

# **Climate Change Mitigation Act**

Promulgated, State Gazette No. 22/11.03.2014, effective 11.03.2014, amended, SG No. 14/20.02.2015, supplemented, SG No. 17/6.03.2015, effective 6.03.2015, amended and supplemented, SG No. 41/5.06.2015, amended, SG No. 56/24.07.2015, effective 24.07.2015

Text in Bulgarian: Закон за ограничаване изменението на климата

## **Chapter One GENERAL PROVISIONS**

Article 1. This Act provides for the social relations with regard to:

1. the implementation of the government policy on climate change mitigation;
2. the implementation of mechanisms for fulfilment of the Republic of Bulgaria's obligations under the United Nations Framework Convention on Climate Change (ratified - SG No. 28/1995) (SG No. 68/2005) (UNFCCC) and the Kyoto Protocol to the United Nations Framework Convention on Climate Change (ratified - SG No. 72/2002) (SG No. 68/2005) (the Kyoto Protocol);
3. the functioning of the National Green Investment Scheme (NGIS);
4. the functioning of the National System of Inventories of Emissions of Harmful Substances and Greenhouse Gases in the Atmosphere;
5. the implementation of the EU Emissions Trading Scheme (EU ETS);
6. the administering of the National Registry for Greenhouse Gas Emission Allowance Trading (NRGGEAT);
7. the measures to reduce greenhouse gas emissions from liquid fuels and energy for transport;
8. fulfilling the obligations ensuing from Decision No. 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020 (OJ L 140/136, 5 June 2009), hereinafter "Decision No. 406/2009/EC";
9. the functioning of the Voluntary Emissions Reduction Scheme (VERS).

Article 2. The objective of this Act is, by adopting national measures and introducing European and international mechanisms, to ensure the reduction of greenhouse gas emissions as the main element of the climate change mitigation policy and the long-term planning of measures for climate change adaptation.

## **Chapter Two CLIMATE CHANGE MITIGATION POLICY**

### **Section I Competent Authorities**

Article 3. (1) The government policy on climate change mitigation shall be defined by the National Assembly through this Act and shall be implemented by the Council of Ministers through the secondary legislation referred to in Article 5 and the plans and strategies referred to in Articles 8 and 9.

(2) The Minister of Environment and Water shall be the competent authority for the overall implementation of the

government policy on climate change mitigation.

(3) The Minister of Environment and Water may delegate by order the powers vested therein to other officials.

(4) (Amended, SG No. 14/2015) The National Expert Council on Climate Change shall be established as an advisory body with the Minister of Environment and Water for the purpose of supporting the activities under Paragraph 2; it shall consist of representatives of the Ministry of Environment and Water, the Ministry of Agriculture and Food, the Ministry of Energy, the Ministry of Economy, the Ministry of Transport, Information Technology and Communications, the Ministry of Finance, the Ministry of Interior, the Ministry of Foreign Affairs, the Ministry of Regional Development and Public Works, the Ministry of Health, the Ministry of Education and Science, the Ministry of Labour and Social Policy, the State Agency for National Security, the Executive Environment Agency, the Bulgarian Academy of Sciences, the National Association of Municipalities and non-profit legal entities whose activities are directly related to climate change mitigation.

(5) The operation of the National Expert Council on Climate Change shall be regulated by rules approved by order of the Minister of Environment and Water.

Article 4. (1) (Amended, SG No. 14/2015) The government policy on climate change mitigation shall be integrated with the respective sectoral and integrated policies in the fields of transport, energy, construction, agriculture and forestry, tourism, industry, regional development, health care and cultural heritage protection, education and science, finance and EU funds, labour and social policy, defence, internal and foreign affairs and shall be implemented sectorally by the Minister of Energy, the Minister of Economy, the Minister of Regional Development and Public Works, the Minister of Transport, Information Technology and Communications, the Minister of Agriculture and Food, the Minister of Interior, the Minister of Finance, the Minister of Foreign Affairs, the Minister of Health and the Minister of Culture in accordance with their powers granted under this Act and the relevant special legislation.

(2) The Ministers referred to in Paragraph 1 shall:

1. provide the Minister of Environment and Water with the necessary information and render assistance for the exercise of the Minister's powers under this Act;

2. designate and/or set up special units within their respective administrations to support them in the exercise of their powers in the field of climate change mitigation;

3. designate experts to participate in the process of drafting and coordinating of statements and opinions for the purposes of the working bodies to the European Commission, the Council of the European Union and UNFCCC on questions within their competence;

4. coordinate with the Minister of Environment and Water the draft sectoral policies relating to climate change;

5. in consultation with the Minister of Environment and Water, develop measures for adaptation of their respective sectors to climate change and ensure the control of their implementation.

(3) The Ministers referred to in Paragraph 1 shall allocate funding for the fulfilment of their obligations under Paragraph 2 in the budgets of the institutions entrusted to them.

Article 5. The Council of Ministers shall, on a motion by the Minister of Environment and Water, adopt ordinances for:

1. the terms and procedure for issue and review of greenhouse gas emissions permits from installations and for monitoring by operators and aircraft operators participating in EU ETS;

2. the conditions, terms and procedure for drafting and verification of reports by operators and aircraft operators and for drafting and review of applications by new entrants;

3. the terms and procedure for administration of NRGGEAT;

4. the terms and procedure for making arrangements for the national inventories of emissions of harmful substances and greenhouse gases in the atmosphere;

5. the conditions, terms and procedure for drafting and verification of reports by suppliers of liquid fuels and energy for transport; this ordinance shall be adopted following the adoption of the methodology under Article 64, Paragraph 3.

Article 6. The Minister of Environment and Water shall:

1. jointly with the ministers referred to in Article 4, Paragraph 1, draft the National Action Plan on Climate Change and submit it for approval to the Council of Ministers;

2. assist the ministers referred to in Article 4, Paragraph 1 in drafting key measures for adaptation of their relevant sector to climate change and consult them with the National Expert Council on Climate Change;

3. act as the competent EU ETS implementation authority;

4. perform the functions of national auctioneer within the meaning of Article 22 of Commission Regulation (EU) No. 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and the Council establishing a scheme for greenhouse gas emission allowances trading within the Community (OJ L 302/1, 18 November 2010), hereinafter "Regulation (EU) No. 1031/2010";

5. exercise control over the reporting of the national inventory of greenhouse gas emissions under UNFCCC and the Kyoto Protocol;

6. exercise control over the monitoring and reporting of other data under Regulation (EU) No. 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No. 280/2004/EC (OJ L 165/13, 18 June 2013), hereinafter "Regulation (EU) No. 525/2013";

7. review and coordinate applications made by operators and aircraft operators for free allocation of greenhouse gas emission allowances;

8. perform the verification and reporting of the levels of greenhouse gas emissions from the categories listed under Annex I to Decision No. 406/2009/EC;

9. oversee the development, operation and maintenance of NRGGEAT;

10. exercise other powers granted under this Act.

Article 7. The Executive Director of the Executive Environment Agency (ExEA) shall:

1. issue, review, update, and revoke greenhouse gas emissions permits;

2. approve, review, and update the monitoring plan for annual emissions and tonne-kilometre data from aircraft operators;

3. make a conservative estimate of emissions within the meaning of Commission Regulation (EU) No. 601/2012 of 21 June 2012 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and the Council (OJ L 181/30, 12 July 2012), hereinafter "Regulation (EU) No. 601/2012";

4. make and report the national inventory of greenhouse gas emissions under UNFCCC and the Kyoto Protocol;

5. perform the functions of national administrator managing NRGGEAT;

6. exercise other powers granted under this Act.

## Section II

# Strategies and Plans

Article 8. (1) The National Action Plan on Climate Change shall be an instrument defining the framework for the government policy on climate change for each individual period in accordance with the European Union policy and the international agreements on climate change to which the Republic of Bulgaria is a party.

(2) The National Action Plan on Climate Change shall include schedule for implementation and monitoring mechanism for activities relating to climate change and reductions of greenhouse gas emissions.

(3) The National Action Plan on Climate Change shall be drawn up by the Minister of Environment and Water jointly with the competent ministers referred to in Article 4, Paragraph 1 and following consultation with the National Expert Council on Climate Change on the basis of the relevant sectoral strategies and plans shall be adopted by the Council of Ministers.

(4) The National Action Plan on Climate Change shall be adopted and updated in accordance with any changes to the strategies and plans under Paragraph 3 and the Republic of Bulgaria's commitments resulting from international and European legislation.

Article 9. (1) The Minister of Environment and Water shall, jointly with the competent ministers referred to in Article 4, Paragraph 1 and following consultation with the National Expert Council on Climate Change, prepare a national strategy draft containing the key climate change adaptation measures.

