

# **ACT**

dated 13<sup>th</sup> of April 2001

## **on Natural Health Sources, Natural Mineral Water Sources, Natural Health Spas and Spa Locations and on Modification and Amendment of Some Related Acts (Spa Act)**

The Parliament has resolved upon the following act of the Czech Republic:

### **PART I**

#### **NATURAL HEALTH SOURCES, NATURAL MINERAL WATER SOURCES, NATURAL HEALTH SPAS AND SPA LOCATIONS**

##### **TITLE I**

##### **INTRODUCTORY PROVISIONS**

###### **Article 1**

###### **The subject of the Act**

This Act lays down the requirements for the prospecting, protection, exploitation and further development of natural health sources, natural mineral water sources intended mainly for dietetic purposes, natural health spas and spa locations.

###### **Article 2**

###### **Definitions**

- (1) “Natural health source” means naturally occurring mineral water, gas or pelloid that have properties suitable for health care purposes and which have been granted a certificate under this Act. “Pelloid” means peat, mire or mud. “Mineral water for health care purposes” means naturally occurring underground water of original purity with the minimum of 1 g/l of dissolved solid substances or a minimum of 1g/l of dissolved carbon dioxide or other chemical element important for health or which has a temperature at the source higher than 20°C or the radioactivity of radon in excess of 1.5 kBq/l.
- (2) The source of natural mineral water is naturally occurring underground water of original purity, constant composition and properties, that from a dietetic point of view has physiological effects due to the presence of mineral substances, trace elements and other substances which make it possible to use the water as a foodstuff and to bottle it<sup>1)</sup> and which has been granted a certificate under this Act.
- (3) “Natural health spas” means a complex of health care and other related facilities used for the provision of spa treatment and care<sup>2)</sup> that have been granted a status of natural health spas under this Act.

- (4) “Spa location” means an area of a municipality or municipalities or their part where natural health spas are located and which has been granted a status of a spa location under this Act.

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<sup>1)</sup> Act No. 110/1997 Coll. on Foodstuffs and Tobacco Products and on Modification and Amendment of Several Related Acts, as subsequently amended.

<sup>2)</sup> Act No. 20/1966 Coll. on the Care of People’s Health, as subsequently amended.

<sup>3)</sup> Act No. 128/2000 Coll. on Municipalities (Municipal Administration Act).

### **Article 3**

#### **Assessment and exploitation of natural health sources and natural mineral water sources**

- (1) The way and the scope of the assessment of a natural health source and a natural mineral water source, the way of collection of mineral water, gas and pelloid from these sources (hereinafter referred to as the “yield”), treatment, transportation and storage of the yield from these sources and labeling of products made from a natural health source is stipulated by a Regulation of the Ministry of Health (hereinafter referred to as the “Ministry”). The bottling of natural mineral waters and handling the products made from a natural mineral water source is governed by special legal rules and regulations<sup>4)</sup> if not stipulated otherwise by this Act. The indicator of natural irradiation resulting from the water is governed by a special legal regulation.<sup>5)</sup>
- (2) Only those mineral water, gas and pelloid sources may be used for health care purposes which have been granted a certificate documenting that they are natural health sources in accordance with this Act.
- (3) Only those sources may be used for bottling purposes which have been granted a certificate documenting that they are natural health sources in accordance with this Act.

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<sup>4)</sup> E.g. Act No. 110/1997 Coll. as subsequently amended, Regulation No. 292/1997 Coll. on the Requirements Concerning the Health Safety of Bottled Waters and on their Treatment, as subsequently amended.

<sup>5)</sup> Regulation No. 184/1997 Coll. on the Requirements of the Provision of Radiation Control.

### **Article 4**

#### **Legal status of natural health sources, natural mineral water springs and its yield**

- (1) A natural health source defined in Article 2, paragraph 1 and a natural mineral water source defined in Article 2, paragraph 2 (hereinafter referred to as the “source”) are not part of nor the equipment of the land property, neither are they a subject of ownership.
- (2) The yield from the source shall become a property as soon as it is extracted from the source by the person who has been granted permission to exploit the source under this Act.

## TITLE II EXPLOITATION OF SOURCES

### Article 5

#### Certificate on the source

- (1) A certificate documenting that a mineral water, gas or pelloid source (hereinafter referred to as the “anticipated source”) is a natural health source or a natural mineral water source (hereinafter referred to as the “certificate”) shall be granted by the Ministry after having verified that the requirements concerning the source stipulated by this Act have been complied with. The Regulation by the Ministry issued in accordance with Article 3, paragraph 1 of this Act shall be issued at its own instigation, at the proposal of the owner of the land property on which or under which the anticipated source is located or at the proposal of the municipality in which the anticipated source is located or at the proposal of a legal entity or an individual who has an intention to exploit the anticipated source.
- (2) When assessing the anticipated source, the Ministry shall evaluate its composition, characteristics, suitability and feasibility of its exploitation, as well as the conditions for securing its safety. When in the course of the assessment it is found out that the anticipated source fails to fulfill all the requirements and characteristics concerning its suitability to be used for health care purposes or, with mineral water, its suitability to be used as a foodstuff<sup>1)</sup> the Ministry shall issue a decision on the rejection of the application for the certificate.
- (3) The Ministry shall inform the following bodies about its decision on the issuance of the certificate:
  - a) The parties involved,
  - b) The municipality in which the anticipated source is located,
  - c) The Ministry of Environment,
  - d) The Ministry of Regional Development,
  - e) The land planning authority, building office<sup>6)</sup> and water management authority competent in accordance with the location of the source.
- (4) Only the parties involved shall be informed by the Ministry about its negative decision concerning the issuance of the certificate.
- (5) The parties involved in the process of certificate issuance shall be the applicant and the persons who own the land properties on which or under which the anticipated source is located and who shall be directly concerned by the exploitation of the anticipated source, as well as the persons who administer such land properties in accordance with special legal rules and regulations.
- (6) If the source no longer fulfills the applicable requirements or has the characteristics for which the Ministry had issued a certificate, the Ministry shall withdraw the certificate and advise all the authorities and persons who had been informed about the issuance of the certificate or their legal representatives (as the case may be) of the withdrawal.

- (7) An appeal filed against the decision issued by the Ministry in accordance with paragraphs 1, 2 and 6 shall have no dilatory effect.
- (8) The information about the Ministry making the decision on the issuance of the certificate or on its withdrawal shall be announced by a notification in the Collection of Acts. Also, in this notification there shall be information on where the text of the decision can be reviewed.

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<sup>1)</sup> Act No. 110/1997 Coll. on Foodstuffs and Tobacco Products and on Modification and Amendments of Several Related Acts, as subsequently amended.

<sup>6)</sup> Act No. 50/1976 Coll. on Land Planning and Construction Code (Construction Code), as subsequently amended.

## **Article 6**

### **Proposal of the issuance of the certificate**

- (1) The application for the issuance of the certificate shall contain:
- a) Information on the person filing the application, i.e. his or her name, family name, address, nationality and a birth registration or identification number in case of an individual, or name (company), registered office and a registration number in case of a legal person. A legal person shall also specify a name, family name, address, nationality and a birth registration or identification number of an individual who represents the statutory body of the legal person, if it was established;
  - b) A description of the anticipated source and its surroundings.
- (2) The following information shall be attached to the application of the issuance of the certificate:
- a) Information on the location and altitude of the anticipated source;
  - b) A final report on the result of geological works<sup>7)</sup>, including the proposal of the protection of the anticipated source. If the area containing mineral waters, gases or pelloids has previously undergone geological exploration, the final report on the result of geological works can be substituted by a hydrogeological expert's opinion on the anticipated source, provided the Ministry has agreed with it;
  - c) A document specifying the chemical composition, physical, microbiological and radiological characteristics of the mineral water, gas or pelloid prepared by the Referential Laboratory for Natural Health Sources (Article 40).
  - d) An expert's opinion on the exploitation of mineral water, gas or pelloid for health care purposes or as a foodstuff<sup>1)</sup>, that may be prepared by a person having professional qualifications in accordance with a special legal regulation<sup>7)</sup> or by the Referential Laboratory for Natural Health Sources. The opinion on the exploitation of the source for health care purposes has to have a medical part that shall be prepared by a physician – a specialist in physiatry, balneology or medical rehabilitation or in the area related to the exploitation of the source for health care purposes. The opinion on the exploitation of the source for the production of bottled natural mineral water, in the scope stipulated by a Regulation of the Ministry, shall contain an opinion on the physiological importance of the mineral water for nutrition. The information that should be given in an expert's opinion shall be stipulated by a Regulation of the Ministry;

- e) The proposal of the exploitation of mineral water, gas or pelloid harvested from the anticipated source;
  - f) A copy from the cadastral map confirming the actual state of the cadastre, with a marked location of the anticipated source of mineral water, gas or pelloid and with marked boundaries of its necessary protection;
  - g) An extract from the Real Estates Register indicating all identification data on the land property, on which or under which the anticipated source is located, including the information on ownership and other rights connected with it and with the property that shall be directly affected by its exploitation.
- (3) Should the application for the issuance of the certificate fail to contain all necessary information referred to in paragraphs 1 and 2 the Ministry shall call on the person filing it to submit the missing information in a reasonable time period set by it. If the applicant fails to submit the missing information the Ministry shall suspend the commenced procedure.

