

## **ACT No. 44/1988 Coll.,**

### **on the protection and utilization of mineral resources**

**(The Mining Act),** in wording of Act No. 541/1991 Coll. , Act. No. 10/1993 Coll., Act. No. 168/1993 Coll., Act No. 132/2000 Coll., Act. No. 258/2000 Coll., Act No.366/2000 Coll., Act. No.315/2001 Coll., Act No.61/2002 Coll., Act No. 320/2002 Coll., Act. No. 150/2003 Coll., Act No. 3/2005 Coll., Act No.386/2005 Coll. and Act. No.186/2006 Coll.

The Federal Assembly of the Czechoslovak Socialist Republic has passed the following Act:

## **PART ONE**

### **BASIC PROVISIONS**

#### **§ 1**

#### **Introductory provisions**

It is the purpose of this Act to establish principles for the protection and economical utilization of mineral resources, especially in prospecting and exploration work, opening, preparation and extraction of mineral deposits, processing and refinement of minerals carried out in connection with mining, as well as safety of operations and environmental protection during these processes.

#### **§ 2**

#### **Minerals**

(1) Pursuant to this Act, all solid, liquid and gaseous components of the Earth's crust are regarded as minerals.

(2) Pursuant to this Act, the following are not considered to be minerals:

- a) water with the exception of mineralised water from which reserved minerals can be extracted by industrial processes,
- b) natural medicinal water and natural mineral drinking water, even if reserved minerals can be extracted from them by industrial processes, also medicinal muds and other products of natural medicinal deposits,
- c) peat,
- d) muds, sands, gravel and pebbles in the river beds, as long as they do not contain reserved minerals in retrievable quantities,
- e) top soil which forms a natural environment for vegetation.

#### **§ 3**

## **Classification of minerals as reserved and non-reserved**

(1) Reserved minerals are the following:

- a) radioactive minerals,
- b) all kinds of coal, crude oil and flammable natural gas and bituminous rock,
- c) minerals from which metals can be produced by industrial processes,
- d) magnesite,
- e) minerals from which phosphorus, sulfur and fluoride or their compounds can be produced by industrial processes,
- f) rock salt, potassium, boron, bromine and iodine salts,
- g) graphite, barite, asbestos, mica, talc, diatomite, glass-making and welding sands, mineral dyes, bentonite,
- h) minerals from which rare earth elements and elements with semiconductor properties can be produced by industrial processes,
- i) granite, granodiorite, diorite, gabbro, diabase, serpentine, dolomite and limestone provided they are suitable for quarrying and polishing, and travertine,
- j) technically utilizable mineral crystals and precious stones,
- k) halloysite, kaolin, ceramic clays, fireclays and claystones, gypsum, anhydrite, feldspar, perlite and zeolite,
- l) quartz, quartzite, limestone, dolomite, marl, basalt, phonolite, trachyte provided that these minerals are suitable for chemical and technological processing or smelting,
- m) mineralised water from which reserved minerals can be produced by industrial processes,
- n) technically utilizable natural gases which are not listed under letter b).

(2) Other minerals are non-reserved minerals.

(3) In cases of uncertainty as to whether a mineral is considered to be a reserved mineral, the Ministry of the Industry and Trade is to make a decision in agreement with the Ministry of the Environment of the Czech Republic.

## **§ 4**

### **Mineral deposit**

Pursuant to this Act, a mineral deposit (hereinafter referred to as "deposit") is a natural accumulation of minerals, as well as the fill in a deep mine, deserted heap, spoil tip or tailings pond produced by mining activities<sup>1)</sup> and which contain minerals.

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1) § 2 of the Act No.61/1988 Coll., on **Act No. 61/ 1988 Coll.**  
of the Czech National Council on mining activities, explosives and the state mining administration, in wording of Act No. 542 / 1991 Coll.,

## § 5

### **Mineral resources**

(1) Pursuant to this Act mineral resources consist of deposits of reserved minerals (hereinafter referred to as "reserved deposits").

(2) Mineral resources within the territory of the Czech Republic are owned by the Czech Republic.

## § 5a

### **Organizations**

Legal and natural persons who, within their business operations <sup>2)</sup> and pursuant to conditions outlined in the legal regulations, engage in prospecting for, exploration or extraction of reserved deposits or other mining activities are considered to be organizations pursuant to this Act.

## § 6

### **Reserved deposit**

(1) If a reserved mineral is found in a quantity and quality indicating a reasonable expectation of the accumulation thereof, the Ministry of the Environment of the Czech Republic is to issue a reserved deposit certificate.

(2) The reserved deposit certificate is to be sent by the Ministry of the Environment of the Czech Republic to the Ministry of the Industry and Trade of the Czech Republic and to the Regional Authority, to the District Mining Authority, to the territorial planning authority, to the construction office and to the organization on whose behalf the prospecting for and exploration of the reserved deposit <sup>3)</sup> was undertaken.

## § 7

### **Deposit of non-reserved minerals**

Deposit of non-reserved minerals constitutes an integral part of the land.

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2) eg. Act No.513/1991 Coll., Commercial Code, Act. No. 455/1991 Coll., on Trade License-Based Business, (Trade Licence -Based Act) as amended, Act No. 111/1990 Coll.,on state enterprises, as amended,

3) Act. No. 62/1988 Coll., on geological works and the Czech Geological Authority, in wording of the Act. No.543/1991 Coll.

## PART TWO

### OBLIGATIONS OF ORGANIZATIONS IN THE EXPLOITATION OF A RESERVED DEPOSIT

#### § 8

If, after the completion of prospecting and exploration, a reserved deposit is not to be extracted, its protection and records thereof are to be ensured by a legal entity appointed for this purpose by the Ministry of the Environment (§ 17, par. 2).

#### § 9

Deleted

#### § 10

(1) The organization is obliged to

- a) submit a proposal for the establishment, alteration or abolishing of a protected deposit area,
- b) maintain mine survey and geological records,
- c) keep records of the amounts of stocks of the reserved deposit and any changes thereto,
- d) resolve for timely settlement of any conflicts of interest resulting from the establishment of a mining claim, during planning of the opening, preparation and mining of the reserved deposit, particularly so as to limit negative impacts on the environment,
- e) propose the establishment, alteration or abolishing of the mining claim,
- f) keep records of the recovery and pollution during the extraction of a reserved deposit and of the results achieved during the processing and refinement of minerals in connection with their extraction,
- g) ensure protection of the reserved deposit,
- h) fulfill other obligations imposed by this Act and other generally binding legal regulations.

(2) Obligations stated in par. 1 letters a) to c) and letter g) for deposits without mining claim can be ensured by the Czech geological service too.<sup>3a)</sup>

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3a) § 17 of the Act. No. 62/1988 Coll., on geological works and the Czech Geological Authority, in wording of the Act. No.543/1991 Coll. and Act.No.366/2000 Coll.

## **PART THREE**

### **DEPOSIT EXPLORATION AND MANAGEMENT OF RESERVED DEPOSITS**

#### **§ 11**

##### **Prospecting for and exploration of reserved deposits**

(1) Prospecting for and exploration of reserved mineral deposits and reserved deposits of non-reserved minerals can be carried out by organizations in exploration area that is established pursuant to the special regulations.<sup>3)</sup>

(2) During prospecting for and exploration of reserved deposits, in order to provide for the protection and economical exploitation of mineral resources, organizations are obliged to

a) examine the reserved deposit in such a way so as to detect and assess all potentially useful minerals and their components contained in the deposit,

b) examine the development and the deposit conditions of the reserved deposit so as to enable the construction of mines and quarries, their opening, preparation and extraction of the reserved deposit to be planned and implemented in accordance with the basic principles of mining technology, and so as to ensure efficient utilization of reserves within the reserved deposit,

c) apply methods and processes so as to ensure that operation of the reserved deposit or part thereof is not hindered or prevented and no undue losses of the reserves occur,

d) discover facts required for assessment of any possible impacts of the extraction of the reserved deposit on other deposits, water and other natural resources, on the environment and other legally protected general interests,

e) during interruption of the prospecting or exploration, implement measures to ensure preservation of mine works and prevent complication of further prospecting and utilization of the reserved deposit.

(3) The organization is entitled to dispose of minerals obtained during prospecting and exploration of reserved deposits to a degree and pursuant to the conditions specified in the permit issued pursuant to the special regulations.<sup>3)</sup>

(4) An organization for which an area has been established for prospecting and exploration of a reserved deposit shall pay an annual fee for such area pursuant to the special regulations.<sup>3)</sup>

(5) Geological operations are to be carried out pursuant to the special regulations.<sup>3)</sup>

(6) The Ministry of the Environment after consultation with the Ministry of the Industry and Trade and with the Czech Mining Authority is to establish generally binding legal instructions for the procedure to be followed in prospecting and exploration of reserved deposits for the protection and economical utilization of mineral resources.