(2) The strategy referred to in Paragraph 1 shall be prepared for a period of at least 20 years, with the exception of the first strategy which shall cover the period until 2030.

(3) The strategy referred to in Paragraph 1 shall be adopted by the Council of Ministers.

Article 10. (Amended, SG No. 14/2015) The Minister of Energy shall, in consultation with the Minister of Environment and Water and the ministers referred to in Article 4, Paragraph 1, prepare the National Investment Plan for the 2013 - 2020 period under Article 4, Paragraph 2, item 18d of the Energy Act and submit it for approval to the European Commission.

## **Chapter Three** **FULFILMENT OF OBLIGATIONS RESULTING FROM** **INTERNATIONAL AGREEMENTS**

### **Section I** **National Greenhouse Gas Inventory**

Article 11. (1) The Republic of Bulgaria shall, on an annual basis, make and report to the Secretariat to UNFCCC a national inventory of greenhouse gas emissions under UNFCCC and the Kyoto Protocol.

(2) The conditions, terms, and procedure for making arrangements, including the compiling and reporting of the national greenhouse gas inventory and the requirements to data provided by the authorities referred to in Article 12, shall be laid down in the ordinance referred to in Article 5, item 4.

Article 12. (1) The competent authorities in the procedure for compiling the national inventory under Article 11 shall be, as follows:

1. the Minister of Environment and Water;
2. the Minister of Agriculture and Food;
3. the Minister of Transport, Information Technology and Communications;

4. (amended, SG No. 14/2015) the Minister of Energy;
5. (new, SG No. 41/2015) the Minister of Economy;
6. (renumbered from Item 5, SG No. 41/2015) the Minister of Interior;
7. (renumbered from Item 6, SG No. 41/2015) the Executive Director of ExEA;
8. (renumbered from Item 7, SG No. 41/2015) the Chairperson of the National Statistical Institute (NSI);
9. (renumbered from Item 8, SG No. 41/2015) the Executive Director of the Bulgarian Food Safety Agency;
10. (renumbered from Item 9, SG No. 41/2015) the Executive Director of the Executive Forest Agency;
11. (renumbered from Item 10, SG No. 41/2015) the Executive Director of the Automobile Administration Executive Agency;
12. (renumbered from Item 11, SG No. 41/2015) the Executive Director of the Railway Administration Executive Agency;
13. (renumbered from Item 12, SG No. 41/2015) the Executive Director of the Maritime Administration Executive Agency;
14. (renumbered from Item 13, SG No. 41/2015) the Executive Director of the Exploration and Maintenance of the Danube River Executive Agency;
15. (renumbered from Item 14, SG No. 41/2015) the Director General of Directorate General "Civil Aviation Administration".

(2) The authorities referred to in Paragraph 1 shall:

1. in accordance with their remit, participate in developing and/or setting the national emission factors and/or other indicators used in determining greenhouse gas emissions within the framework of the national inventory under Article 11;
2. propose changes to the procedure for compiling the national inventory under Article 11;
3. ensure the relevant expert and technical capacity for fulfilment of their obligations under items 1 and 2 above.

(3) Industrial associations and scientific and educational institutions shall also participate in compiling the national inventory under Article 11 to the extent of their competence by providing information and supporting the operation of the authorities referred to in Paragraph 1 in the fulfilment of their obligations under Paragraph 2.

Article 13. The Minister of Environment and Water shall prepare drafts of strategic documents and environmental legislation with relation to the national inventory under Article 11.

Article 14. The Executive Director of ExEA shall oversee the overall process of compiling the national inventory under Article 11 and:

1. promptly inform all authorities under Article 12, Paragraph 1 of:
  - a) the relevant amendments in existing guidelines and/or methodologies for compiling and reporting the national inventory under Article 11;
  - b) changes in relevant deadlines and format, including the scope and content, for presenting the available data on natural indicators and other related indicators required for compiling the national inventory under Article 11;

2. annually prepare the preliminary and final inventory under Article 11 following the procedure laid down in the ordinance referred to in Article 5, item 4;

3. submit for consultation the final version of the national inventory under Article 11 following the procedure laid down in the ordinance referred to in Article 5, item 4 to the Minister of Environment and Water;

4. communicate the final national inventory to the Secretariat to UNFCCC;

5. make arrangements for training the experts from the authorities referred to in Article 12, Paragraph 1 with relation to their participation in the compiling of the national inventory under Article 11.

Article 15. (1) (Amended, SG No. 41/2015) The authorities referred to in Article 12, Paragraph 1, items 2 - 6, items 8 - 10 or officials authorised thereby shall, on an annual basis, send to ExEA data for the preceding year specified in the ordinance referred to in Article 5, item 4.

(2) (Amended, SG No. 41/2015) Annually, the authorities referred to in Article 12, Paragraph 1, item 11 - 15 or officials authorised thereby shall send to the Minister of Transport Information Technology and Communications the data specified in the ordinance referred to in Article 5, item 4. The Minister of Transport, Information Technology and Communications or an official authorised thereby shall summarise the data referred to in the previous sentence and send it to ExEA.

(3) (Amended, SG No. 41/2015) The persons referred to in Article 12, Paragraph 3 shall send the data specified in the ordinance referred to in Article 5, item 4, to the relevant authorities referred to in Article 12, Paragraph 1, items 3 - 10.

(4) The data referred to in Paragraphs 1 and 2 shall be sent to ExEA within the deadlines set out in the ordinance referred to in Article 5, item 4.

## **Section II**

### **International Trading in Assigned Amount Units and the National Green Investment Scheme**

Article 16. (1) This Section lays down the rules for sale and exchange of assigned amount units (AAUs) by the Bulgarian government and the funding of the National Green Investment Scheme (NGIS) in the Republic of Bulgaria with the proceeds from such sale.

(2) The assigned amount units shall be private state property and shall constitute a special type of rights - subject to international trading pursuant to Article 17 of the Kyoto Protocol.

Article 17. (1) NGIS shall provide financial and institutional assistance to investment and other projects resulting in reduction of greenhouse gas emissions in the territory of the country or in other positive environmental effects and impact on the environment, including by mitigation of anthropogenic factors relating to climate change and global warming, in accordance with the requirements of European and national environmental protection legislation.

(2) The National Green Investment Scheme shall include set up of activities related to receipt, evaluation, validation and financing of projects for green investments through the National Trust Eco Fund (NTEF), monitoring and control of the implementation of such projects and, where applicable, verification of completion and results achieved.

(3) Activities under Paragraph 2 which include financial measures shall be implemented following assessment by NTEF confirming their compliance with the state aid regime.

Article 18. (1) The requirements of the parties acquiring AAUs as to the purpose and methods of expenditure of proceeds from the sale of AAUs shall form an integral part of the contract for sale of AAUs concluded by the Republic of Bulgaria, respectively of the contracts for funding projects for green investments between NTEF and investors undertaking the implementation of such projects for green investments.

(2) The appropriate expenditure of proceeds from the sale of AAUs shall be additionally guaranteed by:

1. participation of representatives of the parties acquiring AAUs in the advisory council to NTEF;
2. public availability of reports on the evaluation and implementation of projects for green investments to be financed through NGIS.

Article 19. (1) The government shall participate in international trading of AAUs following the procedures for sale and exchange of AAUs pursuant to this Act.

(2) The sale and/or exchange under Paragraph 1 shall include:

1. procedure for negotiations with interested parties or their authorised representatives;
2. adoption of a decision by the Council of Ministers to approve the draft contract outlining the key transaction parameters;
3. conclusion of the contract for sale and/or exchange of AAUs between the Bulgarian government and the acquiring party, and
4. write-off of sold and/or exchanged AAUs from NRGGEAT and their transfer into an account specified by the acquiring party.

(3) (Amended, SG No. 14/2015) The procedure for sale and/or exchange of AAUs shall be opened upon request by the interested parties - participants in international trading in AAUs, which shall form grounds for launch of negotiations with potential acquiring parties. The negotiations shall be held by the Minister of Finance, the Minister of Environment and Water and the Minister of Energy and/or by officials authorised thereby.

(4) The Ministers referred to in Paragraph 3 shall submit to the Council of Ministers for approval the draft contract for sale and/or exchange of AAUs containing the key transaction parameters.

(5) (Amended, SG No. 14/2015) The contract for sale and/or exchange shall be signed by the Minister of Finance, the Minister of Environment and Water and the Minister of Energy and respectively by the authorised representatives of the acquiring party. The contracts for AAUs sale shall be amended and supplemented in the order in which they were concluded.

(6) The Minister of Environment and Water shall notify in writing the ExEA Executive Director who shall write off the relevant quantity of sold and/or exchanged AAUs from NRGGEAT and transfer them to the accounts/national registry of the acquiring party as per the terms of the contract for sale and/or exchange.