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<sup>1)</sup> Act No. 110/1997 Coll. on Foodstuffs and Tobacco Products and on Modification and Amendments of Several Related Acts, as subsequently amended.

<sup>7)</sup> Regulation No. 121/1989 Coll. on Projecting, Conducting and Assessing Geological Works, on the Issuance of the Permission and on Professional Qualifications for Conducting the Works, in the wording of the Act No. 543/1991 Coll.

## **Article 7**

### **The particulars of the certificate**

The Certificate shall contain the following information:

- a) A description of the source location;
- b) Information on the composition and characteristics of the source;
- c) The way of the source exploitation.

## **Article 8**

### **Notification**

- (1) A legal person or an individual who establishes the presence of mineral water having a higher temperature, mineralization or the content of carbon dioxide, or gas or pelloid when performing the prospecting, exploring, building or other activities shall notify the Ministry of this fact not later than 15 days of the finding.
- (2) The duty to notify the Ministry stipulated by a special legal regulation<sup>8)</sup> shall not be affected by paragraph 1.

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<sup>8)</sup> Regulation No. 63/1975 Coll. on the Duty of Organizations to Notify about the Findings of Underground Water and its Collection.

## **Article 9**

### **Source exploitation permit**

- (1) The sources may only be exploited with permission granted by the Ministry. When granting the permission the Ministry shall see to it that the exploitation of the source is considerate and that the yield from the source is used mainly for health care and dietetic purposes.
- (2) The pelloids extracted from a natural health source shall be primarily used for balneological purposes. The way of usage of such pelloids shall be specified by the Ministry in the permit issued in accordance with paragraph 1.

## **Article 10**

### **Application for the issuance of source exploitation permit**

- (1) The application for the issuance of source exploitation permit may only be filed by a physical person or an individual authorized to carry on entrepreneurial activities or other activities for which the source should be exploited (hereinafter referred to the “applicant”). The applicant shall provide the following information in his or her application:
  - a) The name, family name, address, nationality and a birth registration or identification number in case of an individual;
  - b) The name (company), registered office and a registration number in case of a legal person, as well as the name, family name, address, nationality and a birth registration or identification number of individuals who represent the statutory body of the legal person, if it was established;
  - c) The subject of business activities or the activities for which the source should be exploited;
  - d) Identification of the land property on which or under which the source is located or that should be directly affected by its exploitation, giving current information on the property registered in the Real Estate Register;
  - e) The way of the source exploitation;
  - f) The anticipated first day of the source exploitation;
  - g) The anticipated last day of the source exploitation, should the source be exploited for a limited period of time.
- (2) Together with the application, the applicant shall submit the following information:
  - a) The plan of source exploitation containing:
    1. A copy from a cadastral map confirming the actual state of the cadastre, with a marked location of the source to be exploited, together with a current extract from the Real Estate Register concerning the land property where the source is located;
    2. Description of the source location;
    3. A copy of the cadastral map with a marked boundary of the first-degree protected zone of the source and an extract from the Real Estate Register concerning the properties located inside the proposed protected zone;
    4. A copy of the basic map on a 1 : 10 000 scale with marked boundaries of the second-degree protected zone of the source;

5. The purpose for which the yield from the source shall be used (e.g. baths, packs, producing bottled water);
  6. A proposed quantity of the yield that should be collected from the source;
  7. A ratio of the possible exploitation of the source for other purposes than the purpose referred to in 5 hereof, specifying such a different purpose. This does not apply to pelloids that are primarily used for balneological purposes;
  8. A way of handling with the used yield from the source;
- b) An extract from the Commercial or other Registers or an authorized copy of the trades license documenting that the applicant is authorized to carry out certain activities;
  - c) A contract on the payment of the exploration costs concluded with the person that has conducted the exploration at his or her own costs, if it is not the applicant who carried out the exploration;
  - d) The proposals of protected zones of the source prepared by a person having professional qualifications in accordance with a special legal regulation<sup>9)</sup>;
  - e) In case of the exploitation of a mineral water source, a statement by the water management authority in accordance with a special legal regulation;
  - f) In case of the exploitation of a pelloid source, a plan for the source reclamation.
- (3) The applicant filing the application in accordance with paragraphs 1 and 2 has to document that he or she is the owner of the land property on which or under which the source is located or which should be directly affected by the exploitation of the source or that he or she has another right to the property that entitles him or her to exploit the source (i.e. tenancy agreement, right of use contract or another contract concluded between the owner of the property and the applicant).
- (4) Should the application no longer contain the information given in paragraphs 1 to 3 the Ministry shall call on the person filing it to submit the missing information in a reasonable time period. If the applicant fails to submit the missing information the Ministry shall suspend the commenced procedure.

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<sup>9)</sup> Regulation No. 412/1992 Coll. on Certifying the Professional Qualifications to Project, Conduct and Assess Geological Works.

## **Article 11**

### **Parties involved in the proceedings concerning the source exploitation permit**

The parties involved in the proceedings concerning the source exploitation permit shall be the applicant and the owners (administrators) of the land properties on which or under which the source is located or that should be directly affected by its exploitation. Also, the municipality shall be a party involved in the proceedings if the source exploitation permit is issued in a so-far unused spring structure or if the source exploitation permit is issued for the source for which there have not been constructed any facilities. The source exploitation permit shall not substitute the decision on the area use made in accordance with special legal rules and regulations<sup>10)</sup>. The Ministry shall immediately deliver the source exploitation permit to the municipality where the source is located as well as to the relevant building office and water management authority. The

mineral water source exploitation permit shall also be delivered to the financial authority competent in terms of the registered office of the applicant.

<sup>10)</sup> Article 32, paragraph 1b) of the Act No. 50/1976 Coll., in the wording of the Act No. 83/1998 Coll. Article 5 of the Regulation No. 132/1998 Coll. that is to implement some of the provisions of the Construction Code.

## **Article 12**

### **Source exploitation permit**

- (1) The Ministry shall only issue the exploitation permit for the source that has been granted a certificate in accordance with Article 5 and only when the applicant has submitted a complete application for the issuance of the source exploitation permit in accordance with Article 10. When making a decision on the issuance of the source exploitation permit the Ministry shall evaluate whether the exploitation proposed in the application takes into account the nature and the capacity of the source, whether the applicant shall be able to ensure that the source is exploited for a long period of time in a required quality and whether he or she has practical experience with source exploitation.
- (2) The Ministry shall reject an application for the issuance of the source exploitation permit if
  - a) The interest of the source protection is primary over the interest in its exploitation;
  - b) The submitted proposal concerning its exploitation is out of keeping with the purpose that would be more suitable;
  - c) The proposed measures for the source protection do not correspond with the protection needs; or
  - d) The source exploitation permit has been issued to another applicant, lest Article 18 applies.
- (3) The Ministry shall primarily grant permission to the applicant who owns the land property on which or under which the source is located and who has paid for the exploration of the source.
- (4) In the source exploitation permit the following information shall be entered:
  - a) Name, family name, address, nationality and a birth registration or identification number in case of an individual;
  - b) Name (company), registered office and a registration number in case of a legal person, and a name, family name, address, nationality and a birth registration or identification number of individuals who represent the statutory body of the legal person, if it was established;
  - c) The subject of business activities or the activities for which the source may be exploited;
  - d) The manner, scope and conditions of the exploitation of the source; for pelloids also the way of disposal of the used pelloids and the way its deposit shall be reclaimed;
  - e) Description of the source and its location;
  - f) The way of approved treatment of the yield from the source;
  - g) The conditions for hydrogeological, chemical, physical and microbiological testing of the source and its yield;

- h) The scope and frequencies of the monitoring of the quality and the yield from the source;
  - i) The equipment the has to be established and maintained in order to ensure the exploitation and protection of the source;
  - j) The commencement of the source exploitation;
  - k) The time of allowed source exploitation if it has been limited.
- (5) In case of historically freely accessible sources and in case of newly established sources at already exploited springs the Ministry may set the duty in the permit that the user is obligated to allow the collection of mineral water from the source free of charge to individuals for their personal use in the amount not exceeding 10 % of the source capacity and not more than 6 l/min.
- (6) The source exploitation permit and the rejection of the application for the source exploitation permit are administrative decisions issued in accordance with the Administrative Procedure Code.