## § 12

### **Notification of a natural accumulation of a reserved mineral**

Any person who discovers, outside permitted prospecting pursuant to § 11, a natural accumulation of a reserved mineral, shall without delay notify the Ministry of the Environment and Ministry of the Industry and Trade to this effect.

## § 13

### **Reserves of a reserved deposit and the conditions for their exploitability**

(1) Reserves of a reserved deposit are the determined and verified quantities of reserved minerals contained in a deposit or part thereof, satisfying the conditions of exploitability regardless of losses incurred during their extraction.

(2) The calculation of the reserves of a reserved deposit is based on the conditions for the exploitability of the reserves. The conditions for the exploitability of reserves consist of the set of indices defining the quantity and quality of minerals, and geological, mining, technical and other indicators forming a basis for assessing the suitability of reserves in a reserved deposit for exploitation.

## § 14

### **Classification of reserves in a reserved deposit, assessment and endorsement of calculations of reserves in reserved deposits**

(1) The results of the prospecting and exploration of reserved deposits are to be evaluated. This evaluation is to include calculation of reserves, to be carried out by the organization.

(2) In the calculations of reserved deposit reserves, the reserves are classified as follows:

a) according to the degree of exploration of the reserved deposit and knowledge about the deposition conditions of the deposit or part thereof, the quality and technical properties of minerals, and technical mining conditions pertaining to prospected reserves and explored reserves. If a reserved deposit contains several utilizable components, their reserves are classified according to the attained degree of knowledge on and exploration thereof.

b) according to the conditions of exploitability as economic reserves that are currently exploitable and that conform to the current technical and economic conditions for utilizing a reserved deposit, and non-economic reserves that are currently not exploitable because they do not conform to current technical and economic conditions, but which can be assumed to become exploitable in the future with the development of technical and economic circumstances,

c) according to the possibility of extraction determined by the mining technology, operational safety and established protective pillars, as free and blocked reserves. Blocked reserves are those located within protective pillars of surface and underground structures, equipment and mine works, as well as within pillars

established to ensure operational safety and protection of legally protected interests. All other reserves are free reserves.

In the calculation of the reserves, which constitutes part of the proposal for issuing a permit for mining operations (§ 24, par. 1), the organization is to state the reserves which it plans to extract (hereinafter referred to as "extractable reserves"). Extractable reserves are the exploitable reserves reduced by the value of assumed mining losses connected with the selected extraction technology or with the effect of natural conditions.

(3) Calculation of the reserves of a reserved deposit and its assessment are to be carried out by the organization. Calculation of the reserved deposit reserves together with the assessment are to be sent by the organization to the Ministry of the Environment, Ministry of the Industry and Trade and to the District Mining Authority.

(4) Classification of reserves and the process of calculation of the reserved deposit reserves and the details of the calculations are to be established in detail by the Ministry of the Environment in a generally binding legal regulation.

#### § 14a

#### **Depreciation of reserved deposit reserves**

(1) Depreciation of reserved deposit reserves is understood to be their removal from the reserves records or their transfer from classification as economic reserves to classification as non-economic reserves.

(2) Reserved deposit reserves can be depreciated

a) for reasons of particularly complicated technical mining, safety or geological conditions connected with the natural conditions or occurring due to unforeseen circumstances,

b) if they consist of reserves in a part of the reserved deposit where extraction is not economically effective,

c) if they consist of reserves whose extraction would threaten legally protected general interests, particularly protection of the environment, and if the protection of such interests is more important than extraction of the relevant reserves.

(3) Non-economic reserved deposit reserves can be depreciated if it is not expected that they will be exploitable in the future.

(4) Changes in the status of the reserved deposit reserves, caused by the following factors, cannot be accepted as a reason for their depreciation

a) extension and more accurate knowledge about the development of the deposit and its reserves obtained by exploration and new knowledge gained from opening, preparation and extraction; this is demonstrated by the geological documents (§ 39),

b) the exhaustion of the reserves; this is demonstrated by the relevant geological documents and by the extraction records,

- c) mining losses which include non-extracted reserves in a mined part of the deposit which are not depreciated and minerals disposed of in dumps or spoil tips; these are demonstrated by the geological documents and by the extraction records,
- d) reassessment of reserves according to new conditions of exploitability, new approved calculations of reserves or freeing or blocking of reserves; these are demonstrated by the establishment of the new conditions of exploitability together with the relevant reassessment of reserves or by approval of a new calculation of the reserves or by a decision concerning freeing or blocking of reserves,
- e) a transfer or a takeover of a deposit; this is demonstrated by a certificate of transfer of a reserved deposit or part thereof.

#### § 14 b

##### **Proposal for depreciation of reserved deposit reserves**

(1) If, during processing of documents on a mine or quarry construction, a plan for opening, preparation and extraction of a reserve deposit, a plan for safeguarding mine works and quarries or liquidation of mine works and quarries,<sup>4)</sup> or during the execution thereof, the organization ascertains that it is not possible or expedient to extract reserves due to reasons specified in § 14a par. 2, the organization is to submit a proposal for their depreciation.

(2) The proposal to depreciate reserves in a reserved deposit can also be submitted by the appropriate environmental state administrative authorities. The organization is to ensure that the proposal to amortize reserves in a reserved deposit is complete.

(3) The proposal to depreciate reserves in a reserved deposit is to include the following:

- a) the name and head-office address of the organization,
- b) the quantity of economic and non-economic reserves proposed for depreciate classified according to reserve blocks and categories, their qualitative characteristics and a proposal as to whether they should or should not be removed from the reserve records, or whether the economic reserves should be transferred to non-economic reserves,
- c) reasons why the reserves are proposed for depreciation,
- d) maps and cross-sections with clearly marked parts of the deposit in which the depreciation of reserves is proposed, in four copies,
- e) further graphical and written documents concerning the deposit and reserves proposed for depreciation, required for a more detailed reasoning behind the proposal,

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4) § 10 of the Act No.61/1988 Coll., of the Czech National Council on mining activities, explosives and the state mining administration, in wording of Act No. 542 / 1991 Coll., Decree of the Czech Mining Authority No.104/1988 Coll., on economical exploitation of reserve deposits, on permitting and notification of mining activities and notification of activities carried out by mining methods

f) the standpoint of the District Mining Authority and the Ministry of the Environment.

#### § 14c

##### **Decision to depreciate reserves in a reserved deposit**

(1) A proposal to depreciate reserved deposit reserves during the stage of prospecting and exploration of the reserved deposit is to be considered by the Ministry of the Industry and Trade of the Czech Republic with the approval of the Ministry of the Environment of the Czech Republic; during the planning stage of mine or quarry construction and during the extraction of the reserved deposit the proposal for amortization is to be considered by the Ministry of the Industry and Trade after a consultation with the Czech Mining Authority.

(2) A proposal to depreciate a small reserve within a reserved deposit is to be considered by the District Mining Authority. A small reserve is understood to be a reserve quantity not exceeding in any calendar year a total of 5% of the planned annual extraction from the deposit and, in any particular case, not exceeding 100 000 t of deposit or 50 000 m<sup>3</sup> and 500 000 m<sup>3</sup> of natural gas.

(3) A decision concerning the depreciation of reserves of the reserved deposit is to contain the following:

- a) the quantity of depreciated reserves, their location and a brief justification for the depreciation,
- b) a decision on whether or not the depreciated reserves are to be removed from the reserve records or transferred from classification as economic reserves to non-economic reserves,
- c) a measure for protection of reserves transferred from classification as economic reserves to non-economic reserves, with consideration of their possible future exploitation.

(4) The proposal for depreciation of reserved deposit reserves is to be considered by the authorities pursuant to par. 1 and 2 within one month of the date of submission of the proposal.

(5) The decision on the depreciation of reserved deposit reserves, together with one set of documents pursuant to § 14b, is to be sent by the Ministry of the Industry and Trade to the organization submitting the proposal and to the District Mining Authority. The decision on the depreciation of a small quantity of reserves without documents pursuant to § 14b is to be sent by the Ministry of the Industry and Trade to the Ministry of the Environment, the Regional Authority and the Czech Geological Survey. The decision on the depreciation of a small quantity of reserves is to be sent by the District Mining Authority to the Ministry of the Industry and Trade, the Ministry of the Environment and the Czech Geological Survey. The approved depreciation of reserved deposit reserves shall be marked by the organization submitting the proposal in mine survey and geological records.