Article 20. (1) The proceeds from the sale of AAUs shall be transferred into the budget of the Enterprise for Management of Environmental Protection Activities (EMEPA).

(2) The Ministry of Environment and Water shall control the implementation of contracts for sale and/or exchange of AAUs.

(3) The Enterprise for Management of Environmental Protection Activities shall control the expenditure of funds granted to NTEF under contracts for financing NGIS projects, including administrative expenses for application of NGIS.

Article 21. The Minister of Environment and Water and the Executive Director of ExEA shall ensure fulfilment of the conditions for the country's admissibility to international trading in AAUs under Decision 11/CMP.1 of the Conference of the Parties to the UNFCCC serving as the meeting of the Parties to the Kyoto Protocol via the national system under Article 1, item 4 and NRGGEAT.

Article 22. (1) The revenues from contracts for sale of AAUs shall be intended only for financing of NGIS projects, including administrative costs for its operation, except in the cases referred to in Paragraph 3.

(2) The revenues under Article 20, Paragraph 1 shall be used, as follows:

1. up to 5 per cent of revenues - to cover the administrative costs of NTEF and EMEPA for management and control of NGIS; the admissible amount of NTEF administrative costs shall be determined by the buyer of AAUs and shall be laid down in the contract for sale; EMEPA shall make monthly transfers of the amounts needed to cover NTEF administrative costs in accordance with a plan/budget approved by the NTEF managing board;

2. for financing and grant funding of the respective beneficiary after conclusion of the contract between NTEF and the beneficiary for implementation of NTEF approved projects for green investments; the funding shall be provided in accordance with the terms and deadlines stipulated in the contract between NTEF and the beneficiary and following receipt of a motivated request by NTEF at EMEPA.

(3) Where the party acquiring AAUs has not stipulated express requirements for the use of proceeds from the sale through NGIS, such proceeds shall be spent through the EMEPA budget for financing projects relating to environmental protection and for partial coverage of expenses for facilities generating electricity from renewable sources.

(4) Projects under Paragraph 3 which are to be financed by proceeds from the sale through NGIS shall be laid down in a Council of Ministers decision.

Article 23. (1) The implementation and application of NGIS, with the exception of projects financed with proceeds under Article 22, Paragraph 3, shall be assigned to NTEF which shall be responsible for the receipt, approval, and commissioning of projects for green investments which are to be financed by revenues from international trading in AAUs pursuant to the requirements of this Act and the terms laid down with the contracts for sale.

(2) The revenues from sale of AAUs shall be used for financing projects in the field of energy, transport, agriculture and forestry, waste and water management, air pollution prevention, industry, and other sectors of the national economy which:

1. result in reduction of greenhouse gas emissions or their removal by implementation of any of the following sample measures:

a) improved energy efficiency;

b) increased share of energy from renewable sources for household use, as well as for public expenditure for existing projects for production of electricity from renewable sources;

c) methane capture and use;

d) afforestation, reforestation and land use change; only species indigenous to the respective region or geographic belt may be used for afforestation and reforestation, and the methods used must be environmentally friendly and take into account scientific progress and the experience of the parties to UNFCCC in the adaptation to climate change;

e) development and deployment of environmentally friendly technologies which stimulate energy efficiency and/or the use of energy from renewable sources;

f) development and implementation of a climate change mitigation policy with a view to fulfilling the obligations under the Kyoto Protocol;

g) educational measures, scientific research and measures to improve the administrative capacity and management of activities under the climate change mitigation policy;

h) informing the general public on issues related to climate change;

i) development and implementation of measures for adaptation to climate change;

2. significantly improve the quality of the environment, including by reducing air, water and soil pollution.



Article 24. (1) The National Green Investment Scheme shall be managed in accordance with the principles of good international practice, including:

1. transparency;
2. environmental efficiency, economic efficiency and social acceptability;
3. reliability;
4. traceability;
5. accountability.

(2) The implementation and application of NGIS shall be guaranteed by public availability of the criteria and decisions for approval of projects, the terms under the contracts for their fulfilment, the control and monitoring systems for the contracts and the systems for verification the results from project implementation.

Article 25. The National Trust Eco Fund shall conclude the contracts for financing the approved projects for application of NGIS under Article 23, Paragraph 1 with the respective beneficiaries.

Article 26. (1) NTEF shall control and monitor the implementation of contracts and projects for application of NGIS under Article 23, Paragraph 1.

(2) In accordance with Article 18, Paragraph 2 the parties acquiring AAUs shall be entitled to appoint their representatives in the advisory council to NTEF. Each acquiring party may appoint only one representative in the advisory council, irrespective of the number of persons acquiring AAUs as its representatives.

Article 27. (1) Validation of project documentation and verification of reduced greenhouse gas emissions from NGIS projects, where this is required by the party acquiring AAUs, shall be carried out by verifiers in accordance with the requirements of Commission Regulation (EU) No. 600/2012 of 21 June 2012 on the verification of greenhouse gas emission reports and tonne-kilometre reports and the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council (OJ L 181/1, 12 July 2012), hereinafter "Regulation (EU) No. 600/2012", or verifiers accredited for verification of projects under the joint implementation and clean development mechanisms.

(2) The beneficiaries of NGIS projects and the NTEF bodies may not refuse access and information to the accredited organisations which require such access and information for the evaluation and verification of the projects and the contracts.

## **Section III**

### **Joint Implementation and Clean Development Mechanisms under the Kyoto Protocol**

Article 28. (1) The Minister of Environment and Water shall approve project activities generating emission reduction units (ERUs) and certified emission reductions (CERs) under the Kyoto Protocol.

(2) The Minister of Environment and Water shall only authorise project activities where all project participants have headquarters in a country which is a party to the Kyoto Protocol or in a country or sub-federal or regional entity which is linked to EU ETS by an international agreement.

(3) ERUs shall not be issued with a view to reducing or limiting greenhouse gas emissions from activities covered by this Act and Commission Regulation (EU) No. 550/2011 of 7 June 2011 on determining, pursuant to Directive 2003/87/EC of the European Parliament and of the Council, certain restrictions applicable to the use of international credits from projects involving industrial gases (OJ L 149/1, 8 June 2011), hereinafter "Regulation (EU) No. 550/2011".

(4) The Minister of Environment and Water shall issue an order for accounting ERUs of greenhouse gases generated by approved project activities and for transfer into an account indicated by the party submitting the project to NRGGEAT.

Article 29. The Minister of Environment and Water shall issue an instruction for approval of projects generating ERUs in accordance with:

1. decisions adopted under UNFCCC and the Kyoto Protocol;
2. European legislation on climate change;
3. relevant international criteria and guidelines for hydro-electric power production with a generating capacity exceeding 20 MW, including those contained in the World Commission on Dams November 2000 Report "Dams and Development - A New Framework for Decision-Making";
4. avoidance of negative environmental or social impacts of hydroelectric power production project activities with a generating capacity exceeding 500 MW.

## **Chapter Four**

### **EUROPEAN EMISSIONS TRADING SCHEME**

#### **Section I**

#### **General Provisions**

Article 30. (1) The Republic of Bulgaria participates in EU ETS.

(2) The EU Emissions Trading Scheme is open for participation to natural and legal persons from the EU member states and to natural and legal persons from third countries with which the European Union has concluded agreements for mutual recognition of allowances between EU ETS and other greenhouse gas emissions trading schemes.

(3) The EU Emissions Trading Scheme covers installations performing the activities listed in Annex No. 1 and aviation activities under Annex No. 2.

(4) The provisions of this Chapter shall apply for the 2013 - 2020 period and, unless otherwise provided in European Union law, for each subsequent period of EU ETS.

#### **Section II**

#### **Greenhouse Gas Emissions Permits**

Article 31. The operation of new and existing installations from the categories listed in Annex No. 1 shall be permitted following the issue of a greenhouse gas emissions permit pursuant to the ordinance referred to in Article 5, item 1.

Article 32. (1) For the issue of a greenhouse gas emissions permit the operator shall make an application to the Executive Director of ExEA.

(2) The application under Paragraph 1 shall include a description of:

1. the installation and its activities including the technology used;
2. the raw and auxiliary materials, the use of which is likely to lead to greenhouse gas emissions;
3. the sources of greenhouse gas emissions from the installation;
4. the measures planned to monitor and report emissions in accordance with the requirements of the ordinance referred to in Article 5, item 1.

(3) The application under Paragraph 1 shall also include a non-technical summary of the description under Paragraph

2.

(4) Operators of new installations shall make the application under Paragraph 1 no later than:

1. three months after obtaining the construction permit;

2. six months prior to a change in the nature or the functioning of an existing installation or extension of its capacity, where such a change makes the installation eligible for inclusion in the scope of Annex No. 1, while the installation was not covered by that Annex prior to the change.