### **Article 13**

- (1) The person who has been granted a source exploitation permit (hereinafter referred to as the “user”) shall submit to the Ministry the documentation related to the building intended for the exploitation of the source not later than 1 year of the date when the source exploitation permit has come into effect. This documentation shall be used for the decision of the building office that shall evaluate whether the building is suitable for the approved way of source exploitation, provided the exploitation necessitates such a building. If the nature of the building is such that its evaluation shall be conducted in accordance with a special law<sup>11)</sup> the time period necessary for the evaluation shall not be included into the time period as specified in point 1. Should the documentation not correspond with the approved way of source exploitation, the Ministry shall return it to the user and shall establish the way, scope and time limit for its amendment or modification. The Ministry shall evaluate the documentation submitted for the decision within 60 days of its delivery. The time for which the documentation has been returned to the user for amendment or modification shall not be included into this period. The Ministry shall advice the user of its decision within the above-mentioned period of time and shall lay down the conditions related to the location, construction and usage of the building that should ensure that the source is exploited in the approved manner.
- (2) It shall not be possible to issue the planning permit in accordance with a special legal regulation<sup>6)</sup> without the statement of the Ministry obtained under paragraph 1.
- (3) The provisions of paragraphs 1 and 2 do not affect special legal regulations.<sup>6)</sup>

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<sup>6)</sup> Act No. 50/1976 Coll. on Land Planning and Construction Code (Construction Code), as subsequently amended.

<sup>11)</sup> Act No. 244/1992 Coll. on the Environmental Impact Assessment of Development Projects and Programs, as subsequently amended.

## **Article 14**

### **Amendments and withdrawals of source exploitation permit**

- (1) The user of the source shall advise the Ministry of all changes of the information given in the application for the source exploitation permit and in the documents attached to it at least 30 days before these shall come into effect and within 15 days of the change if it was not known in advance.
- (2) The Ministry shall make a decision, based on the notification under paragraph 1 and with respect to the gravity of the changes, on the amendment of the source exploitation permit or on the suspension of the source exploitation or it shall withdraw the permit. Should the exploitation of the source be suspended the Ministry shall set the time limit within which the user should remedy the defects that were the reason for the suspension of the source exploitation.
- (3) The Ministry can make a decision on the withdrawal of the source exploitation permit that has come into effect, if
  - a) The user failed to submit within the period given in Article 13, paragraph 1 to the Ministry the building documentation intended for the evaluation whether the building is suitable for the approved way of source exploitation or if he or she failed to make amendments or modifications to the documentation or if he or she failed to do so in the time period set by the Ministry.
  - b) The user failed to start exploiting the source within the time period specified in the source exploitation permit.
- (4) The Ministry shall withdraw the source exploitation permit if:
  - a) The characteristics of the source have changed to such an extent that with respect to the interests stipulated by this Act they are no longer suitable for the exploitation of the source;
  - b) The user breaches in a grave manner the conditions stipulated by this Act or by the source exploitation permit;
  - c) The exploitation of the source has had an unfavorable impact on groundwater or the environment;
  - d) The user has applied for the withdrawal of the permit.
- (5) An appeal against the decision of the Ministry issued in accordance with paragraphs 2 and 4 shall have no dilatory effect.

## **Article 15**

### **Termination of the source exploitation permit**

- (1) The source exploitation permit shall be terminated:
  - a) If the period for which it has been issued elapsed if such a period was specified in the permit;

- b) If the user of the source changes (e.g. when the company or its part is sold, divided, merged or consolidated) or is dissolved or liquidated in case of a legal person;
  - c) If the user of the source dies in case of an individual;
  - d) If a trade license or other certificate<sup>12)</sup> terminates or dissolved or by termination of the activities during which the source has been used;
  - e) In case of the exhaustion, depreciation or loss of the source.
- (2) The user who has intentions to exploit the source after the period of time for which the source exploitation permit has been issued may apply to the Ministry for the prolongation of this period not later than 12 months before it expires. The Ministry shall make a decision on the application within 3 months of its delivery.
- (3) In case of termination of the source exploitation permit in accordance with paragraphs 1b) and c) a legal person or an individual who continue to pursue the business<sup>13)</sup> activities or the activities for which the source is used may use the source for a limited period of time that is necessary to obtain the source exploitation permit for himself or herself provided he or she advises the Ministry of his or her intention to continue using the source within 15 days of the termination of the permit and files the application for the issuance of the source exploitation permit not later than 60 days of the termination of the permit. In such a case, The Ministry may state which information specified in Article 10 needs not be given in the application. Until a new source exploitation permit is issued the person using the source shall comply with the requirements stipulated in the previous source exploitation permit, even if terminated.

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<sup>12)</sup> Articles 57 and 58 of the Act No. 455/1991 Coll. on Trades Licensing (Trades Act), in as subsequently amended.

<sup>13)</sup> Articles 13 and 14 of the Act No. 455/1991 Coll., as subsequently amended.

### **TITLE III**

#### **SOURCE USER AND PROFESSIONAL INSPECTION**

##### **Article 16**

- (1) The user shall
- a) Comply with the conditions stipulated in the source exploitation permit and the requirements of this Act;
  - b) Inform the Ministry and the relevant financial office about the commencement of source exploitation without delay;
  - c) Maintain the equipment ensuring the exploitation and the protection of the source in good repair;
  - d) Ensure hydrological and hydrogeological inspection of the source and the monitoring of chemical, physical, microbiological and radiological characteristics of the source and their safety for health;
  - e) Establish the quality of the source and the yield when collecting, transporting or accumulating it (as the case may be) and in the case of a natural health source when it is used for health care purposes by the Reference Laboratory for Natural Health Sources in the scope and frequencies specified in the source exploitation permit;
  - f) Take measures necessary for the exploitation and protection of the source and the measures for remedying possible defects;

- g) Follow the instructions of the persons given in Article 39 who inspect the exploitation and protection of the source;
  - h) Provide information necessary for the maintenance of the Register of Natural Health Sources and the Register of Natural Mineral Water Sources;
  - i) Inform the Ministry about the actual volume of the yield from the source in a given month not later than the 15<sup>th</sup> day of the following month;
  - j) Use for the yield from a natural health source such containers and materials which would preserve the properties of the yield and have no harmful effects on human health;
  - k) Provide on the container of the yield from a natural health source or in the case of pelloid in an information leaflet information on characteristic composition, storage conditions, expiry date and other information requested by the Regulation of the Ministry;
  - l) Allow another user who has been granted permission in accordance with Article 18, paragraph 1 to use the natural health source upon payment of operational costs;
  - m) Allow the persons specified in Article 39 to enter the land property, buildings and equipment and to perform necessary inspections and sample collection;
  - n) Allow the collection of mineral water from the source free of charge to individuals for their personal use and ensure a free access to the source if it is stipulated in the source exploitation permit (Article 12, paragraph 5);
- (2) The user of the source shall ensure that professional inspections are conducted related to the exploitation and protection of the source by an individual who is in possession of a certificate on professional qualifications issued in accordance with this Act, not later than 1 year after the Regulation issued in accordance with Article 46, paragraph 1i) comes into effect.
- (3) The user of the source may make changes and alterations of the catchment equipment at the source only with the permission of the Ministry.

### **Article 17**

- (1) Based on the decision of the Ministry, the user of the source shall conserve or dismantle the catchment equipment used for the exploitation of the source at his or her own expenses if:
- a) The source is not used;
  - b) The source exploitation permit has been withdrawn in accordance with Article 14, paragraphs 2 through 4;
  - c) The source exploitation permit has been terminated in accordance with Article 15, paragraphs 1a), b), d) or e), with the exception of the procedure specified in Article 15, paragraph 3;
  - d) It is necessary to dismantle the catchment equipment in order to protect the spring structure.
- (2) An appeal filed against the decision issued by the Ministry in accordance with paragraph 1 shall have no dilatory effect.
- (3) The Ministry shall ensure the conservation or dismantling of the catchment equipment if:
- a) It has not issued a decision under paragraph 1;
  - b) The source has no user.

## **Article 18**

### **Other user and administrator of the natural health source**

- (1) If the capacity of the natural health source is greater than the volume specified in the permit granted to the user of the source or if the user of the source does not use the volume specified in the permit for a long period of time (Article 14, paragraph 2) the Ministry may grant permission to another user to use the excessive capacity of the source. The provisions of Articles 10 and 16 shall be used appropriately. The parties involved in the procedure on the exploitation of the natural health source by another user shall be the current user of the source and another applicant seeking permission to use the source.
- (2) The user who was the first one to be granted the natural health source exploitation permit by the Ministry shall be concurrently the administrator of the source. The administrator of the source shall fulfill the duties arising from Articles 10 through 17 in the scope specified by the Ministry. The Ministry may appoint another administrator of the natural health source in case the original administrator applies so or fails to duly fulfill the duties of the user or the administrator of the natural health source.
- (3) In a spa location with a greater number of spa buildings using a natural health source on site the Ministry may appoint as an administrator of the source a person who is not its user.

## **Article 19**

### **Inspection**

- (1) Only an individual who is in possession of a certificate on professional qualifications issued in accordance with this Act (hereinafter referred to as the “balneological inspector”) may carry out inspections of source exploitation and protection.
- (2) Professional qualifications of such a person shall be verified by an examination upon which a certificate shall be issued. Professional qualifications shall be verified by the Ministry that shall issue a certificate for five years.
- (3) For obtaining professional qualifications it is necessary to:
  - a) Be an university graduate<sup>14)</sup> of a water management, hydrogeological or similar school and have a two-years practice in water management or a related area, or
  - b) Be a higher professional school<sup>15)</sup> graduate and have at least 5 years of practice in water management or a related area, or
  - c) Be a graduate of a secondary school finished by a school-leaving examination<sup>15)</sup> and have at least 10 years of practice in water management or a related area, or
  - d) Successfully pass the examination.
- (4) An individual shall file the application on the examination proving his or her professional qualifications with the Ministry. In case of failure, the examination may not be repeated sooner than after 3 months of the first attempt. The establishment and the members of the

examination board, as well as the scope, manner and organization of the examination proving professional qualifications shall be laid down by the Regulation of the Ministry.