(6) An organization proposing depreciation of reserved deposit reserves must not liquidate technical facilities required for extraction of the reserves proposed for

depreciation and must not prevent access to such equipment until it receives the decision concerning depreciation except when such liquidation is required for operational safety and by the conditions for working health protection.

## **PART FOUR**

### **PROTECTION OF MINERAL RESOURCES**

#### § 15

##### **Provision for protection of mineral resources during territorial planning work**

(1) To ensure timely protection of mineral resources the Land Planning Authorities <sup>6)</sup> and compilers of territorial planning documents must, during territorial planning work, base their work on documents on determined and assumed reserved deposits, provided to them by the Ministry of the Environment of the Czech Republic, on that must comply to special regulations <sup>3)</sup>, and must propose solutions that are most suitable for safeguarding and exploitation of mineral resources and other legally protected general interests.

(2) Ministry of the Environment, Ministry of the Industry and Trade and the Czech Mining Authority stake a claim its standpoints to politics of territorial development and to the principles of territorial development from the view of the protection and utilization of mineral resources. Ministry of the Environment, Ministry of the Industry and Trade and the District Mining Authorities stake a claim its standpoints to the territorial plans and to the regulatory plans from the view of the protection and utilization of mineral resources.

#### § 16

##### **Protected deposit area**

(1) Protection of a reserved deposit against prevention or obstruction of its extraction is ensured by establishment of a protected deposit area.

(2) A protected deposit area includes the area on which buildings and equipment not connected with extraction of the reserved deposit could prevent or obstruct extraction of the reserved deposit.

(3) A protected deposit area is established for the reserved mineral deposit during the stage of prospecting or exploration, after the issuing of a reserved deposit certificate (§ 6).

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6) § 16 of the Act No. 50/1976 Coll. ,on territorial planning and construction order (Construction Code) as amended

#### § 17

##### **Establishment of a protected deposit area**

(1) A protected deposit area is established by the Ministry of the Environment of the Czech Republic after a consultation with the Regional Authority with devolutioned

competence of the Czech Republic through a decision issued in accordance with the Ministry of the Industry and Trade of the Czech Republic, with the District Mining Authority and in accordance with the territorial planning authority and the Construction Office.

(2) Proceedings on the determination of a protected deposit area are to be commenced on the basis of a proposal by the organization or of a request from the body of the state administration. The proposal is to be based on a reserve deposit certificate and a proposal for the boundaries of the protected deposit area.

(3) Only the organization submitting the proposal ( proposer) participates in the proceedings on the determination of a protected deposit area. The commencement of the proceedings is to be announced by the Ministry of the Environment of the Czech Republic to the relevant bodies of the state administration, land planning authorities and the Construction Office. The Ministry of the Environment of the Czech Republic is to arrange for oral proceedings, together, where required, with a local inquiry, and is simultaneously to point out that the standpoints of the said state administration authorities and the comments and proposals of the participants can be accepted not later than during the oral proceedings; otherwise the Ministry of the Environment of the Czech Republic need not take them into consideration. If more time is needed by any of the authorities of the state administration for consideration of the case, the Ministry of the Environment of the Czech Republic, on the basis of a request, may extend the given deadline, prior to its termination, by a suitable length of time.

(4) During the proceedings on the establishment of a protected deposit area the Ministry of the Environment of the Czech Republic is to consider the proposal and the documentary materials so as to safeguard requirements for the protection of the reserved deposit, and protect the position of the state administration authorities pursuant to par. 3, and consider comments and proposals of the participant.

(5) The boundaries of the protected deposit area are entered into the territorial planning documentation.

(6) The Ministry of the Environment of the Czech Republic can abolish a protected deposit area if the reasons for the protection of the reserved deposit cease to exist.

(7) The provisions of par. 1 to 5 are equally valid in cases of alteration or abolishment of a protected deposit area.

(8) The details on the determination, alteration or abolishing of a protected deposit area and the records thereof are to be established by the Ministry of the Environment of the Czech Republic through a generally binding legal regulation.

## § 18

### **Limitation of some activities within a protected deposit area**

(1) In the interest of the protection of mineral resources, it is possible within a protected deposit area to establish buildings and facilities not directly connected with the extraction of the reserved deposit only on the basis of the binding standpoint<sup>8)</sup> of

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the pertinent body according to this Act..

(2) If it is necessary to locate, within a protected deposit area, a building or facilities not directly connected with the extraction of the reserved deposit to provide for legally protected general interests, it is necessary to ensure minimum disturbance of the utilization of mineral resources. It is permitted to prevent or obstruct the extraction of reserve mineral deposits pursuant to § 3 par. 1 letters a) to d) only in especially essential cases, if a particularly important building or facility is involved, or if the location of the building or facility prevents or obstructs the extraction of only a small quantity of reserved deposit reserves.

## § 19

### **Placing of buildings and facilities within a protected deposit area**

(1) A decision on placing of buildings or facility not connected with mining within a protected deposit area can be issued by the relevant authority in accordance with the special regulations <sup>10)</sup> only with the binding standpoint of the Regional body pursuant to the devoluted competence, issued after due discussion with the District Mining Authority. The District Mining Authority shall propose conditions for placing, resp. realization of buildings or facility.

(2) The applicant for issuing of decision on placing of buildings or facility not connected with mining within a protected deposit area must include with the application a binding standpoint in accordance with the par.1.

## **Land management**

### § 20

1) Subjekt with established mining claim on the state land has a right to have a agreement about a hireof the land for the time expected mining of the deposit or to have sale contract for this land with administrative body, legal entity or its organizing branch that manages with that land or has this land in its administration. An application form must be pass at the latest 60 days from the date of the establishment of the mining claim and shall contain detail information about the land according to the land register and must be adressed to the administrative body, legal entity or its organizing branch that manages with that land or has this land in its administration and must be recorded with the confirmation of the Czech Mining Authority that the aplicant has established the mining claim.The Czech Mining Authority can not issue a confirmation for the land in the nmining claim with an underground exploration in the case that this land can not be jeopardized by mining activities.The application form must be recorded with the approval of the municipality that has this land on its land register.

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10) § 117 to 121 of the Act No. 50/1976 Coll.

(2) ) Subjekt with issued permits for mining activities has a precedence over other interested person for hire or sale of the state land lying in the established protectid deposit area. An aplication form must be pass at the latest to the date of the establishment of the mining claim and shall contain detail information about the land according to the land register and must be adressed to the administrative body, legal entity or its organizing branch that manages with that land or has this land in its administration and must by recorded with the confirmation of the Ministry of Environment of the Czech Republic that the aplicant has established the protectid deposit area.The Czech Mining Authority can not issue a confirmation for the land in the nmining claim with an underground exploration in the case that this land can not be jeopardized by mining activities.The application form must be recorded with the approval of the municipality that has this land on its land register.

(3) In the case of the sale pursuant to par. 1 and 2 the land is transfered with the price as is usual at time and the relevant place.

## **PART FIVE**

Title deleted

## **PART SIX**

### **CONSTRUCTION OF MINES AND QUARRIES**

#### **§ 23**

##### **Design, construction and reconstruction of mines and quarries**

(1) Design, construction and reconstruction of mines and quarries including spoil tips, heaps and tailing ponds is subject to general regulations concerning major constructions unless this Act states otherwise.

(2) Documents on construction pursuant to par. 1 must conform to the general regulations and must ensure the following:

- a) economical exploitation of the reserved deposits,
- b) optimum location of surface and underground equipment, buildings and mine works and use of the most suitable mining methods,
- c) depositing and storage of extracted and temporarily unused minerals and waste materials (spoil tips, heaps and tailing ponds),
- d) protection against destruction or spoilage of reserves in neighbouring reserved deposits,
- e) safety of operations and health and safety protection at work, safeguarding of mine works, ventilation, pumping and extraction of mine water, and protection against explosions, water breakout, fires and shocks, as well as against rock or coal seam collapse and gas escape,

- f) limitation of negative environmental impacts,
- g) the preparation of a complex study of the area affected by mining operations, particularly of relationships to other branches of the national economy, the effect on property owners, and on legally protected general interests,<sup>5)</sup> in terms of both the direct consequences of the proposed development and also of the consequences connected with the exploitation of the reserve deposit, with a list of buildings and facilities for which compensation must be planned.
- h) putting of reserved deposit reserves more precisely by necessary exploration.

(3) The body of the State Mining Administration permits mine works and mine structures underground.

(4) The body of the State Mining Administration of the Republic also permits for mine structures required for opening, preparation or extraction of a reserved deposit in quarries and overburden within the boundaries corresponding to a line defining the actual overburden or extraction carried out, or in areas directly affected by extraction, unless land reclamation has been completed.