(5) With the application under Paragraph 1 the operator shall present evidence of fulfilment of the requirements of Chapter Six, Section III and Chapter Seven, Section II of the Environmental Protection Act and indicate their identification data.

(6) In case of change of identity of the operator, the rights and obligations under the permit shall be transferred to the new operator who shall, no later than 7 days after the change, notify thereof the Executive Director of ExEA who shall update the permit accordingly.

Article 33. (1) Greenhouse gas emissions permits shall contain the following:

1. the name and address of the operator - where such operator is a natural person, respectively the name, Unified Identification Code/Bulstat number, management address of the operator - where the operator is a legal person, as well as other information laid down with the ordinance referred to in Article 5, item 1;

2. a description of the installation, its main parameters and the greenhouse gas emissions from the installation;

3. a monitoring plan that fulfils the requirements of the ordinance referred to in Article 5, item 1;

4. the reporting requirements in accordance with the ordinance referred to in Article 5, item 2;

5. an obligation to surrender allowances, equal to the total emissions of the installation in each calendar year, as verified in accordance with the ordinance referred to in Article 5, item 2, within four months following the end of the respective calendar year.

(2) The Executive Director of ExEA shall issue the permit referred to in Paragraph 1 within three months of the date of receipt of the application made by the operator under Article 32, Paragraph 1.

(3) The competent authority may refuse to issue the permit referred to in Paragraph 1 where:

1. the operator made an incomplete application under Article 32, Paragraph 1 and failed to complete in accordance with the instructions given by the competent authority within 14 days;

2. the application does not evidence that the operator is capable of ensuring the necessary monitoring and reporting of emissions;

3. the operator cannot provide documents establishing fulfilment of Chapter Six, Section III and Chapter Seven, Section II of the Environmental Protection Act requirements.

Article 34. (1) The Executive Director of ExEA shall review the greenhouse gas emissions permit pursuant to the ordinance referred to in Article 5, item 1 upon occurrence of any of the changes referred to in Paragraph 2, as well as in case of amendments to the legal framework on climate change mitigation.

(2) An operator holding a greenhouse gas emissions permit shall notify the competent authority under Paragraph 1 of any of the following:

1. planned or effective changes to the operation of an installation, including:

a) nature and/or functioning of the installation;

b) installation capacity;

2. identity change of the installation's operator;

3. ceased operations of the installation.

(3) Upon review of the permit the Executive Director of ExEA may update the permit, issue a new one, or withdraw the permit.

(4) The Executive Director of ExEA shall withdraw the greenhouse gas emissions permit in case the installation has ceased operations or in cases of established non-compliance with the terms and conditions of the greenhouse gas emissions permit.

(5) An installation is deemed to have ceased operations, where any of the following conditions is met:

1. the installation is not operating and it is technically impossible to resume operation;

2. the installation is not operating and the operator cannot establish that this installation will resume operation within 6 months; the period under the preceding sentence shall be 18 months if the operator can establish that the installation cannot resume operation within 6 months due to exceptional and unforeseeable circumstances.

(6) Paragraph 5, item 2 shall not apply to installations kept in reserve or standby and installations operated on a seasonal schedule, where all of the following conditions are fulfilled:

1. the operator holds a greenhouse gas emissions permit and all other relevant permits issued pursuant to other legislation;

2. it is technically possible to start operations without making physical changes to the installation;

3. regular maintenance of the installation is carried out.

(7) The Regional Inspectorates of Environment and Water shall monitor for compliance with the terms and conditions of the greenhouse gas emissions permit and notify promptly the Executive Director of ExEA of occurrence of any of the circumstances under Paragraph 4.

## **Section III**

### **Monitoring, Reporting and Verification**

Article 35. (1) Each operator under Article 31 and each aircraft operator who's administering Member State is the Republic of Bulgaria shall make arrangements for monitoring pursuant to the ordinance referred to in Article 5, item 1 and Regulation (EU) No. 601/2012.

(2) Aircraft operators shall submit to ExEA for approval a monitoring plan setting out measures to monitor and report emissions and tonne-kilometre data drawn up in accordance with the ordinance referred to in Article 5, item 1.

(3) The Executive Director of ExEA shall approve the plans referred to in Paragraph 2 within two months of the date of submission.

(4) The Executive Director of ExEA shall refuse to approve the monitoring plan and tonne-kilometre data where:

1. the aircraft operator submitted a monitoring plan for emissions and tonne-kilometre data which were not prepared in accordance with the ordinance referred to in Article 5, item 1 and did not amend and/or supplement it in accordance with the instructions given by the competent authority within 14 days;

2. the aircraft operator does not hold a valid operating licence issued by an EU member state.

Article 36. (1) Operators referred to in Article 31 holding a greenhouse gas emissions permit shall prepare an annual report containing monitoring data for the greenhouse gas emissions from the installation during the preceding year.

(2) (Supplemented, SG No. 41/2015) Aircraft operators shall prepare an annual emissions report and an annual report for tonne-kilometre data on the basis of the approved monitoring plans for greenhouse gas emissions and the tonne-kilometre data.

(3) The reports under Paras. 1 and 2 shall be drawn up and verified in accordance with the ordinance referred to in Article 5, item 2 and Regulation (EU) No. 600/2012 and shall be submitted to the Executive Director of ExEA for review and publication.

(4) An operator or aircraft operator whose report has not been verified as satisfactory by 31 March each year for emissions during the preceding calendar year cannot make transfers of allowances until the report has been verified as satisfactory. Where the deadline for verification has not been observed, the accounts of operators and aircraft operators in NRGGEAT shall be suspended until the offence is remedied.

(5) The Executive Director of ExEA shall make a conservative estimate of the emissions of an installation or aircraft operator pursuant to Regulation (EU) No. 601/2012, where:

1. no verified annual emission report has been submitted by the operator or aircraft operator by 31 March of the respective year in accordance with Article 67(1) of Regulation (EU) No. 601/2012;

2. the verified annual emission report is not in compliance with the requirements of Regulation (EU) No. 601/2012;

3. the emission report of an operator or aircraft operator has not been verified in accordance with Regulation (EU) No. 600/2012.

(6) For the purpose of Article 47, Paragraph 2 and irrespective of the notification under Article 34, Paragraph 2, each year, the operators shall submit to the Ministry of Environment and Water information regarding any planned or effective changes to the capacity, activity level and operation of an installation following the procedure and within the deadline set out in the ordinance referred to in Article 5, item 1.

## **Section IV**

### **Emission Allowances from Aviation Activities**

Article 37. (1) For the period from 1 January 2013 to 31 December 2020 and for each subsequent period of EU ETS from aviation activities, the total quantity of allowances to be allocated to aircraft operators shall be equivalent to 95 per cent of the historical aviation emissions multiplied by the number of years in the period.

(2) Fifteen percent of the allowances referred to in Paragraph 1 shall be auctioned pursuant to Article 52.

(3) The number of allowances for aviation activities to be auctioned in each period by the Republic of Bulgaria shall be proportionate to its share of the total attributed aviation emissions for all Member States for the relevant reference year for that period, reported and verified pursuant to Article 36.

(4) The reference year referred to in Paragraph 3 above shall be the year ending 24 months before the start of the period to which the auction relates.

Article 38. (1) Aircraft operators whose administering Member State is the Republic of Bulgaria may make an application to the Minister of Environment and Water for an allocation of allowances that are to be allocated free of charge at least 21 months before the start of the period to which the application relates.

(2) The application under Paragraph 1 shall include verified tonne-kilometre data for the aviation activities listed in Annex No. 2 performed by the aircraft operator for the monitoring year referred to in Paragraph 3.

(3) The monitoring year shall be the calendar year ending 24 months before the start of the period to which the application under Paragraph 1 relates.

(4) The Minister of Environment and Water shall submit to the European Commission the applications received at least 18 months before the start of the period to which they relate.

Article 39. (1) The Minister of Environment and Water shall calculate and publish on the website of the Ministry of Environment and Water:

1. the allocation of allowances for the period to each aircraft operator, calculated by multiplying the tonne-kilometre data included in the application by the benchmark referred to in Paragraph 2, item 5;

2. the allocation of allowances to each aircraft operator for each year, which shall be determined by dividing its total allocation of allowances under item 1 by the number of years in the period for which that aircraft operator is performing an aviation activity listed in Annex No. 2.

(2) The data referred to in Paragraph 1 shall be calculated and published within three months from the date on which the Commission adopts a decision setting out:

1. the total quantity of allowances to be allocated for that period;

2. the number of allowances to be auctioned in that period;

3. the number of allowances in the special reserve for aircraft operators in that period;

4. the number of allowances to be allocated free of charge in that period by subtracting the number of allowances referred to in items 2 and 3 from the total quantity of allowances decided upon under item 1;

5. the benchmark to be used to allocate allowances free of charge to aircraft operators.