- (5) The effectiveness of the certificate on professional qualifications issued to the balneological inspector by the Ministry in accordance with paragraph 2:
  - a) May be prolonged for 2 years repeatedly upon his or her request based on comprehensive evaluation of his or her activities related to the inspection of the sources appointed to him or her;
  - b) May be terminated if the Ministry gets knowledge of grave shortcomings or repeated defects in his or her activities or if such defects are found by another administration authority that shall advise of them to the Ministry in writing. In such a case the person from whom the certificate on professional qualifications has been withdrawn may apply to pass another examination proving professional qualifications but no sooner than after 6 months of the date when the decision on the withdrawal of the certificate on professional qualifications came into effect.
- (6) Should the balneological inspector carry out inspections in accordance with paragraph 1 when catching mineral waters from a source in a working, he or she shall also verify his or her qualifications in accordance with a special legal regulation.<sup>16)</sup>
- (7) An appeal filed against the decision issued by the Ministry in accordance with paragraph 5 b) shall have no dilatory effect.

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<sup>14)</sup> Act No. 111/1998 on Higher Education Institutions and on Modification and Amendment of Other Acts (Higher Education Act), in the wording of the Act No. 210/2000.

<sup>15)</sup> Act No. 29/1984 Coll. on the System of Elementary, Secondary and Higher Professional Schools (School Act), as subsequently amended.

<sup>16)</sup> Regulation No. 340/1992 Coll. on Requirements regarding professional proficiency and qualifications and on examinations verifying professional qualifications of mining workers and workers performing the activities of mining workers and on the amendment of some regulations issued by the Czech Mining Authority in order to provide for the safety and health protection at workplaces and for the safety of mining workers and workers performing the activities of mining workers, in the wording of the Regulation No. 239/1998 Coll.

#### **TITLE IV**

### **A FEE FOR THE EXPLOITATION OF THE NATURAL MINERAL WATER SOURCE**

#### **Article 20**

- (1) The user shall pay for the yield from a natural mineral water source drawn off in an amount specified in the source exploitation permit in accordance with Article 12, paragraph 4d) a fee starting from the month following the day when the exploitation of the source commenced.
- (2) A unit amount of the fee in accordance with paragraph 1 shall be specified by a Government Decree.

- (3) The fee shall be payable monthly within 25<sup>th</sup> day of each calendar month in the amount of one twelfth of a yearly fee defined by multiplying a unit amount by an approved amount of drawn mineral water in a calendar year in m<sup>3</sup>.
- (4) The fees shall be collected and enforced by competent financial offices according to the registered office of the user of natural mineral water and the financial offices shall be bound by the Act on Administration of Taxes and Fees, if not stipulated otherwise by this Act. The fee shall be an income of the state budget.
- (5) The yield in the amount specified in the permit in accordance with Article 12, paragraph 5 is not subject to any fee.

## **TITLE V SOURCE PROTECTION**

### **Article 21**

#### **Definition of protected zones**

- (1) The Ministry shall define by means of a Regulation protected zones for the protection of the source against the activities that might lead to deterioration of its chemical, physical and microbiological properties, of its safety to health, as well as of the reserves and the yield of the source.
- (2) The proposal for the determination of a protected zone shall follow the analysis of the risks posed to the yield, quality and safety to health of the source. Protected zones shall be so determined as to reach the foreseen purpose and not to restrict lawful interests of legal persons and individuals in the area in question more than necessary. Usually, two degrees of protected zones shall be determined.
- (3) The protected zones of individual sources shall be determined based on expert's opinions provided by a person having professional qualifications<sup>9)</sup>. The Ministry may also by its Regulations alter or abolish the protected zones if the reasons for their designation in accordance with this Act have changed or lapsed.
- (4) The Ministry shall discuss the proposals for the determination of protected zones with the competent administrative authorities in accordance with special legal rules and regulations<sup>17)</sup> and with municipalities in whose territories the protected zones should be determined. The competent administrative authorities and municipalities are obligated to deliver their opinions within 60 days of the notice of the Ministry to deliver their opinions. If the competent administrative authorities and municipalities fail to deliver their opinions within the given period it is considered that they have no comments on the proposal of the determination of the protected zones.
- (5) The costs related to the determination of protected zones shall be borne by the user of the source. Should the source have no user they shall be paid by the Ministry. The costs related

to the change of existing protected zones shall be borne by him who submitted the proposal of the change of a protected zone.

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<sup>9)</sup> Regulation No. 412/1992 Coll. on Certifying the Professional Qualifications to Project, Conduct and Assess Geological Works.

<sup>17)</sup> E.g. Act No. 412/1992 Coll., as subsequently amended, Act No. 289/1995 Coll. on Forests and on the Modification and Amendment of Some Acts (Forests Act), as subsequently amended, Act No. 114/1992 Coll. on the Conservation of Nature and Landscape, as subsequently amended, Act No. 334/1992 Coll. on the Protection of Agricultural Land, as subsequently amended, Act No. 44/1988 Coll. on the Protection and Exploitation of Natural Resources (Mining Act), as subsequently amended, Act No. 114/1995 Coll. on Inland Shipping, in the wording of the Act No. 358/1999 Coll.

## **Article 22**

### **First-degree protected zones**

- (1) A first-degree protected zone shall be determined for the area usually comprising the immediate vicinity of the source outlet.
- (2) In the case of a natural health source of mineral water and gas and a natural mineral water source the protected zone shall be usually determined for the area designated by a circle with a radius of 50 m from the source if it is not necessary to designate a different protected zone based on a hydro-geological exploration. In such a case in the first-degree protected zone a zone of the physical protection of the source shall be usually designated in the area of 10 x 10 m around the source in order to protect the immediate vicinity of the collecting or catchment installations in which only the activities related to the protection and exploitation of the source are allowed. For a natural health source of pelloids a protected zone shall be usually determined which is identical with the area of the pelloid source.
- (3) All sources of possible pollution shall be removed from the protected zone and other necessary measures shall be taken in the area. If a protected zone contains a historically urbanized area, sources of possible pollution shall be removed to a reasonable degree and with regard to these facts.
- (4) All activities with the exception of those that are necessary to protect and exploit the source shall be prohibited in protected zones determined for the area defined as a circle having a 50 m radius from the source, in zones of the physical protection of the source and in protected zones of a natural health source of pelloids.
- (5) In protected zones determined for the area larger than a circle having a 50 m radius from the source it is forbidden to perform the activities that might endanger chemical, physical and microbiological properties of the source, its safety to health as well as the quantity and yield of the source. These activities as well as the term for their termination with regard to local geological conditions shall be stipulated by the Regulation of the Ministry determining the protected area.
- (6) The measures specified under paragraph 3 shall be provided by the user of the source at his own expenses. The owner of the property shall make it possible to take these measures. If the

source has no user, the measures specified under paragraph 3 shall be taken by the Ministry that shall also cover the costs.

- (7) The cadastral office shall enter first-degree protected zones into the Real Estate Register based on graphical and written documents<sup>18)</sup> sent by the Ministry.

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<sup>18)</sup> Article 27, paragraph 2 of the Regulation No. 190/1996 Coll. that implements the Act No. 265/1992 Coll. on Entries of Ownership and Other Rights to Real Estate, in the wording of the Act No. 210/1993 Coll. and of the Act No. 90/1996 Coll., and the Act No. 344/1992 Coll. on Real Estate Cadastre Act of the Czech Republic (Cadastre Act), in the wording of the Act No. 89/1996 Coll.

## **Article 23**

### **Second-degree protected zones**

- (1) A second-degree protected zone shall be determined for the protection of the spring structure of the source, or the infiltration area of the spring structure of the source or its part or the infiltration area of the source or its part (as the case may be). A protected zone of a natural health source of pelloid shall be determined mainly for the protection of hydraulic conditions of the source.
- (2) Within a second-degree protected zone partial zones with a different degree of protection may be designated.
- (3) In second-degree protected zones it is forbidden to perform the activities that might endanger chemical, physical and microbiological properties of the source, its safety to health as well as the quantity and yield of the source. These activities as well as the term for their termination with regard to local geological condition shall be stipulated by the regulation of the Ministry determining a protected area.
- (4) A second-degree protected zone shall be determined in a basic map on a 1 : 10 000 scale and shall also be entered into a basic map on a 1 : 50 000 scale.