(5) Permits for mine works and structures pursuant to par. 3 and 4 are issued by the body of the State Mining Administration of the Republic in the framework of a permit for the opening, preparation and extraction of a reserved deposit.<sup>12)</sup>

(6) Permits for storehouses for explosives and their use are subject to special regulations.<sup>12)</sup>

## **PART SEVEN**

### **EXTRACTION OF RESERVED DEPOSITS**

#### **§ 24**

##### **Authorization for extraction of a reserved deposit**

(1) Authorization of an organization to extract a reserved deposit is established by delimitation of the mining claim. The organization may commence extraction in the delimited mining claim however, only after obtaining a permit from the District Mining Authority.<sup>4)</sup> The District Mining Authority can link together administrative procedures for the delimitation of a mining claim and proceedings for the permit of mining activities according to the special regulations<sup>12a)</sup>

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 5) eg. Act No. 367/1990 Coll., on municipalities (municipality), Act No. 425/1990 Coll., on Act. No. 51/1964 on railways, Decree No. 28/1967 Coll. that lays down rules for a contact railways and mining activities, Act. No. 20/1966 Coll., on

12) Act No. 61/1988 Coll.

12a) § 17 and 18 of the Act. No. 61/1988 Coll.

in the case that an organization submits the application form for establishment of the mining claim and plans for opening, preparation and extraction of reserved deposits including documents about tackling of conflicts of interest and currently must be fulfilled other conditions stated by this Act.

(2) An organization has to have a predecessor approval from the Ministry of Environment of the Czech Republic issued after a consultation with the Ministry of the Trade and Industry before submitting a proposal for delimitation of a mining claim. must be obtained by the organization prior to submitting a proposal for delimitation of a mining space. The Ministry of Environment may make the issuing of such a predecessor approval dependent on the fulfilling of conditions related to the creation of an unified raw material policy for the Czech Republic and on the return of means spended from the state budget for prospecting for and exploration of reserved deposits. These conditions are to be stated in the decision on the delimitation of the mining claim.

(3) An organization on whose behalf exploration of a reserved deposit was carried out or which contributed financially to the exploration of a reserve deposit, has a first claim in obtaining a predecessor approval for the delimitation of a mining space. The organization may invoke such a claim only after calculations of the reserved deposit reserves have been approved (§ 14 par. 3), but not later than within one year after expiring of the validity of the decision for the delimitation of an exploration area for prospecting for and exploration of the reserved deposit; this prior claim is to be made at the Ministry of the Environment of the Czech Republic.

(4) In other cases the Ministry of Environment of the Czech Republic is to make a decision on the granting of a predecessor approval on the basis of an assessment of proposals submitted by two or more applications for the delimitation of a mining claim, after due consideration of which proposal ensures better exploitation of the reserved deposit and better protection of legally protected general interests.

(5) The Ministry of Environment of the Czech Republic is to make a decision on granting of a predecessor approval for the delimitation of a mining claim pursuant to par. 6 to 9 in the cases when par. 3 can not be assert and they are relevant only for deposits of crude oil or flammable natural gas.

(6) The Ministry of Environment shall announce an receipt of the request for a predecessor approval for a delimitation of a mining claim for purpose of the extraction of crude oil and flammable natural gas through the Official Journal of the European Union ( hereinafter referred to as „Official Journal“). There shall be announced a time limit for submitting of a competitive request. This time limite may not be shorter then 90 days and begins from the first day after the day of announcing in the Official Journal. An Administrative procedure will be commenced from the day following the day of expiration of the time limite prescribed by this paragraph.

(7) The ministry of the Environment shall present in an announcement a name of the legal regulation according to which an administrative procedure for granting a predecessor approval for a delimitation of a mining claim shall be managed,

designation of an area that is a subject of a request for granting of a predecessor approval for delimitation of a mining claim and proposed period of validity of predecessor approval.

(8) The Ministry of the Environment is to proceed pursuant to criteria presented in par. 4 and can take into account their technical and financial availability in the cases that there are two or more applicants for granting a predecessor approval for a delimitation of a mining claim for extraction of crude oil or flammable natural gas.

(9) Conditions can be laid down in the decision for granting of a predecessor approval for a delimitation of a mining claim for extraction of crude oil or flammable natural gas for the following reasons

- a) safeguarding of a defense of the state,
- b) safeguarding of a public order,
- c) protection of a public health,
- d) safeguarding of a transport safety,
- e) environment protection including protection of natural resources,
- f) protection of interests of the state monumental care <sup>12b)</sup> or protection of archaeological heritage, <sup>12c)</sup>
- g) ensuring equipment safety or safety of employees,
- h) protection of deposits of crude oil or flammable natural gas and their economic utilisation,
- i) ensuring of incomes of public budget and return of means spent on geological works paid from the state budget.

(10) An organization is entitled to dispose of extracted minerals to an extent and under the conditions stated in the decision concerning delimitation of the mining claim.

(11) If an organization entitled to extract a reserved deposit pursuant to par. 1 does not apply for an authorization to carry out mining operations to the District

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12b) Act No.20/1987 Coll., on state preservation of monuments

12c) Declaration on protection of archaeological heritage, announced as No.99/2000Coll.

Mining Authority within 3 years from the issuing of such an authorization, the District Mining Authority may decide to withdraw the authorization from the organization.

## § 25

### **Mining claim**

(1) Mining claims are delimited on the basis of results of exploration of a deposit on the basis of the extent, position, shape and thickness of the reserved deposit, and taking into account the reserves and positional conditions so as to facilitate economical extraction of the deposit. The establishment of a mining claim is based on the determined protected deposit area with consideration of the extraction of neighbouring deposits and extraction impacts.

(2) The mining claim may include one or more reserved deposits, or, if the extent of the deposit so requires, only a part of the reserved deposit.

(3) The mining claim is delimited for the extraction of a reserved deposit of a specified mineral or group of minerals. Simultaneously it is decided which minerals contained in the reserved deposit will be temporarily stored. If it is more economical for another organization to extract separately a different mineral or a group of minerals, a special mining claim is to be delimited for their extraction.

## § 26

### **Boundaries of mining claim**

(1) The surface boundaries of a mining claim are to be defined by a closed geometrical figure with straight linear sides whose apices are defined by coordinates given in a valid coordinate system. Its spatial boundaries under the surface are normally specified by vertical planes passing through the surface boundaries. In special cases the space boundaries may be defined by natural boundaries. The depth of a mining claim may also be delimited.

(2) The District Mining Authority may order that the mining claim boundaries to be marked by boundary markers on the surface or within the mine works, especially where this is necessary because of legally protected general interests or the protected interests of owners (managers, users) of property located within the boundaries of a mining claim or where because of the interests of an organization with neighbouring mining claim.

(3) The boundaries of the delimited mining claim are to be designated by the territorial planning authority in the land planning documents.<sup>6)</sup>

## § 27

### **The delimitation, alteration and abolishing of a mining claim**

(1) A mining claim and its alterations thereto is laid down by the District Mining Authority in cooperation with the relevant state administration authorities, and especially in agreement with the environmental authorities and territorial planning authorities and Construction Office.

(2) A proposal for the delimitation of a special mining claim (§ 25 par. 3) must be based on a statement by the organization for which a mining claim was already delimited. If required by factors of economical exploitation, environment and operational safety, the District Mining Authority is to define the necessary procedures, and particularly the sequence and method of extraction of the reserved deposits.

(3) The decision concerning the delimitation of a mining claim must also contain the date of commencement of mining of the reserved deposit. The validity of the decision on the delimitation of the mining claim has no time limit unless the otherwise stated in the decision.

(4) Pursuant to the conditions in par. 1, the District Mining Authority may alter a mining claim upon the request from the organization concerned, or on its own initiative for important reasons of legally protected general interests.

(5) If a proposal for the delimitation or alteration of a mining claim affect legally protected interests pursuant to the special regulations,<sup>8)</sup> the organization that is to extract the reserved deposit is to discuss conditions for the delimitation of the mining claim with authorities and natural and legal entities concerned with protection of such interests pursuant to these regulations. The said authorities, natural and legal entities must make known their comments, requirements and standpoints within one month to the organization which requested the delimitation or alteration of the mining claim.

(6) The delimitation and alteration of a mining claim is also a decision on utilization of the area within the relevant surface boundaries.

(7) An organization may transfer its mining claim by agreement to another organization with prior consent of the District Mining Authority; the provisions of § 24 par. 6 concerning the three year limit for submitting an application for a mining permit are similarly valid under these circumstances. The transferring organization is to notify the District Mining Authority about the transfer of the mining claim, accompanied by a copy of the agreement.