(3) The benchmark referred to in Paragraph 2, item 5, expressed as allowances per tonne-kilometre, shall be calculated by dividing the number of allowances referred to in Paragraph 2, item 4 by the sum of the tonne-kilometre data included in the applications under Article 38, Paragraph 1, submitted to the European Commission.

(4) By 28 February each year the Executive Director of ExEA shall issue to each aircraft operator the number of allowances allocated to that aircraft operator for that year under Paragraph 1, item 2, pursuant to the ordinance referred to in Article 5, item 3.

Article 40. (1) Three per cent of the total quantity of allowances to be allocated for the periods under Article 37, Paragraph 1 shall be set aside in a special reserve for aircraft operators:

1. who start performing an aviation activity falling within Annex No. 2 after the monitoring year under Article 38, Paragraph 3 in respect of the relevant period under Article 37, Paragraph 1, and whose activity is not in whole or in part a continuation of an aviation activity previously performed by another aircraft operator, or

2. whose tonne-kilometre data increases by an average of more than 18 per cent annually between the monitoring year under Article 38, Paragraph 3, in respect of the period referred to in Article 37, Paragraph 1, and the second calendar year of that period, and whose additional activity is not in whole or in part a continuation of an aviation activity previously performed by another aircraft operator.

(2) Any unallocated allowances in the special reserve under Paragraph 1 shall be auctioned pursuant to Section VII.

Article 41. (1) An aircraft operator who is eligible under Article 40, Paragraph 1 may apply for a free allocation of allowances from the special reserve by making an application to the Minister of Environment and Water.

(2) The application under Paragraph 1 shall be made by 30 June in the third year of the period referred to in Article

37, Paragraph 1 to which it relates.

(3) An allocation to an aircraft operator under Article 40, Paragraph 1, item 2 shall not exceed 1 000 000 allowances.

(4) The application referred to in Paragraph 1 shall:

1. include verified tonne-kilometre data in accordance with the ordinances referred to in Article 5, items 1 and 2 for the aviation activities listed in Annex No. 2 performed in the second calendar year of the period to which the application relates;

2. provide evidence that the criteria for eligibility under Article 40, Paragraph 1 are fulfilled.

(5) In addition to the information referred to in Paragraph 4 aircraft operators falling within Article 40, Paragraph 1, item 2 shall also include in the application a statement on:

1. the percentage increase in tonne-kilometres performed by that aircraft operator between the monitoring year for which tonne-kilometre data was submitted under Article 38, Paragraph 2 - in respect of the relevant period referred to in Article 37, Paragraph 1 and the second calendar year of that period;

2. the absolute growth in tonne-kilometres performed by that aircraft operator between the monitoring year for which tonne-kilometre data was submitted under Article 38, Paragraph 2 - in respect of the relevant period referred to in Article 37, Paragraph 1 and the second calendar year of that period; and

3. the absolute growth in tonne-kilometres performed by that aircraft operator between the monitoring year for which tonne-kilometre data was submitted under Article 38, Paragraph 2 - in respect of the relevant period referred to in Article 37, Paragraph 1 and the second calendar year of that period which exceeds the percentage specified in Article 40, Paragraph 1, item 2.

(6) No later than six months from the application deadline under Paragraph 2, the Minister of Environment and Water shall submit the applications under Paragraph 1 to the European Commission .

(7) The benchmark to be used to allocate allowances free of charge to aircraft operators whose applications were made pursuant to Paragraph 1 shall be decided on by the European Commission.

(8) Within three months from the date on which the European Commission adopts a decision on the benchmark referred to in Paragraph 7, the Minister of Environment and Water shall calculate and publish on the website of the Ministry of Environment and Water:

1. the quantity of allowances from the special reserve allocated to each aircraft operator who or which is eligible under Article 40, Paragraph 1 and has filed an application before the deadline set in Paragraph 2 above;

2. the quantity of allowances allocated to each aircraft operator for each year shall be determined by dividing the quantity of allowances referred to in item 1 by the number of full calendar years remaining in the respective period referred to in Article 37, Paragraph 1.

(9) The allowances referred to in Paragraph 8, item 1 shall be calculated by multiplying the benchmark referred to in Paragraph 7 by:

1. the tonne-kilometres included in the application - in the case of aircraft operators falling within the scope of Article 40, Paragraph 1, item 1;

2. the absolute growth in tonne-kilometres exceeding the percentage specified in Article 40, Paragraph 1, item 2 included in the application pursuant to Paragraph 1 - in the case of aircraft operators falling within the scope of Article 40, Paragraph 1, item 2.

## **Section V**

# Greenhouse Gas Emission Allowances from Installations

Article 42. (1) The Community-wide quantity of allowances issued each year starting in 2013 shall decrease by a linear factor of 1,74 % compared to the average annual total quantity of allowances issued by Member States in accordance with the Commission Decisions on their national allocation plans for the period from 2008 to 2012.

(2) The Union-wide quantity of allowances for 2013 is set out in Commission Decision 2010/634/EU adjusting the Union-wide quantity of allowances to be issued under the Union Scheme for 2013 and repealing Decision 2010/384/EU (OJ L 279/34, 23 October 2010).

(3) From 2013 onwards all emission allowances shall be auctioned pursuant to Article 52, except the cases referred to in Articles 43 - 46.

Article 43. (1) For the 2013 - 2020 period and for each subsequent EU ETS period free allocation shall be given to installations which:

1. are included in the list of installations under Paragraph 4 approved by the European Commission, or

2. meet the "new entrant" definition, have made an application pursuant to Article 44 and the application has not been rejected by the European Commission.

(2) Except as provided for in Articles 45 and 46, no free allocation shall be given to:

1. electricity generators;

2. installations for the capture of CO<sub>2</sub>;

3. pipelines for transport of CO<sub>2</sub>;

4. CO<sub>2</sub> storage sites.

(3) No free allocation shall be given to an installation that has ceased its operations within the meaning of Article 34, Paragraph 4.

(4) The installations in the territory of the Republic of Bulgaria which perform activities listed in Annex No. 1 and any free allocation to each installation in accordance with Paragraph 6 shall be included in a list drawn up by the Minister of Environment and Water and approved by the European Commission.

(5) The list referred to in Paragraph 4 shall also include installations in the territory of the Republic of Bulgaria in sectors and subsectors which are deemed to be exposed to a significant risk of carbon leakage.

(6) The free allocation of greenhouse gas emission allowances from installations shall be carried out in accordance with Commission Decision 2011/278/EU of 27 April 2011 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (OJ L 130/1, 17 May 2011), hereinafter "Commission Decision 2011/278/EU".

Article 44. (1) Five percent of the Community-wide quantity of allowances determined in accordance with Article 42, Paragraph 1 shall be set aside for new entrants.

(2) No free allocation shall be made in respect of any electricity production by new entrants.

(3) The free allocation of allowances shall be made after review and approval by the Minister of Environment and Water of the application made by interested new entrants.

(4) The application under Paragraph 3 shall be made in Bulgarian language in the electronic template provided by the European Commission and shall be submitted within one year following the start of normal operation of the installation.



(5) The Minister of Environment and Water shall only accept applications which have been verified as satisfactory by a verifier pursuant to the ordinance referred to in Article 5, item 2 and which have been submitted within the deadline under Paragraph 4.

(6) Allowances in this reserve that are not allocated to new entrants over the period from 2013 to 2020 and that are subsequently granted for allocation to the Republic of Bulgaria by the European Commission, shall be auctioned pursuant to Article 52.

Article 45. (1) Over the period from 2013 to 2020, in accordance with Article 43, free allocation shall be given to district heating as well as to high efficiency cogeneration, as defined by the Energy Act for economically justifiable demand, in respect of the production of heating or cooling.

(2) In each year subsequent to 2013, the total allocation to such installations in respect of the production of that heat shall be adjusted by the linear factor referred to in Article 42, Paragraph 1.

Article 46. (1) Over the period from 2013 to 2019 free allocation shall be given to installations for electricity production in operation by 31 December 2008 or to installations for electricity production for which the investment process was physically initiated by the same date.

(2) Free allowance allocations shall be deducted from the quantity of allowances to be auctioned pursuant to Article 42, Paragraph 3.

(3) In 2013 the total free allocation of allowances under Paragraph 1 shall not exceed 70 per cent of the annual average verified emissions in 2007 from such electricity generators under Paragraph 1 for the amount corresponding to the gross final national consumption and shall gradually decrease by the linear factor under Article 42, Paragraph 1. There will be no free allocation of allowances to installations under Paragraph 1 in 2020.

(4) The free allocation of allowances to operators shall be based on the allocation of verified emissions in 2007.