## **Article 24**

### **Boundaries of protected zones**

- (1) When establishing the boundaries of protected zones it is necessary to take into account the boundaries of individual land properties in accordance with the Real Estate Register, as well as natural and artificially established boundaries of the land.
- (2) The boundaries of a first-degree protected zone shall be marked on access roads leading to the source or at other suitable places by a sign with the state emblem reading “A first-degree protected zone of a natural health source” or “A first-degree protected zone of a natural mineral water source”. If no admission is allowed by the Ministry the sign shall also bear the words “No entry to unauthorized persons”. A zone of physical protection of the source shall be marked by signs reading “A zone of physical protection of a natural health source” or “A

zone of physical protection of a natural mineral water source”. If no admission is allowed by the Ministry the sign shall also bear the words “No entry to unauthorized persons”. The Regulation of the Ministry on the determination of a protected zone may stipulate that a first-degree protected zone and a zone of physical protection of the source shall be fenced off.

- (3) The boundaries of a second-degree protected zone shall be marked in warranted cases only, e.g. when the boundary of a protected zone crosses a road, if it is so stipulated by the Regulation of the Ministry on the determination of protected zones.
- (4) The marking of the boundaries of protected areas in the land and their fencing off shall be performed by the user of the source at his or her own expense. If the source has no user, the Ministry shall cover the costs of the marking of the boundaries of protected zones. The boundaries of protected zones shall be entered into the documents on land planning.

## **TITLE VI NATURAL HEALTH SPAS AND SPA LOCATIONS**

### **Article 25**

#### **Conditions for the determination of natural health spas**

- (1) As a natural health spa a complex of health care and other facilities that are to provide balneological care in the area having an environment that meets the requirements of balneological care shall be established if there is a natural health source in the area or in its vicinity or if the area has such climatic conditions suitable are for the treatment. The requirements related to the environment and to the facilities of a natural health spa shall be laid down by the Regulation of the Ministry.
- (2) Underground areas shall not be considered an area having climatic conditions in accordance with paragraph 1.
- (3) The Ministry shall determine a natural health spa by its Regulation at its own instigation, at the proposal of the municipality, in whose territory a natural health spa should be determined, or at the proposal of an individual or a legal person who intends to use the natural health sources or climatic conditions suitable for the treatment and the provision of balneological care.
- (4) The Ministry shall abolish a natural health spa by issuing a Regulation if the reasons for its determination have lapsed.

### **Article 26**

#### **Proposal of the determination of a natural health spa**

- (1) The proposal of the determination of a natural health spa shall contain:

- a) Information from the Real Estate Register about the land properties and other real estate that demarcate the area of a natural health spa;
  - b) Expert's opinion on the state of the environment;
  - c) Information on natural health sources intended to be used in a natural health spa, and in the case of a natural health spa using climatic conditions suitable for treatment a detailed description of bioclimatic conditions and an expert's opinion on positive effects on human health of climatic conditions and on their suitability for climatic spa treatment;
  - d) Information on health care and other facilities and buildings necessary for the provision of spa care;
  - e) Diseases to be treated at a natural health spa resulting from the nature of the used natural health source and climatic conditions suitable for treatment, including the reasoning for such indications;
  - f) A proposal of the status of a spa location (Article 28, paragraph 3) if required by the Ministry.
- (2) The Ministry shall discuss the proposal for the determination of a natural health spa with administrative authorities competent in accordance with special legal rules and regulations and with the municipality in whose territory the natural health spa should be determined. The competent administrative authorities and municipalities are obligated to deliver their opinions within 60 days of the notice of the Ministry to deliver their opinions. If the competent administrative authorities and municipalities fail to deliver their opinions within the given period it is considered that they have no comments on the proposal.

## **Article 27**

### **Climatic conditions of natural health spas**

Health care facilities that provide spa care<sup>2)</sup> are obligated to submit to the Ministry every 5 years a report on the state of climatic conditions in the territory of a natural health spa based on conducted regularly climatic measurements. In the case of a natural health spa using climatic conditions suitable for treatment the report has to comprise the evaluation of further usability of these conditions for climatic spa treatment. If there are several health care facilities providing spa treatment in a natural health spa these facilities may decide to submit a joint report.

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<sup>2)</sup> Act No. 20/1966 Coll. on the Care of People's Health, as subsequently amended.

## **Article 28**

### **Terms and conditions for the determination of a natural health spa**

- (1) As a natural spa the territory of a municipality or its part or the territory of several municipalities or their parts may be determined if there is a natural health spa located in its or their territory. The status of a spa location shall determine the regime of the spa location protection.

- (2) A spa location and the status of a spa location shall be determined by a government Decree. A spa location and the status of a spa location shall be abolished by a Government Decree if the reasons for the determination of a spa location in accordance with this Act have lapsed.
- (3) The spa status shall determine the internal and external territory of a spa location and with regard to the protection of a spa regime and the protection or establishment (as the case may be) of spa environment it shall stipulate:
  - a) The restrictions related to the buildings and development in the spa location;
  - b) The activities that are restricted or prohibited in the spa location;
  - c) The facilities that may not be established in the spa location;
- (4) The municipalities in whose territories a spa location has been determined shall comply with the requirements laid down for the spa location by the spa status. For this reason, a spa committee shall be established in accordance with a special legal regulation.<sup>3)</sup>

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<sup>3)</sup> Act No. 128/2000 Coll. on Municipalities (Municipal Administration Act).

## **Article 29**

### **Proposal of the determination of a spa location**

The proposal of the determination of a spa location and the proposal of a spa status shall be submitted to the Ministry by the municipality or jointly by the municipalities in whose territories a natural health spa should be determined. The proposal of the determination of a spa location shall contain information on a natural health spa, its natural health source or climatic conditions suitable for treatment, information on the state of the environment and the conditions for the usage of the facilities in the natural health spa, as well as the conditions of its further development. The proposal of the determination of a location status shall contain information as specified in Article 28, paragraph 3.

## **Article 30**

### **Internal territory of a spa location, boundaries of a spa location**

- (1) The internal territory of a spa location shall comprise such an area where the facilities serving for spa treatment purposes are concentrated.
- (2) The boundaries of the internal territory of a spa location shall be marked mainly on access roads. The boundaries of a spa location shall only be marked in warranted cases.
- (3) The marking of the boundaries in accordance with paragraph 2 shall be made by the municipality at its own costs.
- (4) The cadastre office shall enter the internal territory of a spa location into the Real Estate Register based on graphic and written documents sent by the Ministry. The boundaries of the

internal territory of a spa location and the boundaries of a spa location shall be entered into the documents on land planning.

### **Article 31**

#### **Name of a spa location and the use of the word “spa” in the name of a municipality**

- (1) A spa location shall be designated by the name of the municipality on whose territory the natural health spa has been determined first. If the natural health spa has been determined in territory of several municipalities at the same time, a spa location shall be designated by the name of the municipality on whose territory the majority of the natural health spa is located.
- (2) The word “spa” may be used in the name of the municipality only if a spa location has been determined in its territory or its part. If a spa location has been determined for the territory of several municipalities, the word “spa” may be used in the name of the municipality whose name is used for the determination of the spa location. When supplementing the name of the municipality with the word “spa” or when deleting this word in case the natural health spa has been abolished a special legal regulation is to comply with.<sup>19)</sup>

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<sup>19)</sup> Article 27, paragraph 1 of the Act No. 128/2000 Coll.

## **TITLE VII DUTIES OF PROPERTY OWNERS, RESTRICTION OF OWNERS’ RIGHTS, COMPENSATION OF DAMAGES**

### **Article 32**

#### **Duties of property owners**

The owners of properties shall:

- a) Allow the persons specified in Article 39 to enter land properties, buildings and facilities that are not land properties on order to obtain information in accordance with this Act, if not stipulated otherwise by a special legal regulation,<sup>20)</sup>
- b) Allow the posting of the signs demarcating the boundaries of protected zones, a spa location and the internal area of a spa location on their properties. When posting the signs it is necessary to spare the properties as well as the rights of their owners as much as possible.

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<sup>20)</sup> E.g. Act No. 62/1988 Coll. on Geological Works, as subsequently amended.

### **Article 33**

#### **Restriction of owners’ rights**

- (1) The rights to properties may be restricted or the properties may be nationalized only in public interest. For these purposes, “public interest” means the interest in prospecting and

exploitation of a source for health purposes and the interest in the protection of sources in order to ensure their quality, quantity and safety to health.

- (2) Should the owner hinder:
  - a) The prospecting for a natural health source his or her owner's rights may be restricted;
  - b) The exploitation or protection of a natural health source and the protection of a source of natural mineral water his or her owner's rights may be restricted or the property may be nationalized.
- (3) The procedure on nationalization shall be performed at the request of the Ministry and the compensation for the nationalized property shall be determined by a competent building office in accordance with a special legal regulation.<sup>6)</sup>

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<sup>6)</sup> Act No. 50/1976 Coll. on Land Planning and Construction Code (Construction Code), as subsequently amended.

### **Article 34**

#### **Compensation of loss**

- (1) The property owners and the persons who have suffered a loss as a result of the restriction of the current use of their property or as a result of the termination of current activities in connection with the provisions of this Act shall be entitled to a financial compensation of the loss that is to be paid by the user of the source. If there is no user, the compensation shall be paid by the Ministry.
- (2) If no accord is reached on the loss compensation the case shall be decided by court.