(8) Pursuant to the provisions of par. 1, the District Mining Authority can abolish a mining claim either on the basis of a request from the organization concerned, or by its own decision, if extraction of the reserve deposit ends or is permanently terminated.

(9) Details concerning proposals for mining claim and procedures for the delimitation, alteration, abolishing and records thereof are to be set by the Czech Mining Authority pursuant to the generally binding legal regulations.

## § 28

### **Proceedings for the delimitation, alteration and abolishing of a mining claim**

(1) Proceedings for the delimitation, alteration and abolishing of a mining claim (hereinafter referred to as "proceedings for the delimitation of a mining claim") are to be initiated on the basis of a proposal by an organization or upon a request from the District Mining Authority. The proposal must be accompanied by the following:

a) decision on the delimitation of a protected deposit area,

- b) prior consent of the Ministry of the Environment issued pursuant to § 24 par. 2,
- c) a document stating that the organization is entitled to carry out mining operations,
- d) papers and documents prescribed by the implementation regulations for this Act, and/or by special regulations<sup>8)</sup>. The District Mining Authority may request other essential documents such as are necessary for a reliable assessment of the submitted proposals, particularly for the protection and economical exploitation of the reserved deposit, impact of its extraction, and/or impact on legally protected general interests.
- e) a list of natural and legal persons that may take into account as parties to proceedings and that are known to the proposer,
- f) request for a permit for an opening, preparation and extraction of reserved deposits, in the case, that organization demands for a delimitation of a mining claim and for a permit of mining activities simultaneously.

(2) The parties to proceedings on the delimitation of a mining claim are the proposer, and the natural and legal persons whose ownership rights and other rights over the property and/or buildings could be affected by a decision on the delimitation of a mining claim, the community in whose territorial district the mining claim is located, and communities whose territorial district could be affected by the delimitation of the mining claim.

(3) The District Mining Authority is to announce the commencement of the proceedings on the delimitation of a mining claim to the relevant state administration authorities and to all known parties to proceedings not later than 7 days prior to the oral proceedings, and is also to arrange for the oral proceedings normally connected with a local enquiry. Simultaneously, it is to notify the participants of their right to present comments and proposals not later than during the oral proceedings; otherwise such comments and proposals may be disregarded. Authorities that have submitted comments on the delimitation of a mining claim pursuant to the special regulations<sup>8)</sup> are not invited to the proceedings.

(4) The affected state administration authorities are to give notice of their standpoints within a period of time specified by the District Mining Authority, which must not be less than 15 days; otherwise such standpoints need not be taken into consideration. If any of the state administration authorities require a longer time to properly assess the proposals, the District Mining Authority can, upon receiving a request to do so, extend the given time period accordingly.

(5) The commencement of proceedings on the delimitation of a mining claim, if this is a large area, is to be announced by the District Mining Authority to participants through a public notice not less than 15 days prior to the commencement of the oral proceedings. The District Mining Authority is to announce the commencement of proceedings through a public notice also if the participants of the proceedings are not known to this Office. Notification of commencement of proceedings through public notice is subject to the same procedure as territorial proceedings pursuant to the special regulations.<sup>14)</sup>

(6) During proceedings on the delimitation of a mining claim the District Mining Authority is to investigate the proposal primarily from the point of view of protection

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14) § 58 of the Decree No.85/1976 Coll., on territorial procedure and building order

and utilization of the mineral resources and the consequences thereof; at the same time it is to consider whether the proposal conforms to the decision on the protected deposit area and to the general technical requirements for mine or quarry constructions and to the requirements pursuant to the special regulations.<sup>8)</sup>

(7) During proceedings on the delimitation of a mining claim the District Mining Authority is to obtain the standpoints of the relevant state administration authorities and assesses comments and proposals from the participants.

(8) In making a decision on the delimitation of a mining claim, the District Mining Authority is to define the mining claim and state the conditions for the protection of legally protected general interests in the area, and is to make a decision on objections raised by participants of the proceedings.

(9) The District Mining Authority may commence proceedings on the delimitation of a mining claim even if all the papers and documents pursuant to par. 1 letters d) and e) are not available. Simultaneously, the Office is to set a time period for the completion of the proposal. If the proposal is not completed within the stated time period, the District Mining Authority is to stop the proceedings on the delimitation of the mining claim.

## § 29

### **Records**

(1) The records of reserved deposits are kept by the Ministry of the Environment of the Czech Republic.

(2) The records of protected deposit areas are kept by the Ministry of the Environment of the Czech Republic.

(3) The records of mining claims and their alterations are kept by the District Mining Authority in Registers of mining claims. The overall records of mining claims are kept by the Czech Mines Authority.

(4) The Ministry of the Environment of the Czech Republic maintains overall records of reserved deposit reserves and, on the basis of these records, the Ministry maintains estimates of mineral reserves of the Czech Republic.

(5) The authorities pursuant to par. 1 to 4 can provide data from the Register to the pertinent bodies of the territorial planning on their request until 30 days and are to permit inspection of these records or are to provide the information or excerpts required by natural or legal entities that demonstrate that such information is necessary for fulfillment of their duties or for the enforcement or protection of their rights. Regulations on the protection of state, economical and service secrets are not affected by this provision.

(6) Detailed records of reserved deposit reserves are to be kept by the Ministry of the Environment of the Czech Republic pursuant to the generally binding legal regulations.

### **Economical exploitation of reserved deposits**

(1) Reserved deposits must be exploited economically. Economical exploitation of reserve deposits is understood to mean the extraction, processing and refinement of extracted minerals pursuant to the principles outlined in par. 2, on the basis of contemporary technical and economical conditions; the principles of mining technology, health and safety at work and safety of operations<sup>15)</sup> must be adhered to, and unwarranted negative impacts on the working and natural environments must be avoided.

(2) During processing and refinement of minerals from which metals can be produced by industrial processes, is prohibited using cyanide technologies or other ancilliary procedures using cyanide compounds. This prohibition is valid for using of cyanide leaching in any measures and for its using with the combination with other methods of processing and refinement of minerals.

(3) During exploitation of reserved deposits it is particularly necessary to

a) extract reserves of a reserved deposit, including secondary minerals, as completely as possible and with minimum losses and pollution; extraction of only the richest parts of the deposit is not permitted,

b) the extracted minerals must be properly utilized during processing and refinement carried out in connection with their extraction,

c) secondary minerals extracted at the same time and temporarily unused must be suitably stored and records must be kept thereof,

d) overburden and waste rock must be suitably stored and, if possible, efficiently utilized.

(4) If it is advantageous, because of the deposition conditions in the deposit, economy or operational safety, or technical and operational conditions in the organization, for another organization to extract a part of the deposit located in the mining space of the original organization, or if it is necessary for an organization to establish mine works within the mining space of another organization, an agreement between the two organizations is to be signed.

(5) An organization may, if this contributes to more economical and safer exploitation of a reserved deposit and if its own operations so permit, allow another organization joint use of its mine works and equipment.

(6) If any of the procedures pursuant to par. 3 and 4 are absolutely essential for operational safety, the District Mining Authority is to require that such a procedure be employed.

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15) § 6 of the Act No.61/1988 Coll.

(7) Extraction of a reserved deposit must not be stopped without providing for the technical feasibility and economical effectiveness and safety of any possible later extraction, unless stopping of the extraction is required because of an important legally protected general interest, in particular protection of life and the general health of the population.

(8) Details of economical exploitation of reserved deposits are to be set in a generally binding legal regulation issued by the Czech Mining Authority.

## § 31

### **Duties and rights of an organization during extraction of reserved deposits**

(1) An organization is entitled to extract a reserved deposit within the delimited mining claim.

(2) If, during the extraction of a reserved mineral for which a mining claim has been delimited, a deposit of another reserved mineral is found within the mining claim, the organization is obliged without delay to inform the Ministry of the Environment of the Czech Republic, Ministry of the Industry and Trade of the Czech Republic and the District Mining Authority. If exploration of the deposit confirms that the detected deposit can be extracted and that its extraction by another organization would not be economical, the district mining authority may require that the organization also extract the second reserve deposit (§ 27). If the extraction of the second reserved deposit is not economical, the organization must take appropriate measures to protect the second reserved deposit.

(3) To increase knowledge of the quantity and quality of reserves and of geological, technical and mining conditions of extraction, the organization must, during the mining process, carry out further exploration of the deposit at a sufficient time in advance and within the boundaries of the mining claim. This exploration is subject to conditions similar to those pursuant to § 11.