(5) The free allocation of allowances shall be made following approval by the European Commission of the National Investment Plan for the period from 2013 to 2020 under Article 4, Paragraph 2, item 18d of the Energy Act.

Article 47. (1) (Amended, SG No. 41/2015) Based on a Commission decision on allowance allocation, from 2013 onwards the Minister of Environment and Water shall, on an annual basis, notify the Executive Director of ExEA of the allocation of allowances for the relevant year in accordance with Article 43, Paragraphs 4 and 6.

(2) Where there is a change to an installation's capacity, activity level, or operation which has an impact on the installation's allocation, the Minister of Environment and Water shall submit to the European Commission, using an electronic template provided by the Commission, all relevant information, including the revised preliminary total annual amount of emission allowances allocated free of charge for the installation concerned determined in accordance with this Section, before determining the final total annual amount of emission allowances allocated free of charge under Paragraph 1.

(3) By 28 February of each year from 2013 onwards, based on the decision of the Minister of Environment and Water under Paragraph 1, the Executive Director of ExEA shall grant to all operators holding greenhouse gas emissions permits the allowances allocated to them for that year under Paras. 1 and 2, pursuant to the ordinance referred to in Article 5, item 3.

(4) Allowances for new entrants in EU ETS from installations shall be granted pursuant to Commission Decision 2011/278/EU and the ordinance referred to in Article 5, item 2.

## **Section VI**

**Surrender, transfer and cancellation of greenhouse gas emission allowances.**

**Validity of allowances, CERs and ERUs**

Article 48. (1) Operators holding a greenhouse gas emissions permit and aircraft operators shall, by 30 April each year, surrender a number of allowances equal to the total emissions from the installation or from aviation activities during the preceding year, as verified in accordance with the ordinance referred to in Article 5, item 2 or determined by means of a conservative estimate of emissions pursuant to Article 70 of Regulation (EU) No. 601/2012. Allowances which have been surrendered once may not be surrendered again.

(2) (Supplemented, SG No. 41/2015) Emissions allowances from aviation activities may be surrendered only by aircraft operators. Operators may not fulfill their obligation referred to in Para. 1 using emission allowances from aviation activities.

(3) (Amended, SG No. 41/2015) An operator shall fulfil the obligation referred to in Paragraph 1 only using allowances issued by a competent authority in an EU member state or allowances issued by third countries listed in Annex B to the Kyoto Protocol which have ratified the Protocol and with which the European Union has concluded agreements for mutual recognition of allowances between EU ETS and other greenhouse gas emissions trading schemes.

(4) The obligation under Paragraph 1 shall not arise in respect of emissions which the respective operators verify to the Executive Director of ExEA as captured and transported for permanent storage to a facility for which a permit is in force in accordance with the Geological Storage of Carbon Dioxide Act

(5) An operator or aircraft operator who failed to fulfil the obligation to surrender allowances under Paragraph 1 shall surrender the necessary amount of allowances during the following year, irrespective of the sanction under Article 76.

Article 49. (1) Operators and aircraft operators shall be entitled to use credits within EU ETS under the terms and in the amounts laid down with Commission Regulation (EU) No. 1123/2013 of 8 November 2013 on determining international credit entitlements pursuant to Directive 2003/87/EC of the European Parliament and of the Council (OJ L 299/32, 9 November 2013), hereinafter "Regulation (EU) No. 1123/2013".

(2) (Amended, SG No. 41/2015) Operators shall be allowed to use credits within EU ETS during the period from 2008 to 2020 up to a maximum of 12.507 per cent of their allocation during the period from 2008 to 2012 plus a percentage determined in accordance with Article 1 of Regulation (EU) No. 1123/2013.

(3) The Minister of Environment and Water shall calculate and publish the amount of credits which each operator may use within EU ETS in accordance with Paragraph 1 and notify the European Commission in accordance with Article 59 of Commission Regulation (EU) No. 389/2013 of 2 May 2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No. 280/2004/EC and No. 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulations (EU) No. 920/2010 and No. 1193/2011 (OJ L 122/1, 3 May 2013), hereinafter "Regulation (EU) No. 389/2013".

(4) The Minister of Environment and Water shall update on an annual basis the amount of credits which each operator and aircraft operator may use within EU ETS. Any change in the admissible amount of credits for projects shall be reported to the European Commission.

(5) The persons referred to in Paragraph 1 shall not be entitled to use within EU ETS credits from reduction of greenhouse gas emissions generated by:

1. projects for operation of nuclear facilities;
2. project activities for land use, changes in land use and forestry;
3. projects under Regulation (EU) No. 550/2011.

(6) Certified emission reductions and ERUs may not be surrendered to meet the obligation under Article 48, Paragraph 1.

(7) The persons referred to in Paragraph 1 shall be entitled to request exchange of CERs and ERUs for allowances from installations pursuant to Article 60 of Regulation (EU) No. 389/2013.

Article 50. (1) Allowances surrendered in accordance with Article 48 shall be cancelled by 30 June each year.

(2) The deletion of allowances upon request from account holders shall be carried out pursuant to Article 68 of Regulation (EU) No. 389/2013.

(3) Allowances deleted pursuant to Paragraph 2 may not be reversed except in the cases provided for in Regulation (EU) No. 389/2013.

(4) Deleted allowances shall not be recorded as surrendered for any emissions.

Article 51. (1) The Executive Director of ExEA shall allocate free allowances to installations on an annual basis pursuant to Article 47, Paragraphs 1 and 3.

(2) Greenhouse gas emission allowances issued from 1 January 2013 onwards shall be valid for emissions during periods of eight years beginning on 1 January 2013.

(3) Four months after the beginning of each period referred to in Paragraph 2 the Executive Director of ExEA shall cancel allowances which are no longer valid and have not been surrendered and cancelled in accordance with Articles 48 and 50.

(4) The Executive Director of ExEA shall issue allowances to persons for the current period to replace any allowances held by them which were cancelled in accordance with Paragraph 3.

## **Section VII**

### **Auctioning of Greenhouse Gas Emission Allowances**

Article 52. (1) All auctions for greenhouse gas emission allowances under this Act shall be conducted in compliance with Regulation (EU) No. 1031/2010.

(2) The auctions referred to in Paragraph 1 shall be organised and conducted by means of a common auction platform appointed in compliance with Regulation (EU) No. 1031/2010.

Article 53. (1) The following persons shall be eligible to apply for admission to bid directly in auctions:

1. an operator or an aircraft operator under Article 18(1)(a) of Regulation (EU) No. 1031/2010;
2. investment intermediaries, licensed pursuant to Article 13, Paras. 1 and 4 of the Markets in Financial Instruments Act;
3. banks, licensed pursuant to Article 2, Paragraph 2, item 9 of the Credit Institutions Act when bidding for auctioned products;
4. business groupings of operators under item 1 bidding on their own account and acting as an agent on behalf of their members;
5. state-owned entities and administrative bodies exercising control over the operators under item 1 above within the meaning of Article 3(15) of Regulation (EU) No. 1031/2010.

(2) The persons referred to in Paragraph 1, items 2 and 3 may bid for auctioned products that are not financial instruments provided that they are duly authorised to do so by the competent supervisory bodies in compliance with the requirements of Article 59 of Regulation (EU) No. 1031/2010.

Article 54. (1) The Minister of Environment and Water shall be appointed auctioneer for the Republic of Bulgaria within the meaning of Article 22 of Regulation (EU) No. 1031/2010.

(2) The auctioneer referred to in Paragraph 1 shall:

1. perform the functions provided for in Article 23 of Regulation (EU) No. 1031/2010;
2. conclude contracts with the auction platform, including each clearing or settlement system related thereto;
3. prepare, regularly update and submit to the auction platform a list of officials assisting its activities as auctioneer and having access to inside information on the auctions;
4. organise its operation in accordance with the auction calendar under Chapter III of Regulation (EU) No. 1031/2010;
5. give allowances as collateral to be held in escrow by the clearing or settlement system acting as custodian pending their delivery in accordance with Article 50 of Regulation (EU) No. 1031/2010;
6. provide information relating to the auctions to the auction monitor under Article 53 of Regulation (EU) No. 1031/2010;
7. perform other functions relating to the auctioneer function.

(3) The Minister of Environment and Water may issue an order to assign performance of some of the functions under Paragraph 2 to the Executive Director of ExEA in accordance with the functions under Article 7, Paragraph 1, item 5. The Minister of Environment and Water shall issue an order to designate other officials to support the fulfilment of the functions referred to in Paragraph 2.

(4) The officials referred to in Paragraph 3 shall inform promptly the authority under Paragraph 1 where in the process of their work direct or indirect interest occurs and gives rise to reasonable doubt as to their fairness which might lead to a conflict with the due fulfilment of their functions or exercise of their powers. The authority under Paragraph 1 shall issue written instructions for their dismissal and replacement by another official.