### **TITLE VIII**

#### **STATE ADMINISTRATION POWERS IN THE ISSUES CONCERNING SOURCES, NATURAL HEALTH SPAS AND SPA LOCATIONS**

### **Article 35**

- (1) The Ministry is the central state administration authority for prospecting, protection, exploitation and further development of sources, natural health spas and spa locations and for the inspections thereof.
- (2) The Ministry shall:
  - a) Conduct inspections of the compliance with the requirements stipulated by this Act and the duties stipulated by this Act and of the activities of the water management authorities in accordance with this Act;
  - b) Be responsible for certifying and exploitation of natural health sources, natural mineral water sources, areas with climatic conditions suitable for treatment, natural health spas, spa locations and for the designation of protected zones;
  - c) Issue certificates for natural mineral waters drawn from sources that have been certified in accordance with this Act necessary for the evaluation of these waters outside the

territory of the Czech Republic, and certificates for natural mineral waters from sources outside the Czech Republic necessary for their import, if not stipulated otherwise by an international agreement;

- d) Administer an information system, namely the Register of Natural Health Sources, natural mineral water sources, users of these sources, source protected zones, the Register of Other Mineral Water Sources, and the Register of Natural Health Spas and Spa Locations;
  - e) Submit to the Real Estate Register graphical and written documents<sup>18)</sup> for the registration of first-degree protected zones and the internal areas of spa locations;
  - f) Conceptually manage further development of natural health sources, natural mineral water sources and natural health spas;
  - g) Establish the Referential Laboratory for Natural Health Sources as a budgetary organization (Article 40).
- (3) The water management authority shall carry out inspections of the compliance with the requirements stipulated by this Act and the duties stipulated by this Act in relation to natural mineral water sources yielding mineral waters with a content of dissolved solid matters lower than 1 g/l or of dissolved carbon dioxide lower than 1 g/l (hereinafter referred to as “non-carbonated waters”) and whose protected zones do not overlap with protected zones of other sources certified in accordance with this Act.

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<sup>18)</sup> Article 27, paragraph 2 of the Regulation No. 190/1996 Coll. that implements the Act No. 265/1992 Coll. on Entries of Ownership and Other Rights to Real Estate, in the wording of the Act No. 210/1993 Coll. and the Act No. 90/1996 Coll., and by the Act No. 344/1992 Coll. on Real Estate Cadastre (Real Estate Register Act), in the wording of the Act No. 89/1996 Coll.

<sup>21)</sup> Act No. 552/1991 Coll. on State Control, as subsequently amended.

### **Article 36**

- (1) For the export of natural mineral waters drawn from the sources certified in accordance with this Act the Ministry shall at the request of an exporter issue a certificate that is to certify in case of export into the member states of the European Union that the yield complies with all the requirements of legal rules and regulations of the European Union concerning natural mineral waters, and in case of export into other countries that the yield is natural mineral water.
- (2) For the import of natural mineral waters the Ministry may at the request of an importer of natural mineral water issue a certificate that the yield drawn from a source in the country that is not a member state of the European Union is natural mineral water provided that a competent authority of the country certified the yield as natural mineral water and that this certificate proves that the mineral water in question complies with all the requests of the European Union legislation concerning yields from natural mineral water sources.
- (3) The Ministry shall issue a certificate in accordance with paragraphs 1 or 2 or shall reject the request within 90 days of its receipt. Should the request fail to contain sufficient information necessary for the issuance of the certificate, it shall be returned for supplementing. The time necessary for the exporter or importer to supplement the request shall not be included into the period of time for the issuance of the certificate. The Ministry shall issue the certificate in

accordance with paragraph 2 for the period not longer than 5 years. The Ministry may specify the information that should be included in the request by its Regulation.

- (4) The certificate issued in accordance with paragraphs 1 or 2 shall not concern a natural mineral water being a foodstuff specified by special legal rules and regulations.<sup>4)</sup> Paragraphs 1 and 2 do not affect the powers of other authorities of the Czech Republic:
- a) Concerning the issuance of a certificate or another statement on the fact that a natural mineral water as a foodstuff<sup>1)</sup> complies with all the requirements of legal regulations of the Czech Republic or the European Union;
  - b) Concerning the suspension or prohibition of export or import of a natural mineral water as a foodstuff.<sup>1)</sup>
- (5) The effect of paragraph 1 in the part concerning the export into the member states of the European Union shall be repealed on the day when the agreement on the admission of the Czech Republic to the European Union comes into effect.

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<sup>1)</sup> Act No. 110/1997 Coll. on Foodstuffs and Tobacco Products and on Modification and Amendments of Several Related Acts, as subsequently amended.

<sup>4)</sup> E.g. Act No. 110/1997 Coll. as subsequently amended, Regulation No. 292/1997 Coll. on the Requirements Concerning the Health Safety of Bottled Waters and on their Treatment, as subsequently amended.

## **Article 37**

### **Consent with some activities**

- (1) The Ministry shall be a competent administrative authority for preparing and approving of land planning documents in protected zones and in the territory of a spa location in accordance with a special legal regulation.<sup>22)</sup>
- (2) In the protected zone of a source and in the territory of a spa location it is forbidden in accordance with special legal rules and regulation<sup>23)</sup> without the consent of the Ministry, if not stipulated otherwise below, to
- a) Issue a planning permit on the construction of a building, a planning permit on the usage of the area, a building permit, a decision on additional approval of a building and a decision on the removal of a building for
    1. Buildings and changes of buildings in the internal area of a spa and in a first-degree protected zone, excepting for a building conversion or renovation when the outer floor plan and the height of the building remain unchanged;
    2. Buildings in the external area of a spa location and in a second-degree protected zone that do not have a character of a family house, buildings for the assembly of a larger number of people, buildings for trade, buildings intended for accommodation, school buildings, pre-school, educational and sports facilities, buildings and facilities for information, advertising and propagation, simple and small buildings and the buildings not reaching lower than 6 meters under the ground and cut and fill buildings not reaching lower than 1.5 meters under the ground; no consent is necessary for building conversion or renovation when the outer floor plan and the height of the building remain unchanged;

3. Buildings for recreation and the facilities of a resort area in the territory of a spa location;
  - b) Approve a water management plan;
  - c) Issue a decision on the change in building usage in the internal area of a spa location;
  - d) Issue a decision on a ground shaping permit;
  - e) Permit the performance of mining activities or the activities of mining workers if it would result in a ground alteration;
  - f) Grant permission for blasting operations;
  - g) Issue a decision on land development and to assign the land property in the framework of compensatory restitution;
  - h) Issue permission to dispose of waters, water constructions, and to some activities as well as to issue permission by a water management authority if letter a) is not followed;
  - i) Approve forest management plans and forest management layouts.
- (3) If not stipulated otherwise below, it is forbidden in protected zones to perform geological operations connected with a land property alteration without the consent of the Ministry.
- (4) In protected zones of the sources that yield non-carbonated waters and whose protected zones do not overlap with the protected zones of other sources certified in accordance with this Act the water management authority shall have the powers given in paragraphs 2 and 3.

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<sup>22)</sup> Articles 17 et seq. of the Act No. 50/1976 Coll., as subsequently amended.

<sup>23)</sup> E.g. Act No. 50/1976, as subsequently amended, Act No. 289/1995 Coll., as subsequently amended, Act No. 44/1988 Coll., as subsequently amended, Act No. 61/1988 Coll. on Mining Activities, Explosives and on the State Mining Authority, as subsequently amended.

### **Article 38**

The Ministry and the water management authority may limit their consent in accordance with Article 37 to the fulfillment of the conditions set by them for the protection of the interests laid down by this Act.

### **Article 39**

#### **Authorizations of the employees of the Ministry and other authorized persons**

- (1) The Employees of the Ministry charged with the inspections of the fulfillment of the requirements related to source exploitation may in protected zones and in the territories of spa locations determined in accordance with this Act and the employees of the water management authority charged with the inspections of the fulfillment of the requirements related to the exploitation of the sources that yield non-carbonated waters may in protected zones of these sources that do not overlap with protected zones of other sources certified in accordance with this Act:
  - a) Enter a third-party land properties, third-party buildings and third-party facilities and installations with a permission of their owners or users if no other permit in accordance

- with special legal rules and regulations is needed and perform necessary investigations, including sample collection;
- b) Claim information and documents necessary for conducting the inspections;
  - c) Order that all found defects be remedied.
- (2) Also, the employees of the Referential Laboratory for Natural Health Sources when performing the activities in accordance with Article 40, paragraph 1a) and b) and paragraph 2 a), c) and e) and the persons authorized by the Ministry to perform prospecting and exploration of naturally occurring sources of mineral water, gases and peloids shall have the authorization specified in paragraph 1 a).
- (3) When performing these activities the employees of the Ministry and the persons specified in paragraph 2 shall demonstrate their authorization issued by the Ministry, the employees of the water management authority shall demonstrate the authorization issued by this authority.
- (4) When performing the powers in accordance with paragraphs 1 and 2 land properties, buildings, facilities and installations, as well as the rights of their owners, tenants, or administrators have to be spared to the largest possible extent.

## **TITLE IX**

### **REFERENTIAL LABORATORY FOR NATURAL HEALTH SOURCES**

#### **Article 40**

- (1) The Referential Laboratory for Natural Health Sources shall provide:
- a) Documents for the issuance of a source certificate;
  - b) Quality and source stability control, including the control of the quality of the yields from these sources and handling with these yields (Article 16, paragraph 1e);
  - c) Opinions and consulting services concerning the sources.
- (2) The Referential Laboratory for Natural Health Sources shall further:
- a) Follow the influences of anthropogenic activities on natural sources and cooperate when investigating the causes and clearing the consequences of accidents and emergency situations in source protected zones;
  - b) Follow new information and knowledge and individually contribute to the development of the sphere of activities, as well as develop and introduce new working methods;
  - c) Professionally contribute to good laboratory practice of the employees of the source user charged with a continuous control of the source quality;
  - d) At request perform other professional activities within the scope of its powers;
  - e) Perform other tasks assigned to it by the Ministry.

**TITLE X**  
**FINES**

**Article 41**

- (1) The Ministry shall impose fines up to the amount of 5,000,000.00 CZK on the person who
  - a) Fails to notify the Ministry in accordance with Article 8;
  - b) Exploits a source without a permit issued by the Ministry or exploits it out of keeping with the permit;
  - c) Fails to fulfill the duties of the source user;
  - d) Fails to fulfill the duties assigned to a health care facility providing spa care specified in Article 27;
  - e) Performs the activities forbidden in the protected zone of a source;
  - f) Performs the activities forbidden in a spa location;
  - g) Prohibits to conduct inspections of the compliance with the conditions related to the protected zone of a source or in the territory of a spa location;
  - h) Impedes prospecting and exploration of naturally occurring mineral waters, gases or pelloids;
  - i) Fails to remedy in a given period of time the defects that he or she has been called to remedy by the Ministry or a person authorized in accordance with Article 39.
  
- (2) The water management authority shall impose fines up to the amount of 3,000,000.00 CZK on the person who
  - a) Fails to fulfill the duties of the user of the source yielding non-carbonated waters;
  - b) Performs the activities forbidden in the protected zone of the source specified in letter a);
  - c) Prohibits to conduct inspections of the compliance with the conditions related to the protected zone of the source specified in letter a);
  - j) Fails to remedy in a given period of time the defects that he or she has been called to remedy by the water management authority in accordance with Article 39.
  
- (3) The Ministry shall make a decision upon the appeal against the decision of the water management authority on a fine imposed.
  
- (4) A municipality shall have delegated powers to impose fines up to the amount of 100,000.00 CZK to a legal person or an individual having authorization to carry out entrepreneurial activities who shall purposefully destroy, damage, unlawfully transfer or remove a sign or a plate that demarcates the boundaries of a source protected zone or the territory of a spa location.
  
- (5) When making a decision on the amount of the fine the Ministry, water management authority and municipality shall take into account the gravity of law violation, the extent to which the source has been endangered, the environment of a natural health spa, as well as the extent of harmful consequences, if any.
  
- (6) The fine imposed shall be payable within 30 days of the entry into effect of the decision on the fine imposed.

- (7) The fines imposed at the first tier by a municipality shall be the revenue of the municipality. The fines imposed by the Ministry or the water management authority shall be the revenue of the state budget.
- (8) The proceedings concerning the imposing of a fine may be commenced not later than 1 year of the day when the authority entitled to impose a fine gets the knowledge that a legal person or an individual having the authorization to carry out entrepreneurial activities breached or failed to fulfill the duty, and not later than 3 years of the day when the breach occurred or when the duty should have been fulfilled.
- (9) If the breach of a law referred to in paragraph 1 is the breach of a law in accordance with another legal regulation<sup>6)</sup> and a competent administrative authority has commenced the proceedings concerning the imposing of a fine in accordance with another legal regulation, the Ministry or the water management authority shall suspend the proceedings concerning the imposing of a fine in accordance with this Act.
- (10) The fine imposed in accordance with this Act shall be collected and enforced by the authority that has imposed it. The collection and enforcement of fines shall be governed by special legal rules and regulations.<sup>24)</sup>

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<sup>6)</sup> Act No. 50/1976 Coll. on Land Planning and Construction Order (Construction Act), as subsequently amended.

<sup>24)</sup> Act No. 337/1992 Coll. on the Administration of Taxes and Fees, as subsequently amended.

## **TITLE XI COMMON, TRANSITORY AND FINAL PROVISIONS**

### **Article 42**

The Ministry may make a decision on a preliminary measure for the protection of natural sources of mineral water, pelloids and gases or for the protection of natural health spas before possible damage and losses occur, i.e. in the time before a certificate in accordance with Article 5 is issued or before determining the status of a spa location. The preliminary measure may only be issued for the period of time necessary for ensuring the protection, but not for a longer period of time than 2 years.

### **Article 43**

#### **The relationship between this Act and some other acts**

- (1) If not stipulated otherwise by this Act, the yield that is mineral water collected from a natural health source having such properties that enable to use it as a foodstuff for bottling natural mineral waters shall be governed by special legal rules and regulations.<sup>4)</sup>
- (2) The procedures performed in accordance with this Act shall be governed by the Administrative Procedure Code<sup>25)</sup>, if not stipulated otherwise by this Act. The administrative Procedure Code shall not govern the procedures referred to in Article 18, paragraphs 2 and 3.

- (3) If special legal rules and regulations<sup>17)</sup> stipulate that a decision concerning the interests protected by them may only be issued with the consent of a competent administrative authority, or if it is, in accordance with a special legal regulation, necessary to issue a preliminary opinion, permit or approval the provisions of the special legal rules and regulation shall not be affected by this Act.
- (4) This Act shall not concern mineral waters, gases and pelloids that occur on land properties assigned for the defense of the country in accordance with a special legal regulation.<sup>26)</sup>

<sup>17)</sup> E.g. Act No. 50/1976 Coll., as subsequently amended, Act No. 289/1995 Coll. on Forests and on the Modification and Amendment of Some Acts (Forests Act), as subsequently amended, Act No. 114/1992 Coll. on the Conservation of Nature and Landscape, as subsequently amended, Act No. 334/1992 Coll. on the Protection of Agricultural Land, as subsequently amended, Act No. 44/1988 Coll. on the Protection and Exploitation of Natural Resources (Mining Act), as subsequently amended, Act No. 114/1995 Coll. on Inland Shipping, in the wording of the Act No. 358/1999 Coll.

<sup>25)</sup> Act No. 71/1967 Coll. on Administrative Procedures (Administrative Procedure Code), as subsequently amended.

<sup>26)</sup> Act No. 222/1999 Coll. on the Defense of the Czech Republic.

## **Article 44**

### **Transitory provisions**

- (1) Natural health sources, sources of natural table mineral waters, natural health spas and spa locations determined in accordance with previously effective legal rules and regulations shall be considered to be natural health sources, natural mineral water sources, natural health spas and spa locations certified or determined in accordance with this Act.
- (2) Protected zones and temporary protected zones of natural health sources and natural table mineral water sources designated in accordance with previously effective legal rules and regulations shall be considered to be protected zones determined by this Act with the exception that second- and third-degree protected zones shall be considered to be second-degree protected zones in accordance with Article 23, paragraph 2.
- (3) Spa locations, spa statuses and provisional measures for the protection of spa locations issued in accordance with previously effective legal rules and regulations shall be considered to be spa locations, spa statuses determined in accordance with this Act.
- (4) Previously issued permits for the exploitation and temporary exploitation, or for a temporary administration (as the case may be) of a natural health source of a natural mineral water source that have been issued in connection with the announcement of a temporary protective measure shall be considered to be source exploitation permits issued in accordance with this Act if the permit holder fulfills the duties laid down for the issuance of a source exploitation permit in accordance with this Act within 2 years of the day when this Act comes into effect. If the conditions laid down in the permit in accordance with the first clause do not correspond with the conditions and duties stipulated by this Act for the source protection and exploitation the Ministry shall include these conditions and duties into the permit not later than 6 months of the date when this Act comes into effect.

- (5) A health care facility providing spa care<sup>2)</sup> shall submit to the Ministry the first report on climatic conditions in accordance with Article 27 within 1 year of the date when this Act comes into effect.
- (6) Conditions for the protection of specially protected zones in accordance with special legal rules and regulations<sup>27)</sup> shall not be affected by this Act.
- (7) Current names of municipalities or their parts, of natural health spas and spa locations shall not be affected by this Act.

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<sup>2)</sup> Act No. 20/1966 Coll. on the Care of People's Health, as subsequently amended.

<sup>27)</sup> E.g. Act No. 114/1992 Coll., as subsequently amended.

#### Article 45

- (1) If an individual having the position of a balneological inspector fails to register for the examination of his or her professional proficiency in accordance with this Act within 3 months of the date when the Regulation of the Ministry issued in accordance with Article 46, paragraph 1i) comes into effect and fails to pass the examination within one year of the date when the regulation comes into effect he or she shall not be entitled to provide the activities of a balneological inspector.
- (2) The Ministry may issue a certificate on professional qualifications without passing the examination to individuals having university or similar higher education degree specified in Article 19, paragraph 3a) who have had at least 10 years of practice in the area of source exploitation and protection as of the day when this Act comes into effect.

#### Article 46

##### **Provisions on authorization**

- (1) The Ministry shall stipulate by its Regulation:
  - a) The way and the scope of the evaluation of natural health sources and natural mineral water sources (Article 3, paragraph 1);
  - b) Allowed treatment of the yield of natural sources specified in Article 3, paragraph 1;
  - c) The way of collection, transportation and storage of the yield (Article 3, paragraph 1);
  - d) The information that shall be included into an expert's opinion on the exploitation of a natural health source and on climatic conditions suitable for treatment [Article 6, paragraph 2d) and Article 26, paragraph 1c)];
  - e) The information that shall be included into an expert's opinion on the exploitation of a natural mineral water for bottling [Article 6, paragraph 2d)];
  - f) Information given on the container or label of the yield of a natural health source [Article 16, paragraph 1k)];
  - g) Requirements concerning the environment and the equipment of natural health spas (Article 25, paragraph 1);
  - h) The information that shall be included into an expert's opinion on the state of the environment of a natural health spa [Article 26, paragraph 1b)];

- i) The establishment and the members of an examination board, and scope and manner of the examination of professional qualifications of balneological inspectors and detailed information on the organization of the examination (Article 19, paragraph 4).
- (2) The Ministry may issue a Regulation on the information that is to be included in the applications for the issuance of certificates (Article 36, paragraph 3).
- (3) The Ministry shall further issue a Regulation on:
- a) A natural health spa (Article 25, paragraph 3);
  - b) Protected zones of natural health sources and natural mineral water sources, including setting concrete protective measures (Article 21, paragraphs 1 and 3, Article 22, paragraph 5, Article 23, paragraph 3 and Article 24, paragraphs 2 and 3).
- (4) The Government shall issue a Decree on the amount of the fee payable for the yield collected from a natural mineral water source (Article 20, paragraph 2).

**Article 47**

**Repealing provisions**

The legal regulation No. 113/1964 Coll. on Surcharges for Spa Treatment shall be repealed.

**PART II**

**The amendment of the Trades Licensing Act**

**Article 48**

Act No. 455/1991 Coll. on Trades Licensing (Trades Act), in the wording of the Act No. 231/1992 Coll., Act No. 591/1992 Coll., Act No. 600/1992 Coll. Act No. 273/1993 Coll., Act No. 303/1993 Coll., Act No. 38/1994 Coll., Act No. 42/1994 Coll., Act No. 136/1994 Coll., Act No. 200/1994 Coll., Act No. 237/1995 Coll., Act No. 286/1995 Coll., Act No. 94/1996 Coll., Act No. 95/1996 Coll., Act No. 147/1996 Coll., Act No. 19/1997 Coll., Act No. 49/1997 Coll., Act No. 61/1997 Coll., Act No. 79/1997 Coll., Act No. 217/1997 Coll., Act No. 280/1997 Coll., Act No. 15/1998 Coll., Act No. 83/1998 Coll., Act No. 157/1998 Coll., Act No. 167/1998 Coll., Act No. 159/1999 Coll., Act No. 356/1999 Coll., Act No. 358/1999 Coll., Act No. 360/1999 Coll., Act No. 363/1999 Coll., Act No. 27/2000 Coll., Act No. 29/2000 Coll., Act No. 121/2000 Coll., Act No. 122/2000 Coll., Act No. 123/2000 Coll., Act No. 124/2000 Coll., Act No. 149/2000 Coll., Act No. 151/2000 Coll., Act No. 158/2000 Coll., Act No. 247/2000 Coll., Act No. 249/2000 Coll., Act No. 258/2000 Coll., Act No. 309/2000 Coll., Act No. 362/2000 Coll., Act No. 409/2000 Coll., Act No. 458/2000 Coll., Act No. 100/2001 Coll. and the Act No. 120/2001 Coll.

1. In Annex No. 2 RESTRICTED TRADES in group 214: Others the following item shall be included:

“1	2	3
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Professional inspections of the exploitation   Certificate of professional qualifications   Article 19 of the Act No. 164/2001 Coll. on Natural	
and the protection of natural health   issued by the Ministry of Health   health sources, sources of natural	
of sources and the sources of natural	mineral waters, natural
health	
mineral waters – balneological inspector	in spas and spa locations
and on the amendment	
	some related acts
	(Spa Act)”.
+-----+-----+-----+	

2. In annex No. 3 LICENSED TRADES in group 315: Sanitary goods, the text in the column shall read:  
“higher education or education gained at secondary schools culminating in a school-leaving examination and at higher professional schools finished by a final examination or demonstrable practical experience in the sale of sanitary goods; instructions given by the manufacturer of the relevant sanitary goods for the activities specified in column 1”.

**PART III**

**Article 49**

**Amendment of Misdemeanors Act**

Act No. 200/1990 Coll. on Misdemeanors, in the wording of the Act No. 337/1992 Coll., Act No. 344/1992 Coll., Act No. 359/1992 Coll., Act No. 67/1993 Coll., Act No. 290/1993 Coll., Act No. 134/1994 Coll., Act No. 82/1995 Coll., Act No. 237/1995 Coll., Act No. 279/1995 Coll., Act No. 289/1995 Coll., Act No. 112/1998 Coll., Act No. 168/1999 Coll., Act No. 360/1999 Coll., Act No. 29/2000 Coll., Act No. 121/2000 Coll., Act No. 132/2000 Coll., Act No. 151/2000 Coll., Act No. 258/2000 Coll., Act No. 361/2000 Coll., Act No. 370/2000 Coll. and the Fining of the Constitutional Court No. 52/2001 Coll. shall be amended as follows:

1. In Article 29, paragraph 1 letter c) shall be repealed.

Letters d) through k) in the current version shall be marked as letters c) through j).

2. After Article 29 a new Article 29a shall be included that, inclusive of the name and the footnote No. 3h) shall read:

“Article 29a

Misdemeanors related to the prospecting, protection, exploitation and further development of natural health sources, sources of natural mineral waters and spa locations

- (1) A misdemeanor shall be committed by him who
- a) Fails to comply with the limitation or ban imposed with the view of the protection of a natural health source, source of natural mineral water, health spa or a spa location;
  - b) Fails to provide a notification in accordance with a special legal regulation, 3h)
  - c) Performs activities forbidden in the protected zone area of a natural health source or a source of natural mineral water;
  - d) Performs activities forbidden in the internal area of a spa location;
  - e) Shall purposefully destroy, damage, unlawfully transfer or remove a sign demarcating the borders or the fencing of the protected zone area of a natural health source, a source of natural mineral water or the area of a spa location;
  - f) Shall hamper the activities of inspectors inspecting the compliance with the provisions concerning the area of a spa location;
  - g) Shall hamper the activities related to the prospecting and exploration of naturally present sources of mineral water, gas or pelloid and the activities of inspectors inspecting the compliance with the provisions concerning the protected zone area of a natural health source and a source of natural mineral water.”

(2) Misdemeanors specified in paragraph 1 shall be subject to a fine up to 50,000,00 CZK.

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3h) Article 8 of the Act No. 164/2001 Coll. on Natural Health Sources, Natural Mineral Water Sources, Natural Health Spas and Spa Locations and on the Amendment of Several Related Acts (Spa Act).

(3) In Article 53 the full stop at the end of paragraph 1 shall be substituted by a comma and the following words shall be inserted: ”and misdemeanors concerning the prospecting, protection, exploitation and further development of natural health sources, sources of natural mineral waters and spa locations.”

## **PART IV**

### **Article 50**

#### **The amendment of the Act on the Protection of People’s Health**

The Act No. 20/1966 Coll. on the Protection of People’s Health, in the wording of the Act No. 210/1990 Coll., Act No. 425/1990 Coll., Act No. 548/1991 Coll., Act No. 550/1991 Coll., Act No. 590/1992 Coll., Act No. 15/1993 Coll., Act No. 161/1993 Coll., Act No. 307/1993 Coll., Act No. 60/1995 Coll., Act No. 206/1996 Coll., Act No. 14/1997 Coll., Act No. 79/1997 Coll., Act No. 110/1997 Coll., Act No. 83/1998 Coll., Act No. 167/1998 Coll., Act No. 71/2000 Coll., Act No. 123/2000 Coll., Act No. 132/2000 Coll., Act No. 149/2000 Coll. and the Act No. 258/2000 Coll. shall be amended as follows:

1. Articles 43 through 51 shall be repealed.

2. In the footnote No. 10a) the words “Article 53” shall be substituted by the words “Article 49”.
3. Article 72 shall be repealed.

**PART V  
ENTRY INTO EFFECT**

**Article 51**

This Act shall come into effect on the 31<sup>st</sup> day of its promulgation.

Klaus, in his own hand  
Havel, in his own hand  
Zeman, in his own hand