(4) For the purposes of mining of the reserved deposit, the organization is entitled:

a) to establish within the boundaries of the mining area and, where necessary, also outside the boundaries, buildings and facilities necessary for opening, preparation and extraction of the reserved deposit and for the processing and refinement of the minerals carried out in connection with their extraction, and for transportation of all necessary equipment and materials,

b) to acquire for the purpose of fulfilling the obligations pursuant to this Act, property or property rights through a decision on expropriation or through the acquisition of user's rights; expropriation proceedings are subject to special regulations.<sup>16)</sup>

(5) The organization is obliged to provide for rehabilitation of all land affected by the mining in accordance to the special regulations.<sup>14a)</sup> Rehabilitation of property freed during the mining is carried out pursuant to the plans for opening, preparation and

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14a) Act No. 334/1992 Coll., on protection of agriculture land

16) § 108 of the Act No.50/1976 Coll.

extraction (§ 32). Rehabilitation is considered to be the removal of negative impacts on the landscape by an integrated reclaiming of land and territorial structures.

(6) The organization is obliged to maintain reserve funds to provide for the operations pursuant to par. 5. The amount of the reserve fund, to be considered as expenditures, must be adequate for the requirements of rehabilitation of land affected by extraction. These reserves are considered as costs for reaching and ensuring of incomes.<sup>14b)</sup>

## § 32

### **Plans for opening, preparation and extraction of reserved deposits and plans for safeguarding and liquidation of principal mine works and quarries**

(1) An organization which is entitled to extract reserved deposits is obliged to prepare plans for opening, preparation and extraction of these deposits.

(2) Plans of opening, preparation and extraction must ensure that opening and preparation of the reserved deposit is executed sufficiently in advance of its extraction, and that the extraction is economical and continuous and utilizes suitable extraction methods and ensures operational safety. Calculation of presumed costs for compensation of damages caused by mining connected with planned activities and for rehabilitation of land and reclamation of the affected areas including a proposal on the height and way of creation necessary funds is a part of plans of opening, preparation and extraction ( § 31 par. 6 and § 37a).

(3) If the opening, preparation and extraction threaten operations or exploitation of a reserved deposit within the mining space of another organization, the District Mining Authority is to establish essential measures, and in particular the sequence and method of extraction of the reserved deposits.

(4) Prior to the stopping of operations in the principal mine works or quarries, the organization is obliged to create plans for their safeguarding or liquidation.

(5) Details of plans for the opening, preparation and extraction of reserved deposits and plans for the safeguarding and liquidation of the principal mine works and quarries are to be set in a generally binding legal regulation issued by the Czech Mining Authority.

## § 32a

### **Fees**

(1) An organization is obliged to pay, into an account of the relevant District Mining Authority, an annual fee for the mining claim for each ha or part thereof of the area of the mining claim within its surface boundaries. The Government Order is to set

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14b) § 24 (2) letter i) of the Act No.586/1992 Coll., on taxes from incomes

the size of the fee within the range 100 CSK to 1000 CSK from ha graduated taking into account a degree of a protection of environment in the affected area, characterization of activities carried out in the mining claim and its impacts on the environment. The District Mining Authority is to transfer this fee to the municipality within whose territory the mining claim is located. If the mining claim lies in the territories of several communities, the District Mining Authority is to apportion the income according to the ratio of parts of the mining claim located within the respective municipal territories

(2) An organization is obliged to pay, into an account of the District Mining Authority, an annual fee for the extracted reserved minerals or reserved minerals after their treatment and refinement carried out in connection with their extraction (hereinafter "extracted minerals"). This fee is to be no more than 10% of the market price of the extracted minerals. The average market price in the year in which the reserve minerals were extracted is considered decisive. For minerals whose market price is not known, the Ministry of the Industry and Trade of the Czech Republic after consultation with the Ministry of the Environment and with the Ministry of Finance of the Czech Republic will decide upon the fee base for the extracted minerals.

(3) The Ministry of the Industry and Trade of the Czech Republic in agreement with the Czech Mining Authority, the Ministry of the Environment of the Czech Republic and the relevant state administration authorities and with the consent of the communities whose territories are affected can, in justified cases, particularly to assist mining operations and utilization of mineral resources, and on the basis of a request from the organization, reduce the amounts of fees for extracted minerals, or can provide exemption from such fees.

(4) Of the income from fees obtained pursuant to par. 2, the District Mining Authority is to transfer 25% into the state budget of the Czech Republic and 75% into the budget of the community within whose territory the mining space is located. If the mining space affects several communities, the District Mining Authority is to apportion the income according to the ratio of mining for each respective year, corresponding to the territories of the individual community.

(5) The obligation to pay fees pursuant to par. 1 and 2 commences in the calendar year following the year in which the mining claim was delimited. The obligation to pay fees pursuant to par. 1 terminates with the abolishing of the mining claim.

(6) If an organization does not pay fees pursuant to par. 1 and 2 or does not pay the total required sum, it is obliged to pay a penalty for each day of delay of 0.1% of the amount owed. If an organization does not pay the set fees within the extended period set by the District Mining Authority, the District Mining Authority can withdraw its permit to extract the reserved deposit. In such a case, a legal entity entrusted by the Ministry of the Environment of the Czech Republic is to ensure the protection and keeping of records on the reserved deposit.

(7) Fees due pursuant to par. 1 and 2 including any penalties pursuant to par. 7 are to be calculated by the organization with the authorization to extract the reserved deposit (§ 24 par. 1).

(8) Payment of fees pursuant to par. 1 and 2 and of penalties pursuant to par. 7 is to be controlled by the District Mining Authority. This in no way affects the rights of control authorities pursuant to the special regulations.

(9) The size of fees due pursuant to par. 2 for individual types of extracted minerals and details of the payment of fees pursuant to par. 1 and 2 including possible penalties, the transfer of such fees to the state budget of the Czech Republic and into the budgets of the relevant municipalities, apportioning of income from fees pursuant to par. 4 and 5, conditions for reduction of fees for extracted minerals or exemption from fees, and the completion and maintenance of appropriate records are subject to a generally binding legal regulation set by the Ministry of the Industry and Trade of the Czech Republic after consultation with the Ministry of Finance of the Czech Republic and with the Czech Mining Authority.

(10) Organization is obliged to pay annual fee from crude oil or flammable natural gas obtained by carrying of exploration deposit in the established exploration area and putted into the market in the framework of their activity. Provisions of the par. 2 till 9 can be used similarly.

§ 32b

Deleted

§ 33

### **Solution of conflicts of interest**

(1) If exploitation of a reserved deposit threatens objects and the interests protected pursuant to special regulations<sup>11)</sup>, or the objects and the interests of natural or legal entities, then the organizations, authorities and natural and legal entities, whose responsibility it is to safeguard such objects and interests, are obliged to solve in mutual cooperation such conflicts of interest, and to suggest approaches that would enable the exploitation of the reserved deposit and the necessary safeguarding of the said objects and interests.

(2) The organization is obliged, prior to including relevant work in the plan of opening, preparation and extraction, to come to an agreement with the authorities and with natural and legal entities responsible for safeguarding the objects and interests pursuant to par. 1, on whether a threatened object or interest should be safeguarded, and to what extent, or for which period, and submit this agreement to the District Office for assessment. The agreement is valid if it is not disputed by the District Office within one month from its submission. The obligation to reach an agreement does not include cases in which conflicts of interest are settled during the delimitation of a protected deposit area or mining space or during the design, construction or reconstruction of a mine or a quarry, or if the process of their solution is subject to special regulations.<sup>11)</sup>

(3) If no agreement is reached pursuant to par. 2 or if the District Office disputes the agreement, the conflict of interests is to be settled by the Ministry of the Industry and Trade of the Czech Republic in accordance with the Ministry of the Environment

of the Czech Republic and with the Czech Mining Authority and in cooperation with other affected central state administration authorities with due consideration of the standpoint of the Regional Offices.

(4) If no agreement is reached between the organization and natural and legal entities owning the relevant properties and real estate and if the public interest in exploitation of the reserve deposit outweighs the justified interests of property and real estate owners, the solution is to proceed pursuant to § 31 par. 4.

(5) An organization applying for a permit to open, prepare and extract a reserved deposit is obliged to prove to the District Mining Authority that conflicts of interest have been solved.

(6) Protective measures, which must be taken regarding buildings and facilities not connected with the extraction of a reserved deposit, are to be stipulated by the relevant Construction Office in agreement with the District Mining Authority and notice is to be given to the owner of the affected buildings and facilities as the need for essential adaptation.<sup>17)</sup> If buildings and equipment established prior to the delimitation of the mining space are involved, the protective measures are to be instituted at the expense of the organization.

(7) The provisions of par. 1 to 6 are similarly valid for the inclusion of relevant work in the plans for the safeguarding of mine works and quarries or in plans for the liquidation of principal mine works and quarries.