(5) The authority under Paragraph 1 and the officials referred to in Paragraph 3 shall make a declaration under Article 12, items 2 and 4 of the Conflict of Interest Prevention and Disclosure Act and a declaration for non-disclosure of information which has become known to them in the course of carrying out activities as auctioneer.

## **Section VIII**

### **Revenues from the Auctioning of Greenhouse Gas Emission Allowances**

Article 55. (1) The auctioneer referred to in Article 54 shall transfer all revenues generated from the auctioning of allowances under Section VII to the EMEPA budget.

(2) The administrative expenses of the auctioneer referred to in Article 54 shall be reimbursed by EMEPA.

(3) By 31 January each year the auctioneer shall publish on its website summary information on sales made and proceeds thereof during the preceding calendar year.

Article 56. (1) The revenues generated from the auctioning of aviation allowances should be used to tackle climate change, inter alia:

1. to reduce greenhouse gas emissions;
2. to adapt to the impacts of climate change in the Republic of Bulgaria and third countries, especially developing countries;
3. to fund research and development for mitigation and adaptation, including in particular in the fields of aeronautics and air transport;
4. to reduce emissions through low-emission transport;

5. to pay the costs of the auction monitor under Article 52 of Regulation (EU) No. 1031/2010 and the obligations resulting from the contracts between the auctioneer and the auction platform for auctioning of greenhouse gas emission allowances pursuant to Article 52 of Regulation (EU) No. 1031/2010;

6. other activities aimed at reducing greenhouse gas emissions and tackling climate change, including measures to avoid deforestation, and educational and information campaigns on climate change designed for different target groups.

(2) The revenues from the auctioning of emissions allowances for aviation activities shall be paid into the EMEPA budget and may be used through NTEF following a procedure laid down with an ordinance issued by the Minister of Environment and Water. In this case Article 22, Paragraph 2 shall apply respectively.

(3) The Minister of Environment and Water shall inform the European Commission of the activities under Paragraph 1.

Article 57. (1) Seventy-one per cent of the revenues from auctioning of all allowances allocated to the Republic of Bulgaria, except in the cases referred to in Article 43 - 46 which include 50 per cent of the revenues from auctioning of greenhouse gas emission allowances from installations allocated to the Republic of Bulgaria in a share identical to the country's emissions in 2007 and all revenues from auctioning of additional allowances allocated for the purpose of European Union solidarity and growth or allocated to the country where the greenhouse gas emissions in 2005 were at least 20 per cent below the emissions in 1988 which is the base year applicable to the Republic of Bulgaria under the Kyoto Protocol, shall be used for one or more of the following:

1. to reduce greenhouse gas emissions, including by:

a) contributing to the Global Energy Efficiency and Renewable Energy Fund and to the Adaptation Fund as made operational by Decision 10 of the Seventh Conference of the Parties to UNFCCC;

b) adapting to the impacts of climate change;

c) funding research and development;

d) funding demonstration projects for reducing emissions and for adaptation to climate change;

e) participation in initiatives within the framework of the European Strategic Energy Technology Plan and the European Technology Platforms;

2. measures to avoid deforestation and increase afforestation and reforestation in developing countries that have ratified the international agreement on climate change, to transfer technologies and to facilitate adaptation to the adverse effects of climate change in these countries;

3. forestry sequestration, including in the territory of other EU member states;

4. the environmentally safe capture and geological storage of CO<sub>2</sub>, in particular from solid fossil fuel power stations and a range of industrial sectors and subsectors, including in third countries;

5. to encourage a shift to low-emission and public forms of transport;

6. research and development in energy efficiency and clean technologies in the sectors covered by this Act;

7. measures intended to increase energy efficiency and insulation or to provide financial support in order to address social aspects of increased electricity costs in lower and middle income households, as well as measures to encourage the use of energy from renewable sources by households for personal needs;

8. to develop renewable energies to meet the commitment of the European Union to using 20 % renewable energies by 2020, as well as to develop other technologies contributing to the transition to a safe and sustainable low-carbon economy and to help meet the commitment to increase energy efficiency by 20 % by 2020;

9. cover the costs for activities and obligations under Article 56, Paragraph 1, item 5.

(2) (New, SG No. 17/2015, effective 6.03.2015, amended, SG No. 56/2015, effective 24.07.2015) Any revenues from sales of allowances under Paragraph 1 shall be deposited into the Power Grid Reliability Fund.

(3) (Renumbered from Paragraph 2, SG No. 17/2015, effective 6.03.2015, amended, SG No. 41/2015) The Minister of Environment and Water shall report to the European Commission on all activities under Paragraph 1 in a format and method determined in accordance with Regulation (EU) No. 525/2013.

Article 58. (1) Revenues from the auctioning of greenhouse gas emission allowances from installations, with the exception of revenues under Article 57, Paragraph 1, amounting to 29 per cent of the revenues from auctioning of all allowances allocated to the Republic of Bulgaria shall be used to:

1. fund the contributions of the Republic of Bulgaria to the Green Climate Fund set up under Article 11 of UNFCCC or other international environmental funds;

2. fund environmental projects in accordance with the national strategies and plans;

3. make transfers to the budget of the Ministry of Environment and Water.

(2) The terms and procedure for expenditure of revenues under Paragraph 1 and under Article 57 shall be laid down in a Council of Ministers decree.

## **Section IX**

### **Administration of the National Registry for Greenhouse Gas Emission Allowance Trading**

Article 59. (1) The Executive Director of ExEA shall perform the functions of national administrator of NRGGEAT.

(2) The terms and procedure for administration of NRGGEAT shall be laid down in the ordinance referred to in Article 5, item 3.

(3) The national administrator of NRGGEAT shall verify whether the information and documents provided under Article 22(1), Article 24(4) and Article 25(4) of Regulation (EU) No. 389/2013 are complete, up-to-date, accurate and true.

(4) (Amended, SG No. 14/2015) The national administrator of NRGGEAT shall be supported by the Ministry of Interior, the Ministry of Justice, the Ministry of Regional Development and Public Works and Executive Agency "Bulgarian Accreditation Service".

Article 60. (Supplemented, SG No. 41/2015) The decisions of the Executive Director of ExEA as national administrator pursuant to Regulation (EU) No. 389/2013 for opening or closing an account, for approving changes to the authorised representatives for an account or for updating the account information in NRGGEAT shall constitute individual administrative acts and may be appealed pursuant to the Administrative Procedure Code.

Article 61. The holders of accounts administered by the national administrator shall pay a fee for registration in the Union registry and an annual service fee as per the tariff under Article 72 of the Environmental Protection Act.

## **Section X**

### **Access to Information**

Article 62. (Amended, SG No. 41/2015) The Minister of Environment and Water shall make available to the public complete information on the decisions relating to the allocation of allowances, information on project activities in which the Republic of Bulgaria participates or authorizes other entities to participate, and the reports of emissions referred to in Article 36, Paragraphs 1 and 2 pursuant to the Access to Public Information Act or Chapter Two of the Environmental

Protection Act, depending on the nature of the information requested.

Article 63. (1) Each year the Executive Director of ExEA shall publish on the ExEA website:

1. national reports for the greenhouse gas inventory of the Republic of Bulgaria;
2. verified annual emission reports of operators and aircraft operators;
3. names of operators and aircraft operators in breach of the requirement to surrender sufficient allowances corresponding to their verified emissions.

(2) Annually, the Minister of Environment and Water shall publish on the website of the Ministry of Environment and Water the verified annual emission reports under Article 66, Paragraph 1.

(3) (Amended, SG No. 41/2015) Information, other than the information referred to in Paragraph 1 and Article 62, which became known to the competent authorities and their employees in the course of their activities under this Chapter, shall be covered by professional secrecy and may not be disclosed, except in cases stipulated by law. Information covered by professional secrecy shall not constitute an official secret within the meaning of the Classified Information Protection Act.

(4) (New, SG No. 41/2015) The competent authorities and their employees shall be obliged to comply with the requirements of professional secrecy, including after they have been released from office, respectively after termination of their employment agreement.

(5) (New, SG No. 41/2015) The information covered by the requirements of professional secrecy may be used by the competent authorities and their employees only in the course of performing their functions.

(6) (New, SG No. 41/2015) The information covered by the requirements of professional secrecy may be disclosed only:

1. to a court of justice, a prosecution office, investigation or police authorities, in case of launched criminal or administrative proceedings;
2. to the State Agency for National Security under terms and following a procedure laid down in a joint instruction, to the degree to which this is necessary for the performance of their functions;
3. as summary data in a manner which does not make it possible to identify the persons it refers to;
4. to the European Commission.

(7) (New, SG No. 41/2015) The persons and authorities referred to in Para. 6 shall be obliged to safeguard the confidentiality of information they receive and use it solely for the purposes for which it was made available to them, except where the competent authorities have given express permission to use such information for other purposes.

## **Chapter Five**

### **OTHER MEASURES FOR REDUCTION OF GREENHOUSE GAS EMISSIONS**

#### **Section I**

#### **Reduction of Emissions from Liquid Fuels and Energy for Transport**

Article 64. (1) Suppliers of liquid fuels and energy for transport shall reduce gradually life-cycle greenhouse gas emissions per unit of energy from liquid fuels and energy supplied compared with the fuel baseline standard in 2010, up to final total reduction of at least 6 per cent by 31 December 2020.

(2) The persons referred to in Paragraph 1 shall achieve the reduction of life-cycle greenhouse gas emissions per unit

of energy from liquid fuels and energy for transport by complex measures, such as:

1. use of biofuels which fulfil the sustainability criteria pursuant to the Energy from Renewable Sources Act;
2. use of alternative fuels;
3. use of fossil fuels with low levels of greenhouse gas emissions in the extraction and processing of crude oil.

(3) Life-cycle greenhouse gas emissions from liquid fuels other than biofuels and fuel baseline standards under Paragraph 1 shall be calculated using a methodology approved by the European Commission.

(4) Life-cycle greenhouse gas emissions from biofuels shall be calculated using the methodology referred to in Article 44, Paragraph 3 of the Energy from Renewable Sources Act.

(5) Suppliers of electricity for use in road vehicles shall be considered as complying with the obligation to reduce greenhouse gas emissions under Paragraph 1 provided that they keep logbooks and are able to provide written evidence of measurements and monitoring of electricity supplied for use in such vehicles.

Article 65. (1) The persons referred to in Article 66, Paragraph 1 may combine for joint fulfilment of the obligations under Article 66, Paragraph 1 and in such cases shall be considered as one supplier.

(2) The provisions of Paragraph 1 shall apply in accordance with the terms and procedure set out in the ordinance referred to in Article 44, Paragraph 1 of the Energy from Renewable Sources Act.

Article 66. (1) By 31 March each year suppliers of liquid fuels and energy for transport shall submit to the Minister of Environment and Water a verified report on the greenhouse gas emission intensity of liquid fuels for transport supplied by them in the territory of the country during the preceding year.

(2) The report under Paragraph 1 shall provide, as a minimum, the following information:

1. the total volume of each type of liquid fuel or energy supplied, indicating where purchased and its origin; and
2. life-cycle greenhouse gas emissions from liquid fuels calculated in accordance with the methodology laid down in Article 64, Paragraphs 3 and 4.

(3) (New, SG No. 41/2015) Life-cycle greenhouse gas emissions from liquid fuels other than biofuels shall be included in the report under Paragraph 1 in accordance with the methodology under Article 64, Paragraph 3.

(4) (Renumbered from Paragraph (3), SG No. 41/2015) The terms, procedure, format and method of preparation of the reports under Paragraph 1 and their verification shall be laid down in the ordinance referred to in Article 5, item 5.

## **Section II**

### **Implementation of Obligations under Decision No. 406/2009/EC**

Article 67. (1) Each year, the Minister of Environment and Water shall review the correspondence of the greenhouse gas emissions of the Republic of Bulgaria from the activity categories listed in Annex No. I with relation to Article 2, item 1 of Decision No. 406/2009/EC to the levels set in Article 3 of said Decision and shall prepare and submit a report to the European Commission.

(2) The report referred to in Paragraph 1 shall contain the information set out in Article 6 of Decision No. 406/2009/EC and include:

1. data from the national inventory under Article 11, Paragraph 1;
2. additional information on national policies;



3. measures to reduce greenhouse gas emissions by sources and removals by sinks, presented on a sectoral basis for each greenhouse gas;

4. national projections of greenhouse gas emissions by sources and removals by sinks, organised by gas and by sector.

(3) Additional information under Paragraph 2 shall be submitted to the Minister of Environment and Water by the authorities referred to in Article 4, Paragraph 1 pursuant to Article 11, Paragraph 2.

(4) Where the report referred to in Paragraph 1 states that the emission levels set in Article 3 of Decision No. 406/2009/EC have been exceeded, the Council of Ministers shall, on a motion by the Minister of Environment and Water, adopt a decision to develop further sectoral policies and implement additional measures for fulfilling the obligations of the Republic of Bulgaria resulting from Decision No. 406/2009/EC.

(5) The Republic of Bulgaria may transfer its annual emission allocation under Article 3(2) of Decision No. 406/2009/EC to other EU member states pursuant to Decision No. 406/2009/EC and under the conditions provided for in Article 19.

(6) Revenues under Paragraph 5 shall be paid into the EMEPA budget and spend through NTEF in accordance with Article 22.

## **Section III**

### **Voluntary Emissions Reduction Scheme**

Article 68. (1) The Voluntary Emissions Reduction Scheme (VERS) shall encompass activities, installations and persons which are not bound by international obligations for reduction of greenhouse gas emissions.

(2) VERS projects shall be implemented in compliance with the following principles:

1. additionality;
2. avoiding the double-counting of emission reductions;
3. the principles under Article 24, Paragraph 1.

(3) VERS projects shall not be eligible for public financing.

Article 69. The Minister of Environment and Water shall cancel the amount of AAUs from NRGGEAT equal to the volume of reduced emissions as a result of a successful VERS project, where this is required by the applicable rules for accounting emission reductions by means of VERS.

Article 70. The Minister of Environment and Water shall:

1. issue an instruction to determine the scope of VERS and the procedures for approval and implementation of VERS projects following consultation with the National Expert Council on Climate Change;
2. issue a letter for preliminary approval of VERS projects;
3. ascertain VERS project results following the project completion.

## **Chapter Six**

### **COERCIVE ADMINISTRATIVE MEASURES AND ADMINISTRATIVE PENALTY PROVISIONS**

#### **Section I**

# Coercive administrative measures

Article 71. (1) The Minister of Environment and Water or officials authorised thereby in accordance with their remit shall enforce coercive administrative measures in cases of:

1. violation of the provisions of this Act, of the secondary legislation for its implementation, and of acts issued by the Minister of Environment and Water or officials authorised thereby in accordance with their remit;

2. impede the exercise of their controlling functions.

(2) In the cases referred to in Paragraph 1, with a view to preventing or terminating violations, as well as to removing the adverse effects thereof, the Minister of Environment and Water and the Executive Director of ExEA or the officials authorised thereby in accordance with their remit shall apply the following coercive administrative measures:

1. issue binding written instructions for suspending certain activities or for mandatory performance of certain actions within a given deadline;

2. request expert opinions, checks, tests of installations and facilities, parts, systems or components thereof;

3. temporarily suspend or limit the activity of operators or aircraft operators;

4. suspend the access of operators and aircraft operators to their accounts in NRGGEAT within the meaning of Article 34(3)(b) of Regulation (EU) No. 389/2013 where they have violated the obligations for accurate reporting of emissions under Article 36, Paragraphs 1 and 2 until the violation has been remedied.

(3) The coercive administrative measure shall be imposed by a reasoned order by the authority referred to in Paragraph 1; such order shall determine the type of coercive administrative measure, the method of imposing it and a suitable deadline for its imposition.

(4) The coercive administrative measure shall remain in force until the grounds for imposing it have been removed.

(5) The order under Paragraph 3 shall be delivered to the interested party pursuant to the Civil Procedure Code.

(6) The order under Paragraph 3 may be appealed by the interested parties pursuant to the Administrative Procedure Code. The appeal shall not stay the implementation of the order.

## Section II Administrative Penalty Provisions

Article 72. (1) An operator who carries out activities without holding the permit required under Article 31 shall be sanctioned with a fine between BGN 5,000 and BGN 10,000 - for natural persons, respectively a pecuniary penalty between BGN 10,000 and BGN 50,000 - for sole traders or legal persons.

(2) In case of a repeated violation under Paragraph 1 the fine for natural persons shall vary between BGN 10,000 and BGN 20,000, respectively the pecuniary penalty for sole traders and legal persons - between BGN 20,000 and BGN 100,000.

Article 73. An operator who fails to fulfil its obligations under Article 34, Paragraph 2 within the deadlines set out in the ordinance referred to in Article 5, item 1 shall be sanctioned with a fine - for natural persons, respectively a pecuniary penalty - for sole traders or legal persons, amounting between BGN 1,000 and BGN 10,000.

Article 74. (1) An operator or aircraft operator who fails to comply with the monitoring and reporting requirements under Article 35 shall be sanctioned with a fine - for natural persons, respectively a pecuniary penalty - for sole traders or legal persons, amounting between BGN 1,000 and BGN 10,000.

(2) In the cases referred to in Article 36, