ecological damages under Art. 4, Para. 1, p. 2 of the activities under Art. 8, Para. 2.

Art. 10. The director of a national park shall undertake actions under Art. 8, Para. 1, p. 1 – 7 during

an imminent threat for occurring ecological damages or caused ecological damages under Art. 4, Para. 1, p. 1 on the territory of the national park.

Art. 11. (1) The executive director of the Executive Agency on environment (EAE) shall:

1. create and maintain data base at national level for:

- a) the state of the protected species and natural habitats;
- b) the ecological, chemical and/or quantity state and/or the ecological potential of the water bodies;
- c) the state of the soils;

2. provide information under p. 1 for the Ministry of Environment and Waters, RIEW, the basin directorates, with the exception of the information under p. 1, letter "b" and the directorates of national parks for implementing their functions under the law.

(2) (amend. – SG 92/11, amend. – SG 58/17, in force from 18.07.2017) The needed information under Para. 1, letter "c" for the state of the soil resources shall be given officially to the executive director of EAE by the Ministry of Agriculture, Foods and Forestry.

(3) The needed information under Para. 1, p. 1, letter "b" shall be given to the director of EAE by the directors of the basin directorates.

Art. 12. The regional governors shall:

1. assist the competent bodies under Art. 6, p. 2 – 4 within the frames of their authorities to establish the operator, who has caused the imminent threat for occurrence of ecological damages or who has caused ecological damages;

2. determine the officials for participation in checkups on site in cases of an imminent threat or caused ecological damages on the territory of the region;

3. notify the Mayor of Municipality, on whose territory are caused the ecological damages;

4. assign the application of preventive and remedial measures under the Law on Public Procurement in implementation of the orders of the Minister of Environment and Waters in the cases, provided by the law.

Art. 13. The executive bodies shall exchange information for found cases of imminent threat of ecological damages and for caused ecological damages.

Art. 14. The disputes for competence shall be solved by the Minister of Environment and Waters.

### **Section III. Public Register and Providing Information**

Art. 15. (1) The Minister of Environment and Waters shall create and maintain a public register of the operators, who perform activities under Annex N 1.

(2) The register under Para. 1 shall contain information about:

1. the name of the operator;

2. activity/s under Annex N 1 performed by the operator; short description of each activity;

3. location of the place/s where the activity is performed (if applicable);

4. contact address, including telephone N, fax, e-mail;

5. contact person;

6. the Regional inspectorate on the environment and waters, on whose territory the activity is performed;

7. the basin directorate for water management, in whose region the activity is performed.

Art. 16. (1) The executive bodies, who issue licenses, permits, and certificates for registration for performing activities under Annex n 1, shall provide to the Minister of Environment and Waters information for maintenance of the public register under Art. 15.

(2) The bodies under Para. 1 shall provide the information within the term of 60 days after the enforcement of the relevant administrative act.

Art. 17. (1) The operators, who perform the activities under Annex n 1, with the exception of the operators, who have been issued licenses, permits and certificates for registration under Art. 16, Para. 1, shall provide information to the Minister of Environment and Waters for maintenance of the public register under Art. 15.

(2) The operators under Para. 1 shall provide the information within the term of 30 days after starting the activity.

Art. 18. The operator shall be obliged to provide information, including own assessment, related to each imminent threat for ecological damages and for caused ecological damages upon request of a competent body.

Art. 19. The contents of the public register under Art. 15 and the procedure for providing the information under Art. 16 and 17 shall be determined by an ordinance of the Council of Ministers.

## **Chapter two.**

### **PREVENTIVE AND REMEDIAL MEASURES**

#### **Section I.**

##### **Preventive measures**

Art. 20. (1) The operators, as a result of whose activity the imminent threat for ecological damages has occurred, shall be obliged immediately to undertake preventive measures.

(2) Where the imminent threat for ecological damages continues to exist in spite of the undertaken measures under Para. 1, the operator shall be obliged immediately to inform in writing about the threat the relevant competent body under Art. 6, p. 2 – 4.

(3) The information under Para. 2 shall contain:

1. data about the operator;
2. the place, territorial scope and type of the ecological damages, about which there is an imminent threat to occur;
3. data from protocols with performed analyses and measurements, proving violation of the applicable emission norms and restrictions;
4. the reasons for the imminent threat for ecological damages
5. the undertaken up to the moment preventive measures by the operator, under Para. 1;
6. proposals for other preventive measures;
7. financial statement about the costs for their implementation.

(4) Within the term of 3 days from receiving the information under Para. 3, the relevant competent body under Art. 6, p. 2 – 4 or an official, authorized by him shall perform a checkup on site of the facts and circumstances, related to the imminent threat for ecological damages. If needed, he shall request from the operator additional information and shall draw up a written statement.

(5) The competent body under Art. 6, p. 2 – 4 or an official, authorized by him may issue a

prescription and/or an order for applying the preventive measures, different from those under Para. 3, p. 5 and 6.

(6) The order under Para. 5 shall contain:

1. the name of the body, which issues it;
2. data about the operator;
3. the legal and factual reasons for its issuance;
4. the preventive measures, which are to be undertaken;
5. the grounds for applying the preventive measures;
6. the term for implementation of the measures under p. 4;
7. financial statement of the costs for their implementation;
8. before which body and in what term it may be appealed;
9. the date of issuance and the signature of the official, who has issued the order.

(7) The competent body under Art. 6, p. 2 – 4 shall notify the operator about the order within the term of 3 days after its issuance.

(8) The order under Para. 5 shall be subject to appeal under the Administrative – procedure Code.

(9) The appeal of the order shall not stop its implementation.

Art. 21. (1) In case of an imminent threat for ecological damages, where the operator is not known, the competent body under Art. 6, p. 2 – 4, or an official, authorized by him, within the term of 3 days after receiving the information, shall perform a checkup on site of the facts and circumstances, related to the imminent threat for ecological damages and shall draw up a written statement.

(2) In the check up under Para. 1 may participate the relevant territorial executive bodies, on whose territory the damage has occurred in compliance with their authorities.

(3) In the cases under Para. 1, the competent body under Art. 6, p. 2 – 4 or an official authorized by him may jointly with the bodies under Para. 2 to undertake preventive measures for prevention of the imminent threat from ecological damages.

Art. 22. (1) In the cases under Art. 21, Para. 3, where the applied preventive measures are not enough for prevention of an imminent threat from ecological damages, the competent body under Art. 6, p. 2 – 4 or an official, authorized by him may produce to the Minister of Environment and Waters a proposal for applying preventive measures within the term of 3 days from drawing up the written statement.

(2) The proposal under Para. 1 shall contain:

1. the place, territorial scope and the type of the ecological damages, for which there is an imminent threat;
2. the concerned area;
3. the possible reasons for the imminent threat of ecological damages;
4. the expected consequences if the ecological damages are caused;
5. the undertaken preventive measures up to that moment;
6. proposal for other preventive measures and terms for their implementation;
7. financial statement of the costs on its implementation;
8. other circumstances and facts, related to the imminent threat of ecological damages, estimated by the competent body.

Art. 23. (1) Within the term of 10 days from receiving a proposal under Art. 22, Para. 2, the Minister of Ecology and Waters shall issue an order for applying preventive measures, which shall be published on the internet site of the Ministry of Ecology and Waters.

(2) The order under Para. 1 shall contain:

1. the name of the body, which issues it;

2. the legal and factual reasons for its issuance;
  3. the grounds for applying preventive measures;
  4. the preventive measures and the term of their implementation;
  6. the Regional governor, responsible for their implementation;
  7. before which body and what is the term for appeal;
  8. the date for issuance and the signature of the official, who has issued the order.
- (3) The order under Para. 1 shall be subject to appeal under the Administrative – procedure Code.
- (4) The appeal of the order shall not stop its implementation.

Art. 24. (1) Where the operator fails to undertake preventive measures under Art. 20, Para. 1, or from him may not be requested to cover the costs under Art. 37, Para. 2, Minister of Ecology and Waters, upon proposal of a competent body under Art. 6, p. 2 – 4 may issue an order for applying preventive measures, determined under Art. 22, and 23.

(2) Where the operator fails to undertake preventive measures under Art. 20, Para. 6, p. 4 or if from him may not be requested to cover the costs according to Art. 37, Para. 2, the Minister of Ecology and Waters shall determine by an order the Regional governor, responsible for applying the preventive measure.

Art. 25. (Amend. - SG, 98/2010, in force from 01.01.2011) The competent body under Art. 6, p. 2 – 4 shall notify in writing the director of the relevant regional health inspectorate within the term of 5 days in case of expected risk for the human health as a result of an imminent threat of ecological damages, by indicating:

1. the place, territorial scope and type of ecological damages, for which there is an imminent threat;
2. the possible reasons for the imminent threat of ecological damages;
3. the needed and/or undertaken by the moment preventive measures;
4. other circumstances and facts, related to the imminent threat of ecological damages – upon estimation.

## **Section II. Remedial Measures**

Art. 26. (1) While occurring ecological damages, the operator shall be obliged:

1. immediately to inform the relevant competent body under Art. 6, p. 2 – 4 about the caused ecological damages and to undertake all applicable measures for control, capture, remedying of the polluters and/or other factors, caused the ecological damages, in view to restriction or preventing of further ecological damages, negative impacts over human health and further affecting services from the natural resources;
2. to undertake the needed remedial measures, determined in compliance to the objectives and criteria, according to Annex N 4, approved under Art. 29 or 32.

(2) The information under Para. 1 shall contain:

1. data about the operator;
2. the place, territorial scope and type of the caused ecological damages;
3. the reasons for occurring ecological damages;
4. expected consequences from the ecological damages;
5. the applied measures up to the moment under Para. 1. p. 1;
6. other circumstances and facts, related to the caused ecological damages – upon estimation of the operator.

(3) Within the term of 10 days from causing the damages, the operator shall propose to the competent body under Art. 6, p. 2 – 4 the needed remedial measures, determined in compliance with the objectives and criteria according to Annex N 4 and a financial statement of the costs for their

implementation.

Art. 27. (1) Within the term of 3 days from receiving the information under Art. 26, Para. 2, the competent body under Art. 6, p. 2 – 4, or an official authorized by him shall perform a checkup on site of the facts and circumstances, related to the caused ecological damages and shall draw up a written statement.

(2) If needed, the competent body under Art. 6, p. 2 – 4, or an official, authorized by him shall give to the operator an obligatory prescription for taking measures for control, catching, remedying or the polluters and/or other factors, caused ecological damages, in view to restriction or prevention of further ecological damages, negative impact over human health and further affecting of services from natural sources.

Art. 28. (1) Before determining the remedial measures, the competent body may check up on site and give obligatory prescriptions, as well as to require additional information, which the operator shall produce within the term of 10 days.

(2) The competent body under Art. 6, p. 2 - 4 may require assistance also from the other central and territorial executive bodies while determining the remedial measures.

Art. 29. (1) The competent body under Art. 6, p. 2 – 4 or an official, authorized by him, within the term of 30 days from receiving the proposal under Art. 26, Para. 3 by a draft order shall determine the remedial measures, which the operator shall be obliged to implement.

(2) The competent body under Art. 6, p. 2 – 4 shall notify in writing about the draft order under Para. 1 the Regional governor of the region, on whose territory the ecological damages have been caused and shall make it public on his internet site within the term of 3 days from its drawing up. The publication shall also contain an invitation to the public to produce their recommendations and opinions. The competent body under Art. 6, p. 2 – 4 shall place at an evident place in their administration premises the draft order under Para. 1.

(3) The Regional governor shall notify in writing about the draft order under Para. 1 the Mayor of the Municipality of whose territory the ecological damages are caused, who shall make it public of the Municipality website.

(4) Recommendations and opinions may be submitted in writing with the term of 14 days from the publication of the draft order.

(5) At the preparation of the order for application of the remedial measures, the competent body under Art. 6, p. 2 – 4 shall appoint and conduct consultations with the operator for discussing and selection of the remedial measures and the costs for their application, by taking into consideration also the lawful proposals under Para. 4.

(6) Within the term of 7 days from expiry the term under Para. 4, the competent body under Art. 6, p. 2 – 4 or an official, authorized by him shall issue an order for applying the remedial measures.

(7) The order shall contain:

1. name of the body, issuing it;
2. data about the operator;
3. the legal and factual reasons for the order;
4. the concrete remedial measures and terms for their application;
5. grounds for determining the remedial measures;
6. successiveness while undertaking the remedial measures – in the cases under Art. 36;
7. financial statement of the costs for their implementation;
8. before which body and in what term it may be appealed;
9. date of issuance and signature of the official.

(8) Within the term of 3 days from issuance, the competent body under Art. 6, p. 2 – 4 shall deliver

the order to the operator and together with it, shall make it public on its internet site.

(9) The order under Para. 7 shall be subject to appeal under the Administrative – procedure Code.

Art. 30. (1) In case of factual complexity for determining the remedial measures and/or in case of needed additional analyses, the competent body under Art. 6, p. 2 0 4 or an official, authorized by him, within 14 days from receiving the proposal under Art. 26, Para. 3 shall determine a term of 6 months, in which the operator shall draw up a report for remedial measures and shall produce it to the body.

(2) The report under Para. 1 shall contain:

1. type, territorial scope and reasons for occurring of ecological damages;
2. description of the baseline condition and of the condition after occurring of the ecological damage of the natural resources and of the benefits and services from the natural resources;
3. evaluation of the caused and/or expected negative impact of the ecological damages over the natural resources and human health and the used methods for this evaluation;
4. description of the proposed remedial measures and the possible alternatives;
5. motives for the choice of the proposed measures and terms for their implementation;
6. financial report of the costs for their implementation;
7. description of the expected difficulties while implementing the measures.

(3) The operator shall provide the needed information for preparation of the report.

(4) The executive bodies, as well as the persons under Art. 21 of the Environmental Protection Act, who have the needed information for the preparation of the report shall be obliged to provide it to the operator under Chapter Two of the Environmental Protection Act.

Art. 31. (1) Within the term of 14 days after receiving the report under Art. 30, the relevant competent body under Art. 6, p. 2 – 4, or an official, authorized by him shall make an assessment of the completeness of the provided information and shall determine by a draft order the remedial measures to be implemented by the operator.

(2) In case of found lapses, the body under Para. 1 shall return to the operator the report for supplementation within the term of 30 days.

(3) Within the term of 3 days after expiry of the term under Para. 1 or 2, the competent body under Art. 6, p. 2 – 4 shall inform in writing about the draft order under Para. 1 the Regional governor on whose territory the ecological damages have been caused and shall make it public on his internet site. The announcement shall contain an invitation to the public to produce their recommendation and opinions within 14 days. The competent body under Art. 6, p. 2 – 4 shall place at an evident place in their administration premises the draft order under Para. 1.

(4) The Regional governor shall notify in writing about the draft order under Para. 1 the Mayor of Municipality, on whose territory the ecological damages have been caused.

(5) Recommendations and opinions may be submitted in writing within the term of 14 days after the publication of the draft order.

Art. 32. (1) While preparing the order for applying the remedial measures, the competent body under Art. 6, p. 2 – 4 or an official, authorized by him shall appoint and conduct consultations with the operator for discussion and choice of the remedial measures and the costs for their application, taking into consideration the lawful proposals under Art. 31, Para. 5.

(2) The body under Para. 1 shall issue an order for applying remedial measures within the term of 30 days from expiry of the 14-day term under Art. 31, Para. 3.

(3) The order shall contain the provisions under Art. 29, Para. 7. Within the term of 3 days from its issuance the relevant body under Para. 1 shall deliver the order to the operator and at the same time shall publish it on its website.

(4) The order under Para. 2 shall be subject to appeal under the Administrative-procedure Code.

Art. 33. (1) With the occurrence of ecological damages, where the operator is unknown, the competent body under Art. 6, p. 2 - 4 and Art. 12, or an official, authorized by him:

1. may undertake immediate measures under Art. 26, Para. 1, p. 1 in compliance with their authorizations;

2. within the term of 3 days from receiving the information for occurred ecological damages shall perform a check up on site.

(2) In the check up under Para. 1, p. 2 territorial executive bodies shall participate in compliance with their authorizations.

(3) For the check up under Para. 1, p. 2 a written statement shall be drawn up.

(4) The competent body under Art. 6, p. 2 – 4, within the term of 3 days from drawing up the statement under Para. 3, shall propose to the Minister of Environment and Waters the needed remedial measures for approval, in compliance with the objectives and criteria according to Annex N 4,

(5) The proposal under Para. 4 shall contain:

1. the place, territorial scope and type of the ecological damage;

2. the probable reasons for the ecological damage;

3. the consequences from the caused ecological damages;

4. the undertaken by the moment measures under Art. 26, Para. 1, p. 1;

5. conclusion about the need of additional special analyses and expertise;

6. concrete remedial measures;

7. financial report of the costs for their application;

8. other circumstances and facts, related to the ecological damages – upon consideration of the competent body.

(6) Within the term of 30 days from receiving the proposal under Para. 5, the Minister of Environment and Waters or an official, authorized by him, by a draft order shall determine the remedial measures.

(7) Minister of Environment and Waters shall notify in writing about the draft order under Para. 6 the Regional governor, on whose territory the ecological damages have been caused and shall publish it on the internet site within the term of 3 days from its issuance. The publication shall contain also an invitation to the public to produce their recommendations and opinions. The Minister of Environment and Waters shall place at an evident place in the administration premises the draft order under Para. 6.

(8) The Regional governor shall inform in writing about the draft order under Para. 6 the Mayor of Municipality, on whose territory the ecological damages have been caused.

(9) Recommendations and opinions may be produced in writing within the term of 14 days from the publication of the draft order.

(10) While preparing the order for application of the remedial measures, the Minister of Environment and Waters shall take into consideration the lawful proposals under Para. 9.

(11) Within the term of 7 days from expiry of the term under Para. 9, the Minister of Environment and Waters, or an official authorized by him shall issue an order for applying the remedial measures. The order shall contain:

1. name of the body, issuing it;

2. the legal and factual grounds for issuing the order;

3. concrete remedial measures and terms for their implementation;

4. grounds for determining the remedial measures;

5. the successiveness while undertaking the remedial measures – in the cases under Art. 36;

6. financial report of the costs for their application;

7. the Regional governor, responsible for their implementation;

8. before which body and in what term may be appealed;

9. date of issuance and the signature of the official.

(12) The order under Para. 11 shall be subject to appeal under the Administrative – procedure Code.

Art. 34. (1) Where the operator is unknown and in case of factual complexity for determining the remedial measures and/or need of additional analyses, the Minister of Environment and Waters, within the term of 14 days from receiving the proposal under Art. 33, Para. 5, shall open a procedure on assigning a preparation of a report for remedial measures under the Public Procurement Act.

(2) The preparation of the report under Para. 1 shall be assigned to experts with competence in the area of protection of habitats and protected species, and of the waters and water bodies, soils, etc, who meet the following requirements:

1. perform or are experienced in scientific and/or expert activity, including drawing up expertise, written consultations or ecological analyses etc, in the area of protection of habitats and protected species, waters and eater bodies, soils, etc.

2. are not related persons in the meaning of the Commerce Act;

3. have not been excluded from the register under Art. 83, Para. 5 of the Environmental Protection Act.

(3) The report shall contain the information under Art. 30, Para. 2 and shall be produced to the Minister of Environment and Waters not later than 6 months from the assigning.

(4) The executive bodies, as well as the persons under Art. 21 of the Environmental Protection Act, who have the needed information about the preparation of the report, shall be obliged to submit it to the Minister of Environment and Waters officially.

(5) Within the term of 14 day from receiving the report, the Minister of Environment and Waters shall make an assessment of the completeness of the information in it and shall determine by a draft order the remedial measures, which are to be applied.

(6) In case of found lapses, the body under Para. 5 shall return the report to the experts for supplementation within the term of 30 days.

(7) Within the term of 3 days after expiry of the term under Para. 5 or 6, the Minister of Environment and Waters shall inform in writing about the draft order under Para. 5 the Regional governor on whose territory the ecological damages have been caused and shall make it public on his internet site. The announcement shall contain an invitation to the public to produce their recommendation and opinions within 14 days. The Minister of Environment and Waters shall place at an evident place in their administration premises the draft order under Para. 5.

(8) The Regional governor shall notify in writing about the draft order under Para. 5 the Mayor of Municipality, on whose territory the ecological damages have been caused.

(9) While preparing the order for applying the remedial measures, the Minister of Environment and Waters shall take into consideration the lawful proposals under Para. 7.

(10) within the term of 30 days from expiry of the 14 –day term under Para. 7, the Minister of Environment and Waters shall issue and order for applying the remedial measures, which shall contain the provisions of Art. 33, Para. 1 and together with this, shall publish it on the internet site of the Ministry of Environment and Waters.

(11) The order under Para. 10 shall be subject to appeal under the Administrative-procedure Code.

Art. 35. (1) In case of caused ecological damages, where the operator fails to undertake the actions under Art. 26, Para. 1, p. 1, the Minister of Environment and Waters shall undertake actions under Art. 33, and 34.

(2) In cases of caused ecological damages, where the operator fails to fulfill the obligations under Art. 26, Para. 1, Art. 27, Para. 2 and Art. 30, or if it is not possible to require from him to cover the costs

under Art. 37, Para. 2, the Minister of Environment and Waters may undertake actions under Art. 33 and 34.

(3) In case of caused ecological damages, where the operator fails to fulfill the obligations, provided for in order under Art. 29, Para. 7 and Art. 32, Para. 2, or if it is not possible to require from him to cover the costs under Art. 37, Para. 2, the Minister of Environment and Waters shall determine by an order the Regional governor, responsible for the application of the remedial measures.

Art. 36. (1) The operator shall be considered as unknown by the time he is established with a written statement by the competent body under Art. 6, p. 2 - 4.

(2) Within 14-day term from establishing the operator under Para. 1, the Minister of Environment and Waters shall issue an order, which shall contain:

1. name of the body, issuing it;
2. data about the operator;
3. the lawful and factual grounds for issuing the order;
4. the remedial measures, which have not been fulfilled by the moment of establishing the operator, as well as the terms for their implementation;
5. grounds for the remedial measures under p. 4;
6. successiveness while undertaking the remedial measures – in the cases under Para. 6;
7. financial report for the costs for implementation of the measures under p. 4 and of the undertaken ones by the moment of establishing the operator;
8. before which body and in what term may be appealed;
9. the date of issuance and signature of the official.

(3) Where the unknown operator has been established, after the remedial measures have been implemented under Art. 33, Para. 11, the order under Para. 2 shall not contain the provisions under p. 4 – 6.

(4) Within 7 day term after its issuance, the Minister of Environment and Waters shall deliver the order to the operator and at the same time shall publish it on the internet site of the Ministry of Environment and Waters

(5) The orders under Para. 2 and 3 shall be subject to appeal under the Administrative – procedure Code.

(6) In the cases several ecological damages of caused, where it may not be guaranteed simultaneous undertaking of remedial measures with the order for their application, the competent body shall determined their successiveness according to the nature, level, importance of the occurred ecological damages and the possibilities for natural recovery, while taking into consideration the risk of the human health.

### **Chapter three.**

#### **PROPERTY LIABILITY. FINANCIAL AND ECONOMICAL ORGANIZATION**

Art. 37. (1) The costs for applying preventive and remedial measures, as well as measures under Art. 26, Para. 1. p. 1, including the costs for assigning additional analyses, shall be on the account of the operators, as a result of whose activity the imminent threat for ecological damages has occurred or ecological damages have been caused, with the exception of the cases under Para. 2.

(2) The costs under Para. 1 shall not be on the account of the operator, if he/she proves that the imminent threat for ecological damages or the caused ecological damages have been:

1. caused by a third person, in spite of the operator's undertaking of all appropriate safety measures;
2. as a result of observation of an obligatory prescription, issued by an executive body, with the exception of a prescription, issued after an emission or an incident, caused by the activities of the operator himself.

(3) Where the operator have spent the costs under Para. 1 in the cases under Para. 2, p. 1 and 2, they

may require reimbursement of the costs made.

Art. 38. (1) Where the imminent threat or ecological damage is in a reasonable connection with the activity of 2 or more operators, they shall be liable in solidarity about the costs under Art. 37, Para. 1.

(2) The provisions of the law do not restrict the regress claims among the operators under Para. 1, as well as other civil right claims of the operator against other persons.

(3) In cases of occurred imminent threat for ecological damages or caused ecological damages in case of successive operators, liable shall be the last operator, where he/she shall have the right to a regressive claim against the rest of the operators.

Art. 39. (1) An operator, who has fail to fulfill his obligations, envisaged by the orders under Art. 20, Para. 5, Art. 29, Para. 6 and Art. 32, Para. 2, and an operator, who has been unknown by the moment of determining the preventive and remedial measures and the measures under Art. 26, Para. 1, p. 1, or a third person under Art. 37, Para. 2, p. 1 shall be obliged to recover the costs for applying the measures to the relevant executive body.

(2) The receivables of the executive body of costs on applying preventive and remedial measures shall have the right to preferable satisfaction before the receivables under Art. 136, Para. 1, p. 6 of the Obligations and Contracts Act, respectively before the receivables under Art. 722, Para. 1, p. 6 of the Commerce Act.

(3) The prescription starts to run from the date, on which the preventive and remedial measures and the measures under Art. 26, Para. 1, p. 1 have been finalized or from the date, on which the liable operator or the third person under Art. 37, Para. 2, p. 1 has been identified, depending on which of the two events is the later one.

Art. 40. (1) The owed sums under Art. 39, Para. 1 shall be deposited in the budget of the executive body, which has paid the costs under Art. 37, Para. 1.

(2) (Amend. - SG, 77/2010) Performing the activities of the executive bodies under the law shall be funded by the state budget, where with the Act on the State Budget for the relevant year shall be provided funds under the budget of the Ministry of Environment and Waters and the Council of Ministers.

Art. 41. (1) (Amend. - SG, 12/2009, in force from 01.01.2010) The claims of the executive body for costs on application of preventive and remedial measures under this Act shall be public and shall be collected with the interests and costs on their collection by the National Revenue Agency under the Tax-Insurance Procedure Code.

(2) The Minister of Environment and Waters or an official, authorized by him shall issue and act for establishing a public state claim under Para. 1.

Art. 42. The executive body may decide not to recover the spent funds, where the costs on the recovery will be larger than the sum, which will be recovered.

Art. 43. (1) The operators, performing activities under Annex N 1 shall provide financial implementation of the preventive and remedial measures in the provided by the law cases by at least one of the following ways:

1. (In force from 01.01.2011) the insurance bill;
2. bank guaranty;
3. mortgage over an immovable properties and/or property rights over them;

4. security over claims, movable items or securities.

(2) (In force from 01.01.2011) The operators, performing activities, according to Annex N 1 may produce to the Ministry of Environment and Waters an insurance bill in favour of the Ministry of Environment and Waters for covering the risk of occurring imminent threat or an ecological damage within 7 day term from signing the insurance contract.

(3) (In force from 01.01.2011) The amount of the insurance bill under the insurance contract shall not be smaller than BGN 50 000.

(4) In case of occurring an imminent threat or caused ecological damage, where no insurance contract has been signed the operator shall produce to the Ministry of Environment and Waters a guaranty under Para. 1, p. 2 – 4, of the amount of the costs for preventive and remedial measures, determined by the orders under Art. 20, Para. 5, Art. 29, Para. 6 and Art. 32, Para. 2.

Art. 44. (1) The guaranty under Art. 43, Para. 1, p. 2 - 4 shall be produced within 7-day term from the announcement of the orders under Art. 20, Para. 5, Art. 29, Para. 6 and Art. 32, Par. 2.

(2) The bank guaranty shall be established for the term, determined by the orders under Para. 1.

Art. 45. (1) The guaranties under Art. 43, Para. 1, p. 2 – 4 shall be realized by the Ministry of Environment and Waters in cases of:

1. failure to implement, delayed or bad implementation of the preventive and remedial measures, determined by the orders under Art. 20, Para. 5, Art. 29, Para. 6 and Art. 32, Para. 2;
2. insolvency of the operator.

(2) At the occurrence of the circumstances under Para. 1, the Ministry of Environment and Waters shall have the right to request payment of the insurance guaranty.

Art. 46. (1) The bank guaranty shall be liberated, and the entry of the mortgage or security shall be deleted within 10 day term after the final adoption of the performed measures under the relevant procedure.

(2) In case that within the term under Para. 1 the guaranteed are not liberated/deleted, the operator may undertake actions on their liberation.

#### **Chapter four.**

#### **REQUEST FOR UNDERTAKING ACTIONS**

Art. 47. (1) Any natural or legal person, who has been affected or is possible to be affected by ecological damages, or has sufficient interest at taking decision for removing ecological damages or claims, that his right has been violated, may request from a competent body under Art. 6, p. 2 – 4 to initiate a procedure for determining and applying remedial measures.

(2) For non-governmental nature-protecting organizations proof of the circumstances under Para. 1 shall not be required.

(3) The person under Para. 1 shall submit an application, which contain the following data:

1. correspondence address;
2. place, territorial scope and type of the caused ecological damages;
3. data about the operator, who has caused ecological damages, if he/she is known;
4. real or supposed reasons for the occurrence of the ecological damages;
5. violated right of the applicant or sufficient interest while taking the decision for removing the ecological damages;
6. evident and/or supposed consequences from the ecological damages;
7. recommendations for undertaking the relevant remedial measures, if the person has such;

8. other circumstances and facts, supporting the information and the observances, related to the caused ecological damages.

(4) The competent body under Art. 6, p. 2 - 4 shall examine the request within 7-day term from receiving the application. Where the given information under Para. 3 is not complete, the body shall return the application with instructions about the information to be added by the applicant.

(5) The applicant shall provide additional information under Para. 4 within 7 -day term from receiving the instruction.

(6) Where the applicant fails to provide the additional information within the term under Para. 5, the competent body under Art. 6, p. 2 – 4 shall leave the request with no further examination.

Art. 48. (1) Where the information in the application is sufficient or added under Art. 47, Para. 4, the competent body under Art. 6, p. 2 - 4 within 14-day term from its receiving shall perform a check up on site.

(2) Where as a result of the check up it is proved that an ecological damage has occurred, and where the operator is known, the competent body under Art. 6, p. 2 – 4 shall submit the request to the operator to submit an opinion upon the request within 14 – day term from its receiving.

(3) After the check up under Para. 1, where the operator is unknown, or after the expiry of the term under Para. 2 the competent body under Art. 6, p. 2 – 4 shall:

1. open a procedure on determining remedial measures under Chapter Two, Section II, or
2. issue an order for refusal of applying remedial measures, in which he shall indicate the grounds for that and shall publish it on his the internet site.

(4) The competent body under Art. 6, p. 2 – 4 shall notify in writing the person under Art. 47, Para. 1 and the operator about the undertaken acts under Para. 3, p. 2 within 7 day term.

(5) The refusal order under Para. 3, p. 2 shall be subject to appeal under the Administrative-procedure Code.

## **Chapter five.**

### **COOPERATION WITH OTHER STATES AND REPORTING TO THE EUROPEAN COMMISSION**

#### **Section I.**

#### **Cooperation with Other States**

Art. 49. (1) In case of an imminent threat for ecological damages or caused ecological damages from activities, performed on the territory of the Republic of Bulgaria, which affect or is supposed to affect on or several other states, the competent body under Art. 6, p. 2 – 4 shall notify immediately the Minister of Environment and Waters while providing to him the information under Art. 20, Para. 3 or Art. 26, Para. 2.

(2) In the cases under Para. 1 where the affected state or states are EU Member States, the Minister of Environment and Waters shall immediately notify the affected state or EU Member States by providing the information under Para. 1 and the information about the procedures according to the law, and:

1. upon request by the competent bodies of the other state or EU Member States, he shall provide additional information;
2. represent the Republic of Bulgaria upon request by an EU Member State for restoring the costs, made by the competent bodies of this sate for performing preventive or remedial measures on its territory.

Art. 50. In case of imminent threat for ecological damages or caused ecological damages on the territory of the Republic of Bulgaria from activities, performed on the territory of another EU Member State, the Minister of Environment and Waters shall:

1. request from the competent body of this state information, related to the ecological damaged and information about the relevant national procedures of this state;
2. submit to the competent body of this state an opinion about the information under p. 1, including recommendations for adopting preventing and remedial measures;
3. order applying of preventive and remedial measures on the territory of the Republic of Bulgaria in compliance with the procedures, provided by the law;
4. may undertake the needed actions related to this state for recovering the costs, made while applying preventive or remedial measures on the territory of the Republic of Bulgaria.

Art. 51. In case of found imminent threat for ecological damages or caused ecological damages on the territory of the Republic of Bulgaria from activities, performed on the territory of an EU Member State, the Minister of Environment and Waters shall provide to the European Commission information about:

1. the place, territorial scope and type of the caused ecological damages or of the ecological damages, about which there is an imminent threat for be caused;
2. the reasons for the imminent threat or about the causing the ecological damages;
3. the supposed consequences from the ecological damages;
4. recommendations about preventive or remedial measures;
5. the undertaken by the moment preventive and remedial measures;
6. other circumstances and facts, related to the caused ecological damages or to the acts on prevention of the ecological damages.

Art. 52. (1) In case of an imminent threat for ecological damages or of caused ecological damaged from activities, performed on the territory of the Republic of Bulgaria, which affect or may affect another state, which is not an EU Member State, the procedures shall apply, provided by an agreement between the Republic of Bulgaria and the relevant state.

(2) In the cases under Para. 1, where there is no signed agreement with the relevant state, the Minister of Environment and Waters in coordination with the Minister of Foreign Affairs may undertake actions under Art. 49, Para. 2.

Art. 53. In case of an imminent threat for ecological damages or of caused ecological damaged from activities, performed on the territory of the Republic of Bulgaria from activities, performed on the territory of another state, which is not an EU Member State, the procedures of the law shall apply, unless an agreement between the Republic of Bulgaria and the relevant state provides something else.

Art. 54. A competent body in the cases under Art. 52 and 53 shall be the Minister of Environment and Waters, unless the relevant international agreement provides something else.

## **Section II.**

### **Reporting to the European Commission**

Art. 55. (1) The Minister of Environment and Waters shall draw up and provide to the European Commission reports on the application of the law.

(2) The following information shall be collected and processed for the preparation of the reports under Para. 1 in the information system under Art. 7, Para. 1. p. 7:

1. type of ecological damages;
2. date of occurrence of the imminent threat for ecological damages or of the caused ecological damages and/or the date, on which this was found;

3. activity according to Annex N 1 as a result of which the immediate threat for ecological damages has occurred or ecological damages have been caused;
4. date on which a procedure for prevention or remedying of the ecological damages has been initiated;
5. applicant of the procedure – liable operator, competent body or representative of the public;
6. classification code according to the National classification of the economic activities of the National Statistic Institute of the activity, as a result of which the ecological damage has occurred;
7. started judicial procedures related to the ecological damages;
8. the persons/s who have started judicial procedures;
9. result from the judicial procedure and in whose favour it has been finalized;
10. final result from the process of prevention of the ecological damages;
11. final result from the process of remedying the ecological damages over waters or protected species and habitats;
12. final result from the process of remedying the ecological damages over the soil;
13. date of finalization of the procedure of prevention or remedying of the ecological damages;
14. costs for the relevant prevention or remedial measures:
  - a) paid directly by the liable parties, where such information is available;
  - b) restored later by the liable parties;
  - c) not restored by the liable parties, where the reasons are indicated for the lack of it;
15. source for payment of the costs;
16. reason, according to which the funds have not been paid by the liable operator;
17. annual administrative costs of the competent bodies while applying the law;
18. applying the guaranties under Art. 43;
19. other information upon consideration of the competent body.

## **Chapter six. CONTROL**

Art. 56. (1) The Minister of Environment and Waters or officials, authorized by him shall perform control for the application of the ordered preventive measures, all applicable measures for control, catching, remedying of polluters and/or other factors, which have caused ecological damages and for applying the ordered remedial measures.

(2) The directors of RIEW, the directors of basin directorates, the directors of the national parks or officials, authorized by them in compliance with their authorizations under Art. 8, 9, 10 and 12 shall perform control over the activity of the operators for:

1. fulfillment of their obligations under the law;
2. fulfillment of the prescriptions, given by the competent bodies;
3. applying the preventive measures;
4. applying the ordered remedial measures;
5. providing information;
6. drawing up and producing reports by the operators.

(3) In case of an imminent threat for ecological damages or in case of caused ecological damaged, any natural and legal person shall be obliged to provide immediate access to all the sites for a check up and to give assistance to the bodies under Para. 1 for measurements, taking samples and collecting the needed information for implementation of their obligation according to the law.

Art. 57. (1) The control under Art. 56, Para. 1 shall be performed by conducting check ups on site and according to documents, observations and measurements.

(2) The control shall include access to:

1. the date from the own monitoring of the site, performed by the operator;
2. the information, related to the production activity of the site;
3. the properties and equipment, which are state, municipal and private ownership.

(3) During the control, officials, determined by the bodies under Art. 56, Para. 1 and 2, shall draw up written statements.

(4) The statements under Para. 3 shall reflect the found facts and circumstances and shall be given obligatory prescriptions, indicating the terms and liable persons for their implementation.

## **Chapter seven.**

### **COMPULSORY ADMINISTRATIVE MEASURES AND ADMINISTRATIVE-PENAL LIABILITY**

Art. 58. (1) The Minister of Environment and Waters, the directors of RIEW, the directors of basin directorates and the directors of the national parks or officials, authorized by them in compliance with their competences under the law shall impose compulsory administrative measures in cases of occurrence of an imminent threat for ecological damages or in cases of caused ecological damages.

(2) For failure to fulfill the liabilities under this Act, the competent bodies under Art. 6, p. 1 – 3 shall issue orders for applying compulsory administrative measures and to impose administrative punishments.

Art. 59. (1) The compulsory administrative measures shall be:

1. termination of the operators' activity, directly related to occurrence of ecological damages;
2. termination of the access to territories of the owners and users;
3. imposing bans or restrictions for using the waters.

(2) While applying compulsory administrative measures, the Minister of Environment and Waters, the directors of basin directorates and the directors of the national parks or officials, authorized by them with the assistance of the Regional governors shall stop by a grounded order the activity of the operators, which has caused ecological damages, as well as the access to territories of the owners and users, including through seals and stamps.

(3) The marking of the seal and the way of sealing and stamping under Para. 2 shall be confirmed by an order of the Minister of Environment and Waters, under Art. 159, Para. 3 of the Environmental Protection Act.

(4) In cases of caused ecological damages over waters and water sites, the competent body may terminate taking the water and/or using the water sites.

Art. 60. (1) Applying a compulsory administrative measure shall be performed by a grounded order of the relevant competent body.

(2) The order under Para. 1 shall determine the type of the compulsory administrative measure and the way of its application.

(3) The order under Para. 1 shall be delivered to the interested persons as provided by the Administrative-procedure Code.

(4) The order under Para. 1 may be appealed under the Administrative-procedure Code

(5) The appeal of the order under Para. 1 shall not terminate its implementation.

Art. 61. (1) Any operator, who fails to provide in time the information, including additional information, requested by a competent body under Art. 6 shall be punished by a fine or a property sanction in the amount of BGN 1000 to 3000.

(2) Any operator, who fails to provide information under Art. 20, Para. 3 and Art. 26, Para. 2 to the competent body, shall be punished by a fine or property sanction in the amount of BGN 2000 to 6000.

(3) Any operator, who provides to a competent body untrue or misleading information, shall be punished by a fine or property sanction in the amount of BGN 2000 to 6000.

(4) In case of a repeated breach, the amount of the fine or the property sanction shall be doubled under Para. 1, 2 or 3.

Art. 62. Any operator, who fails to undertake immediate measures under Art. 20 and Art. 26, Para. 1, shall be punished by a fine or a property sanction in the amount of BGN 10 000 to 30 000.

Art. 63. (1) Any operator who fails to provide a report within the term, determined by the competent body under Art. 30, shall be punished by a fine or property sanction in the amount of BDN 1000 to 3000.

(2) Any expert, who fails to provide a report within the term, determined by the Minister of Environment and Waters, under Art. 34, Para. 1, shall be punished by a fine in the amount of BGN 500 to 1500.

Art. 64. Any operator, who fails to fulfill a prescription, issued by the relevant competent body, shall be punished by a fine or property sanction in the amount of BGN 5000 to 15 000.

Art. 65. Any operator, who fails to fulfill the orders under Art. 20, Para. 6, Art. 29, Para. 7 and Art. 32, Para. 2, shall be punished by a fine or property sanction in double amount of the costs for undertaking preventive or remedial measures.

Art. 66. Any operator, who fails to fulfill his liability under Art. 43, Para. 1 shall be punished by a fine or property sanction in the amount of BGN 10 000 to 30 000.

Art. 67. (1) An official, who fails to provide access to the territory of a checked site of a control body, performing check up, measurement or taking samples, shall be punished by a fine in the amount of BGN 2000 to 6000.

(2) In the cases under Para. 1, the relevant operator – legal person or a sole trader shall be punished by a property sanction in the amount of BGN 5000 to 15000.

Art. 68. (1) For a breach of this Act, which is not a crime, the guilty official shall be punished by a fine in the amount of BGN 1000 to 3000 and the operator shall be imposed by a fine or property sanction in the amount of BGN 1000 to 3000.

(2) In case of a repeated breach, the fine or property sanction shall be doubled of the initially imposed.

Art. 69. The acts, which establish the administrative breaches shall be drawn up by officials, authorized by the Minister of Environment and Waters, the directors of RIEW, the directors of basin directorates and the directors of the national parks.

Art. 70. The penal decrees shall be issued by the Minister of Environment and Waters, the directors of RIEW, the directors of basin directorates and the directors of the national parks under the Administrative

## Violations and Sanctions Act.

Art. 71. The fines and/or property sanctions under this Act shall come into the budget of the Ministry of Environment and Waters.

### **Additional provisions**

§ 1. In the meaning of this Act:

1. (amend. – SG 62/15, in force from 14.08.2015) "Baseline condition" means the condition at the time of damages of the natural resources and services, which would have been existing, if environmental damages had not occurred, estimated on the basis of the best information available;

2. "Favourable conservation state of a natural habitat" is the favourable state of a natural habitat in the meaning of the Biological Diversity Act.

3. "Favourable conservation state of a kind" is the favourable state of the kind in the meaning of the Biological Diversity Act.

4. "waters" mean all waters covered by the Waters Act;

5. "recovery", including "natural recovery", means, in the case of water, protected species and natural habitats the return of damaged natural resources and/or impaired services to baseline condition and in the case of land damage, the elimination of any significant risk of adversely affecting human health;

6. "occupational activity" means any activity carried out in the course of an economic activity, a business or an undertaking, irrespectively of its private or public, profit or non-profit character;

7. "Additional remedying" means all the remedial measures, undertaken in relation to natural resources and/or services to compensate the fact, that the initial remedying does not lead to complete recovery of the damaged natural resources and/or services.

8. "Ecological state of waters" and "ecological potential" is the state of the waters, determined by the Waters Act.

9. "emission" means the release in the environment, as a result of human activities, of substances, preparations, organisms or micro-organisms;

10. "Pollution with diffuse nature" is emitting substance in the atmosphere from a diffuse source in the meaning of the Protocol to the 1979 the Convention on Long-range Transboundary Air Pollution for decreasing the souring, eutrofication and the troposphere ozone (ratified by an Act – SG, 38/2005) (SG, 93/2005).

11. "protected species" are the species, determined in Annex N 3 under the Biological Diversity Act

12. "Compensatory remedying" is each action, undertaken to compensate the interim losses of natural resources and/or services, occurring on the date of causing the damages, until the initial remedying reaches its full effect.

13. "Conservation status in respect of a natural habitat", the sum of the influences acting on a natural habitat and its typical species that may affect its long-term natural distribution, structure and functions as well as the long-term survival of its typical species within, as the case may be, the European territory of the Member States to which the Treaty applies or the territory of a Member State or the natural range of that habitat;

The conservation status of a natural habitat will be taken as "favourable" when:

- its natural range and areas it covers within that range are stable or increasing,
- the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
- the conservation status of its typical species is favourable, as defined in (b);

14. "Conservation status in respect of a species", the sum of the influences acting on the species

concerned that may affect the long-term distribution and abundance of its populations within, as the case may be, the European territory of the Member States to which the Treaty applies or the territory of a Member State or the natural range of that species;

The conservation status of a species will be taken as "favourable" when:

- population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats,
- the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and
- there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis;

15. "Interim losses" are the losses, as a result of the fact that the damages natural resources and/or services are not in a state to fulfill their ecological functions or to provide services to other natural resources or to the society, until the initial or additional measures are conducted. Here the financial compensation for citizens is not included.

16. "Mining wastes" are technological wastes, produced by the mining enterprises while exploring, extraction and initial processing of ores.

17. "imminent threat of damage" means a sufficient likelihood that environmental damage will occur in the near future;

18. "remedial measures" means any action, or combination of actions, including mitigating or interim measures to restore, rehabilitate or replace damaged natural resources and/or impaired services, or to provide an equivalent alternative to those resources or services as foreseen in

19. "operator" means any natural or legal, private or public person who operates or controls the occupational activity or, where this is provided for in national legislation, to whom decisive economic power over the technical functioning of such an activity has been delegated, including the holder of a permit or authorization for such an activity or the person registering or notifying such an activity;

20. "Soils" is a notion in the meaning of § 1, p. 14 of the Additional Provisions of the Environmental Protection Act.

21. "preventive measures" means any measures taken in response to an event, act or omission that has created an imminent threat of environmental damage, with a view to preventing or minimizing that damage;

22. "Natural resource" means protected species and natural habitats, water and land;

23. (amend. – SG 62/15, in force from 14.08.2015) "Natural habitats" are habitats according to Annex N 1 and habitats of species according to Annex N 2 to the Biological Diversity Act.

24. "Initial remedying" are all the remedial measures, which return the damaged natural resources and/or damaged services to their baseline status.

25. "costs" means costs which are justified by the need to ensure the proper and effective implementation of this Directive including the costs of assessing environmental damage, an imminent threat of such damage, alternatives for action as well as the administrative, legal, and enforcement costs, the costs of data collection and other general costs, monitoring and supervision costs.

26. "services" and "natural resources services" mean the functions performed by a natural resource for the benefit of another natural resource or the public;

27. "Damage" is a measurable negative change in the status of a natural resource or measurable affection of a service from a natural resource, occurred as a result of direct or indirect impact or lack of action.

28. "The best information available" is the best available initial information and available initially processed information in the meaning of § 1, p. 7 and 9 of the Additional Provision of the Environmental Protection Act.

§ 2. The Act shall introduce the provisions of Directive 2004/35/EC of the European Parliament

and of the Council on of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage.

### **Transitional and concluding provisions**

§ 3. (1) The Minister of Environment and Waters shall issue the Ordinance under Art. 4 Para. 3 within the term of 3 months from the enforcement of the Act.

(2) The Council of Ministers shall adopt the Ordinance under Art. 19 within the term of 6 months from the enforcement of the Act.

§ 4. The operators under Art. 17, Para. 1, performing activities according to Annex N 1 and the bodies under Art. 16, Para. 1 shall provide the information, determined by the Ordinance under Art. 19 within the term of 2 months from its enforcement.

§ 5. The provisions of Art. 43, Para. 1, p. 1 and Para. 2 and 3 shall come into force from 1 January 2011.

§ 6. The provisions of this Act shall not affect ecological damages:

1. cause before the enforcement of the Act;
2. caused after the enforcement of the law, when they are as a result of a concrete activity, finalized before that date.

§ 7. The first report under Art. 55 shall be drawn up and submitted to the European Commission by 30 April 2013.

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The law was adopted by the 40th National Assembly on 16 April 2008 and has been sealed by the official stamp of the National Assembly.

### **Transitional and concluding provisions**

#### **TO THE ACT AMENDING AND SUPPLEMENTING THE TAX-INSURANCE PROCEDURE CODE**

(PUBL. - SG, 12/2009, IN FORCE FROM 01.05.2009, SUPPL. - SG, 32/2009)

§ 68. (Suppl. - SG, 32/2009) The Act shall come into force from 1 May 2009, with the exception of § 65, 66 and 67, which come into force from the date of publication of the Act in the State Gazette and § 2 - 10, § 12, p. 1 and 2 – referring Para. 3, § 13 - 22, § 24 - 35, § 36, Para. 1 - 4, § 37 - 51, § 52, p. 1 - 3, p. 4, letter "a", p. 7, letter "f" – referring Para. 10 and 11, p. 8, letter "a", p. 9 and 12 and § 53 - 64, which shall come into force from 1 January 2010.

### **Transitional and concluding provisions**

#### **TO THE ACT ON DEFENCE AND ARMED FORCES OF THE REPUBLIC OF BULGARIA**

(PUBL. - SG, 35/2009, IN FORCE FROM 12.05.2009)

§ 46. The Act shall come into force from the day of its publication in the State Gazette.

**Transitional and concluding provisions  
TO THE ACT AMENDING AND SUPPLEMENTING THE HEALTH ACT**

(PUBL. - SG, 98/2010, IN FORCE FROM 01.01.2011)

§ 121. The Act shall come into force from 1 January 2011, with the exception of:

1. Para. 1, 16, 20, 29, 30, 32, 33, 34, 35, 42, 44, § 56, p. 1 and 2, § 65, 68, 70, 76, 80, 81, 90, 92, 96, § 102, p. 3, 4, 5, 7 and 8, § 105, p. 1, 3 and 5, § 107, p. 1, 2, 3, 4, 6, letter "a", p. 7, 10, 11, 13 and 15, letter "a", § 109, 110, 112, 113, § 115, p. 5, § 116, p. 4 and 6, § 117, p. 5 and 7 and § 118, p. 1, which shall come into force from the day of the publication of the law in the State Gazette;
2. Para. 102, p. 1, 2 and 6, which shall come into force from 1 March 2011;
3. Para. 22, p. 1 (referring Art. 36, Para. 1, sentence two), § 37, § 48, p. 2, § 51 and 59, which shall come into force from 1 July 2011;
4. Para. 107, p. 15, letter "b", which shall come into force from 30 September 2011.

**Transitional and concluding provisions  
TO THE WASTE MANAGEMENT ACT**

(PROM. – SG 53/12, IN FORCE FROM 13.07.2012)

§ 35. This Act shall enter into force from the day of its promulgation in the State Gazette, except for the following provisions:

1. Art. 10, para 3 and 6, Art. 11, para 1, Art. 19, para 5, Art.38, para 4 and Art.39, para 3, which shall enter into force in two years time from the entry into force of the Act;
2. Art.33, para 4 and Art.34, which shall enter into force from January 1, 2013;
3. Art.49, para 8, which shall enter into force from January 1, 2015.

**Transitional and concluding provisions  
TO THE ACT AMENDING AND SUPPLEMENTING THE ENVIRONMENTAL PROTECTION  
ACT**

(PROM. – SG 62/15, IN FORCE FROM 14.08.2015)

§ 34. The Act shall enter into force from the day of its promulgation in State Gazette.

**Concluding provisions  
TO THE ACT AMENDING AND SUPPLEMENTING THE AMBIENT AIR QUALITY ACT**

(PROM. - SG 101/15, IN FORCE FROM 22.12.2015)

§ 36. This Act shall enter into force on the day of its promulgation in the State Gazette, except for:

1. paragraph 8 on Art. 17c, par. 3, 4, 5 and 6, which shall enter into force on January 1, 2017;
2. paragraph 20 on Art. 34i, para. 7, which shall enter into force on January 1, 2018.

**Concluding provisions  
TO THE ACT AMENDING THE ACT ON BULGARIAN FOOD SAFETY AGENCY**

(PROM. - SG 58/17, IN FORCE FROM 18.07.2017)

§ 76. This Act shall enter into force on the day of its promulgation in the State Gazette.

**Annex N 1 to Art. 3, p. 1**

(suppl. – SG 14/12, in force from 17.02.2012; amend. - SG 53/12, in force from 13.07.2012; amend. – SG 62/14, in force from 14.08.2015; amend. – SG 62/15, in force from 14.08.2015)

1. Exploitation of installations and equipment, for which issuing of a complex permit under Art. 117 of the Environmental Protection Act of the is required, with the exception of the installation and equipment or parts from them, used for study work, development and tests of new products and processes.

2. For activities of collecting, transporting, using or defusing wastes including dangerous wastes, for which permit or registration document is required, according to the Waste Management Act.

3. (amend. – SG 62/15, in force from 14.08.2015) Performing activities on using waters and water sites, including:

a) all discharges into surface waters of waste waters, with which hazardous substances are being discharged, referred to in the ordinances under Art. 135, par. 1, items 9 and 17 of the Water Act, for which preliminary regulation is required in the issued discharge permits according to the Water Act and in the environmental permits under the Environmental Protection Act;

b) discharge of substances into underground waters, injection of contaminants into underground waters, water taking and increasing of water level of a water site, for which granting of a permit within the meaning of the Water Act is required.

4. (amend. and suppl. – SG 62/15, in force from 14.08.2015) Performing activities on production, use, storage, processing, filling and emitting in the environment chemical substances and mixtures in the meaning of Art. 2 of the Act on Protection Against The Harmful Impact Of The Chemical Substances And Mixes.

5. Performing activities on production, use, storage, processing, filling and emitting the in environment products for plant protection in the meaning of the Plant Protection against Diseases and Pests Act.

6. (amend. – SG 62/15, in force from 14.08.2015) Performing activities on production, use, storage, processing, filling and emitting the in environment biocides in the meaning of the Act on Protection Against The Harmful Impact Of The Chemical Substances And Mixes.

7. Performing activities on carriage of dangerous loads in the meaning of the Automobile Transport Act, the Railway Transport Act, the Act on Maritime Spaces, Inland Waterways and Ports of the Republic of Bulgaria and the Civil Aviation Act.

8. Performing activities on work with genetically modified organisms (GMO) in controlled conditions, emitting GMO in the environment, placing on the market GMO or combination of them as products or compositions of products, transporting GMO, import, export and transit of GMO in the meaning of the GMOs Act, for which activities permit is required in compliance with the GMOs Act.

9. (amend. - SG 53/12, in force from 13.07.2012; amend. – SG 62/15, in force from 14.08.2015) Performing activities on transportation of waste, including import, export and transit of wastes in the meaning of Chapter Five, Section IV of the Waste Management Act.

10. (suppl. – SG 62/15, in force from 14.08.2015) Performing activities on management of mining wastes according to the Underground Assets Act.

11. (new – SG 14/12, in force from 17.02.2012) The exploitation of sites for storage in compliance with the Act on the Storage of Hydrogen Dioxide in the Earth's Womb.

**Annex N 2 under Art. 4, Para. 2**

1. The significance of the damages with negative impact over achieving and maintaining favourable

conservation status of the habitats or species shall be estimated according to the conservation status at the moment of causing the damages, services, offered through the benefits, which they produce and their capacity for natural remedying.

2. The substantial negative changes in the baseline status shall be determined through measurable data, where:

2.1. number of species, their density and occupational territory;

2.2. role of the concrete species or damaged region in relation to the species or protection of the habitat, rareness of species or habitat (with local/regional/ national significance, including at the level of the European Community);

2.3. capacity of the specie for reproduction (according to the dynamics, the nature of this specie or this population) its vitality or capacity of the habitat or natural remedying (according to the dynamics, nature for the typical species or their populations);

2.4. capacity of the specie or habitat for remedying in a short term after the damages to a status, considered equal or better than the baseline, reached only through the dynamics of the species or habitat without other interference, apart from the protection measures.

3. The damages with a proved impact over the human health shall be classified as substantial damages.

4. A substantial damages shall not be classified the following:

4.1. negative changes, smaller than the natural changes, considered as normal for the relevant species or habitat;

4.2. negative changes, due to natural reasons or comprising from impact, related to the normal management of sites, as defined in the description of the habitat or as it was performed earlier by the owners of operators;

4.3. damages over the species or habitats, for which it is found that will be remedied within a short term and without interference to its baseline status or to a status, considered as equal or better than the baseline, reached only through the dynamics of the species or habitat.

### **Annex N 3 under Art. 5, p. 1, letters "e" and "f"**

#### Section I

1. International Convention of 27 November 1992 on civil liability for damages from pollution with oil.

2. International Convention of 27 November 1992 on establishing International Fund for compensation of damages, caused by pollution with oil.

3. International Convention of 23 March 2001 on civil liability for damages, from pollution with ship fuel.

4. International Convention of 3 May 1996 on the liability and compensation for damages, related to carriage of dangerous and harmful substances at sea.

5. Convention of 10 October 1989 on civil liability for damages, caused during carriage of dangerous goods on road transport, railway transport and vessels for internal navigation.

#### Section II

1. the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy and the Brussels Supplementary Convention of 31 January 1963;

2. the Vienna Convention of 21 May 1963 on Civil Liability for Nuclear Damage;

3. the Convention of 12 September 1997 on Supplementary Compensation for Nuclear Damage;

4. the Joint Protocol of 21 September 1988 relating to the Application of the Vienna Convention and the Paris Convention;

5. the Brussels Convention of 17 December 1971 relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material.

## **Annex N 4 under Art. 26, Para. 1, p. 2**

1. Objectives and criteria for remedying damages over waters or protected species or natural habitats.

Remedying ecological damages, made on waters, protected species or natural habitats shall be reached through remedying the environment to its baseline status through initial, additional and compensation remedying.

Where the initial remedying does not lead to recreation of the environment to its baseline status, additional remedying shall be performed. Apart from this, a compensatory remedying shall be undertaken, so that the interim losses are compensated. Remedying ecological damages on waters or protected species or natural habitats, also presupposes remedying the substantial risks from negative impact over the human health.

### 1.1. Objectives of remedying:

#### Objective of the initial remedying

1.1.1. The objective of the initial remedying is to return the damaged natural resources and/or services to their baseline status.

#### Objective of the additional remedying

1.1.2. Where the damaged natural resources and/or services do not return their baseline status, additional remedying shall be undertaken. The objective of the additional remedying is to provide close level of natural resources and/or services, including as it is appropriate at an alternative place, what would be if the damaged place would have returned to its baseline status. Where possible and appropriate, the alternative place must be geographically related with the damaged place, taking into consideration the interests of the affected population.

#### Objective of the compensatory remedying

1.1.3. Compensatory remedying shall be undertaken in order to compensate the interim losses of natural resources and services, whose remedying is to be done. This compensation consists in additional improvement of the protected natural habitats and species or the quality of waters or the damaged place or the alternative place. Here it is not included financial compensation for citizens.

### 1.2. Defining the remedial measures:

#### Defining the initial remedial measures

1.2.1. Options are examined, consisting of actions for direct returning of the natural resources and services to their baseline status in accelerated terms or through natural remedying.

#### Determining additional compensatory remedial measures

1.2.2. Where the scope of the additional and compensatory remedial measures is determined, first the approaches for using equivalence "resource for resource" or "service for service" are examined. According to these approaches, the acts, which provide natural resource and/or services of an equal type, quality and quantity, where the damaged shall be the first to be examined. If this is not possible, alternative natural resources and/ or services shall be provided. For example, lowered quality may be compensated by increased quantity if remedial measures.

1.2.3. If it is not possible to be used the chosen approaches, resource for resource" or "service for service", then techniques are used for alternative estimation. The competent body may establish the method, ex., money estimation for defining the scope of the needed additional and compensatory remedial measures. If the estimation of the lost resources and/or services cannot be performed within a reasonable term or at a reasonable price, then the competent body may avoid the remedial measures, whose estimation is equal to the defined money value of the lost natural resources and/or services.

The additional and compensatory remedial measures must be projected so, that should provide additional natural resources and/or services in order to express the time preferences and profile of the remedial measures. For example, the longer the period of time before reaching the baseline status, the greater the quantity of the compensatory remedial measures, which are undertaken ( in cases of equal other

conditions).

### 1.3. Choice of remedying options:

1.3.1. The acceptable remedial options must be assessed while using the best available techniques on the basis of the following criteria:

- a) impact of each of the options over the health and safety of citizens;
- b) the costs of the applied option;
- c) the possibility for success of each option;
- d) the level, to which each of the options will prevent future damages and will avoid secondary damages while introducing it;
- e) the level to which each of the options is useful for each of the component of the natural resource and/or service;
- f) the level, to which each of the options takes into consideration the relevant social, economic and cultural problems and other factors, characteristic for the region;
- g) the time, needed for effective remedying of the ecological damage;
- h) the level, to which each of the options reaches remedying of the site from ecological damages;
- i) the geographic relation to the damaged site.

1.3.2. Where the various identified remedial options are estimated, may be chosen initial remedial measures, which do not return the totally damaged waters or protected species or natural habitats to their baseline status or which remedy it slower. The decision may be taken only if the natural resources and/or services, lost of the first site as a result of the decision, shall be compensated through increasing additional or compensatory acts, so that a level is provided, equal to the one of the lost natural resources and/or services. Such would be the cases, ex., where equal natural resources and/ or services may be provided from another place at a lower cost. These additional remedial measures shall be determined in compliance with the rules of p. 1. 2. 2.

1.3.3. Notwithstanding of the rules, provided in p. 1.3.2 and compliance with Art. 36, the competent body may have the right to decide, that no further remedial measures will be taken, if:

- a) the already undertaken remedial measures guarantee that there is not substantial risk for a negative impact over the human health, waters or protected species and natural habitats, and
- b) the costs for remedial measures, which must be taken in order to reach the baseline status or a similar level, would be disproportionate with the expected ecological benefits.

## 2. Objectives and criteria for remedying damages over the soil

Estimation for pollution of the soil and available risk shall be done under the Ordinance for inventory and research of lands with polluted spoil. The needed remedying measures as well as maintenance of the realized remedying events (SG, 15/2007).

In the cases, where the soils are polluted with organic pollutants, it may be applied natural remedying of the soils in compliance with the criteria, provided in Ordinance N 3 for norms on the admissible contents of harmful substances in the soil (publ., SG, 36/1979; amend., 5/1996, 54/1997, 21/2000, 39/2002).

The purpose of the territories and land fields shall be determined under Art. 7 and 8 of the Spatial Development Act.