(8) Process for solution of disagreements in accordance with this Act cannot be used for solution of disagreements connected with delimitation of built-up area, making territorial documents, for territorial and building proceeding according to the special regulations.<sup>10)</sup>

In these cases must be proceeded pursuant to the Administrative Order.

## **PART EIGHT**

### **OTHER INTERVENTIONS AFFECTING THE EARTH'S CRUST**

#### **§ 34**

##### **Special interventions affecting the Earth's crust**

(1) Pursuant to this Act, special interventions affecting encroachment on the earth's crust is defined as the establishment, operation, safeguarding and liquidation of equipment for the

- a) storage of gases or liquids in natural rock structures and in underground spaces (underground stores of gases and liquids),
- b) deposition of radioactive and other waste materials in underground spaces,<sup>18)</sup>

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17) § 87 of the Act No.50/1976 Coll.

18) Decree No. 59/1972 Coll., on health protection against radiation

c) industrial exploitation of the thermal energy of the Earth's crust with the exception of the thermal energy of water brought to the surface,

(2) Special interventions affecting the Earth's crust including prospecting and exploration for these purposes is subject to provisions of §§ 11, 16, 17, 18, 23, 32, 33, and 36 to 39.

(3) Underground spaces created in the process of special interventions affecting the earth's crust are considered to be mine works.

(4) Details of establishment, operation, safeguarding and liquidation of equipment for special interventions affecting the earth's crust are to be set in a generally binding legal regulation by the Czech Mining Authority.

## § 35

### **Old mine works**

(1) Pursuant to this Act, old mine works are understood to be underground mine works which are deserted and whose original operator or legal representative thereof do not exist or are not known.

(2) The old mine work is understood to be a quarry after extraction of reserved minerals which is deserted and whose original operator or legal representative thereof do not exist or are not known too.

(3) The Ministry of the Environment of the Czech Republic is responsible for the discovery of old mine works and is to maintain a Register thereof. Maintenance of the Register can be entrusted to another legal entity. Data from the Register can be provided to the relevant bodies of the territorial planning on their request until 30 days.

(4) Any one who discovers an old mine works or its impact on the surface is obliged without delay to notify the Ministry of the Environment of the Czech Republic.

(5) The Ministry of the Environment of the Czech Republic is to ensure, to the required extent, the safeguarding or liquidation of old mine works and their impacts which threaten legally protected general interests. The Ministry of the Environment of the Czech Republic is also to make a settlement on any possible detriment to real estate <sup>19)</sup> incurred during the safeguarding or liquidation of old mine works.

6) The Ministry of the Environment of the Czech Republic is to ensure, to the required extent liquidation of old mine works pursuant to par. 1 and 2 as for the present of old mine works životního prostředí České republiky zajišťuje v nezbytně nutném rozsahu likvidaci starých důlních děl uvedených v odstavcích 1 a 2, pokud existence takových děl brání dalšímu rozvoji území a je v souladu s územním plánem velkého územního celku. V ostatních případech o tom, zda tato skutečnost nastala, rozhodne Ministerstvo životního prostředí České republiky v dohodě s Ministerstvem pro místní rozvoj České republiky a Ministerstvem průmyslu a obchodu České republiky.

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19) Business Code

(7) The Ministry of the Environment of the Czech Republic is to be set a generally binding legal regulation on details of the determination of old mine works and maintenance of the Register thereof.

## **PART NINE**

### **DAMAGES CAUSED BY MINING AND COMPENSATION FOR DAMAGES**

#### **§ 36**

##### **Damages caused by mining**

(1) Damages caused by mining are considered to be damages to real estate caused by prospecting and exploration of deposits, where this involves mine works, the extraction of reserve deposits, the establishment, safeguarding or liquidation of mine works and quarries and the facilities thereof, dumps, spoil tips and settlings pits, or the processing and refining of minerals in connection with their mining, as well as damages caused by special encroachment on the Earth's crust.

(2) Damage caused by mining is also considered to include the loss of surface and underground water, a considerable reduction in the yields thereof and/or a deterioration in the quality thereof, caused as a result of activities pursuant to par. 1.

(3) The organization whose operations cause the damage, except in the cases pursuant to § 37 par 7 is responsible for damages caused by mining. An organization may be absolved from such responsibility for damages caused by mining only if it can demonstrate that the damage was caused by circumstances not originating in activities pursuant to par. 1.

#### **§ 37**

##### **Compensation for damages caused by mining**

(1) Compensation for damages caused by mining is subject to the general regulations on compensation for damages unless this Act states otherwise.

(2) An organization which caused a loss of water or a considerable reduction in the yield of the source thereof or deterioration in its quality is obliged to provide the injured party with an alternative water source or water delivery or to compensate for the damage by reimbursement of expenses incurred in its obtaining, provided such expenditures were efficiently and economically used by the injured party; other cases concerning compensation for loss of underground water are subject to special regulations.<sup>20)</sup>

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20) § 29 of the Act No.138/1973 Coll., on waters (water act)

(3) Compensation is also to be made for documented expenses properly invested in preventative measures designed to avert or reduce the consequences of activities pursuant to § 36. Modifications of buildings and equipment made pursuant to the conditions imposed by building permits or by special regulations on new buildings or equipment, to counteract the possible effects of activities pursuant to § 36, are not regarded as preventative protective measures.

(4) In justified cases, particularly in cases of timely provision for the safety and continuity of transportation, or re-routing of public highways, of engineering and of telecommunication networks and facilities, alternative residential or utility buildings, payment up to the assumed level of damages may be advanced with the understanding that this payment constitutes a part of the total compensation for damages. If the actual amount of the damages does not attain the amount of the advance payment, the overpayment is to be returned.

(5) If it is not possible to restore a building or facility to its former condition because it is located within an area of a construction project or within an area of continuing long term impact of operations pursuant to § 36, the organization is obliged to provide for temporary protection of the property concerned; simultaneously, an agreement is to be signed with the owner of the property, specifying whether compensation will be provided in the form of money, and in what amount, or in the form of an alternative property. As both parties are not able to agree on the manner of compensation the size will be determined on the basis of the expert opinion. This calculated size of the compensation may not be reduced by a coefficient of saleability where its value is lower than 1. Compensation for damages is also to include any real estate rendered unusable as a result of the offer of alternative property.

(6) The participants may also agree on an alternative method of compensation for damages caused by mining, provided such an agreement is not contrary to the provisions of this Act or the general regulations on compensation for damages.

(7) An organization need not pay compensation for damages to buildings and equipment erected within a protected deposit area, or within a mining space without a building permit, or with failure to comply to the conditions of a building permit on protection against possible effects of activities pursuant to § 36.

## § 37a

### **Creation of financial funds**

(1) An organization is obliged to create fund of financial means to ensurance of compensation of damages caused by mining. The level of fund created for side of costs must response to needs on compensation of damages caused by mining during the time their arising , respectively in a lead before their arising ( § 37 par. 4 ). This fund is a cost for achievement, ensurance and keeping incomes.

(2) Creation of fund in according to par. 1 and § 31 par. 6 is submitted to approval of the District Mining Authority, which authorises also gathering from this fund in agreement with the Ministry of Environment of the Czech Republic. These financial means shall be deposited on the special tied account in the bank <sup>20a)</sup> and cannot be

used either as a subject of liability or a subject of a competition running on the property of a debtor, possibly to be a subject of settlement in accordance to the special regulations.<sup>20b)</sup> These means cannot be a subject of the order and execution of the decision.

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20a) Act No. 593/1992 Coll., on reserves for findings of taxable incomes, as later amended.

20b) Act No. 328/1991 Coll., on the competition and settlement, as later amended.

The District Mining Authority shall demand statement of community before issuing of the decision about gathering from this fund. In the case of organizations with state share the District Mining Authority decides in agreement with the Ministry of Industry and Trade

(3) Application of organization on gathering from fund in according to par. 1 must be supported by the list of damages caused by mining, estimation of costs on their removing and schedule of using means for removing of damages caused by mining.

The costs for experts analyses shall be paid by organization.

(4) Organization must deposit on the special tied account in the bank fiscal means in the level of created financial funds for the relevant period no later than 30. July of the calendar year that follows after relevant accounting period. The District Mining Authority can decide on suspension of validity of the permits for extraction in the case when organization does not do it in adequate alternate term determined by the District Mining Authority.

(5) Financial funds deposited on the special tied account in the bank can be

a) temporary deposited into other assets in accordance to the regulations stated in the general binding regulation issued by the Czech Mining Authority with approval of the Ministry of the Industry and Trade and after consultation with the Ministry of finance, or

b) carried over after approval of the relevant district mining authority on the base of the contract between state represented by the Ministry of finance and person obligated to create these financial funds on the account of management of funds that is manager by the Ministry of finance. The contract shall contain a guaranteed level of evaluation of financial funds deposited on the account of management of funds and terms for back transposition from the account of management of funds on the special tied account established by the organization.

(6) Fiscal means or other assets deposited as a part of the special tied account in the bank cannot be used as a subject of funding, cannot be incorporated into a competition and cannot be a subject of performance of execution or decision.

## **PART TEN**

### **COMMON PROVISIONS**

## § 38

### **Safety of operations**

During mining operations <sup>12)</sup> organizations and authorities are obliged to ensure safety of operations including accident prevention and maintenance of mining rescue services, and to eliminate without delay all danger to general legally protected interests, particularly danger to health and working safety, and to implement in good time all necessary preventative and safety measures <sup>15)</sup>.

## § 39

### **Mining survey and geological documents**

(1) During mining operations the organization is obliged to supplement and maintain records of mining surveys and geological documents.<sup>9)</sup>

(2) Organizations are entitled to duplicate and reproduce copies of maps required for mining operations.

(3) Details on mining survey documents are to be established in a generally binding legal regulation by the Czech Mining Authority. Details of geological documents are to be established in a generally binding legal regulation by the Ministry of the Environment.

## § 40

### **Mine water**

(1) Mine water is considered to consist of all underground water, surface water and precipitation penetrating into deep or open cast mine areas, regardless of whether such water penetrated as a result of percolation or gravitation through the cover rock, bedrock or laterals or by simple run-in of precipitation, up to the connection of such water with other permanent surface or underground waters.

(2) During mining activities <sup>1)</sup> the organization is entitled

- a) to utilize without payment mine water for its own requirements,
- b) to utilize without payment, on the basis of a permit issued by the Water Management Authority, mine water as a substitute supply for use by those who incurred loss of water through the mining operations of the organization,
- c) to discharge mine water not required for its own mining operations into surface or underground waters, and to conduct it, if necessary, over land not belonging to the organization by methods and under conditions stated by the Water Management Authority and the Public Health Protection Authority.

(3) When mine water is used pursuant to par. 2 letters a) and b), the organization is obliged to protect mine water and to utilize it economically. Utilization of mine water for other purposes is subject to special regulations.<sup>21)</sup>

(4) Discharge of other water into mine water is subject to the issuing of a permit by the Water Management Authority on the basis of an agreement with the District Mining Authority.

§ 41

**Relationship to administrative rules**

The general regulations for administrative processes are not valid for proceedings pursuant to § 3 par. 3, §§ 6, 13, 14, 14a, 14b, 14c and § 33 par. 4.

§ 41a

The competence prescribed by this Act to the Regional Authority is a performance of the devolutioned competence.

§ 42

**Deleted**

**PART ELEVEN**

**TEMPORARY AND CONCLUDING PROVISIONS**

§ 43

**Temporary provisions**

(1) Deposits of non-reserved minerals which have been declared suitable for

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21) § 7 of the Act No.138/1973 Coll.

industrial extraction pursuant to the heretofore valid regulations are regarded from the date when this Act comes into legal force as deposits of non-reserved minerals which have been declared as suitable for the requirements and development of the national economy pursuant to § 7.

(2) State organizations engaged in prospecting and exploration of reserve deposits, as well as state organizations with delimited mining spaces are regarded from the date when this Act comes into legal force as the managers of these reserved deposits pursuant to § 9. In other cases, the manager of the reserved deposit is to be appointed by the relevant central authority not later than within one year from the date this Act comes into legal force.

(3) Protected areas delimited to ensure the protection of reserved deposits and special encroachment on the Earth's crust pursuant to the heretofore valid regulations are regarded, from the date when this Act comes into legal force, as protected deposit areas pursuant to § 16, or as protected areas pursuant to § 34.

(4) Mining claims delimited pursuant to the heretofore valid regulations is regarded as mining space pursuant to this Act and is considered to correspond to basic documents for territorial planning records. In cases in which a protected area was not established, a mining claim delimited pursuant to the theretofore valid regulations is also regarded as a protected deposit area pursuant to this Act. If the extent of the current protected area or of the current mining claim does not ensure sufficient protection of the deposit, the manager or permanent user of the reserved deposit is obliged, within one year of the date when this Act comes into legal force, to submit a proposal for a protected deposit area.

(5) The safeguarding or liquidation of old mine works, commenced prior to the date when this Act came into legal force, must be completed by the organization that commenced the work, unless the appropriate central authority pursuant to § 35 decides otherwise.

#### § 44

##### **Abolishing provisions**

The following are abolished:

1. Act No. 41/1957 Coll. on the utilization of mineral resources (the Mining Act),
2. § 4 of Government Ordinance No. 11/1958 Coll. on organizations of the State Geological Service, in the wording of Government Ordinance No. 82/1967 Coll., in which the Commission for the Classification of Mineral Reserves is subordinate to the Government.

#### § 45

##### **Legal force**

This Act comes into legal force on July 1, 1988.

#### § 44a

##### **Annulment of provisions valid from the date Czech National Council Act No. 541/1991 Coll. comes into legal force**

The following are annulled:

1. The Government Order of the Czechoslovak Socialist Republic No. 80/1988 Coll. on determination of the condition and classification of reserve deposit reserves and on the assessment, approval and state audit of their calculation.

2. Decree of the Czech Mines Office No. 96/1988 Coll. on the management of reserve deposits and the records and amortization of their reserves.

3. § 15 and 16 of Decree of the Czech Mines Office No. 85/1988 Coll. on procedures for the prospecting and exploration of reserve deposits from the point of view of the protection and efficient utilization of mineral resources and on the notification of the occurrence of reserve mineral deposits. In the title of this Decree the words "his reward and compensation for expenses" are deleted.

4. Decree of the Government of the Czech Republic No. 175/1991 Coll. on taxes levied on the price of extracted coal in the Czech Republic pursuant to the provisions of Article II par. 5 of Czech National Council Act No. 542/1991 Coll.

## Part II

1. Organizations is obliged to create of financial fund for full volume ensuring activities in according to § 31 par. 6 for mines and quarries operating in time when this act will be in force at latest to the end of lifetime of min, quarry or their parts. This provision is not valid for organizations with annoned or approved program
2. Organizations with permitted mining activity are obliged to submit to the pertinent District Mining Authority supplements to the request for permition with

Czech National Council Act No. 541/1991 Coll. which amends and supplements Act No. 44/1988 on the protection and utilization of mineral resources came into legal force on December 20, 1991.

## Part II

For mines and quarries in operation at the time when this Act comes into legal force, the organization must create a fund sufficient for the full provision for activities pursuant to § 31 par. 6, but not for more than from the date of the duration of mine, quarry or their parts. This provision is not valid for organisations with phasing--out process.

Signed: M. Uhde

§ 43a

**Temporary provisions on measures valid from the date  
when Czech National Council Act No. 541/1991 Coll.**

## **came into legal force**

(1) Deposits of non-reserved minerals declared by the relevant state administration authorities as suitable for the requirements and development of the national economy pursuant to the heretofore valid regulations are regarded as reserved deposits pursuant to this Act.

(2) Decisions of the relevant central state administration authorities issued pursuant to the valid regulations and concerning on the delimitation of a mining space are regarded as decisions issued pursuant to this Act. The deadline pursuant to § 24 par. 6 and for these mining spaces begins on the date when this Act comes into legal force.

(3) Calculations of reserved deposit reserves approved in accordance with the regulations valid prior to the date when this Act comes into legal force, are regarded as calculations approved pursuant to this Act.

(4) The obligation of organizations to provide compensation pursuant to § 32a par. 1 is valid for organizations whose mining claims were delimited prior to the date when this Act comes into legal force and begins in the year when this Act comes into legal force.

(5) The obligation to pay fees for extracted reserved minerals pursuant to § 32a par. 2 is first incurred by organizations for reserved minerals extracted in 1993.

(6) For mines and quarries in operation at the time when this Act comes into legal force, the organization must create a fund sufficient for the full provision for activities pursuant to § 31 par. 5 for the duration of its operations, but not for more than 10 years from the date when this Act comes into legal force.

(7) The state shall reimburse expenses in adequate level through a budget chapter of the relevant organizational part for mines and quarries where the state was owner and which were in the framework of the restructuring of the coal, ore and uranium industry incorporated into conception of the recession of the coal, ore and uranium industry and hence financial funds on rehabilitation of land and reclamation and financial funds on compensation of damages caused by mining were not in these cases created or were created in insufficient level.

(8) Rehabilitation of land is understood to be an elimination of damages in the landscape by complex treatment of the territorial structures and area affected by mining activities.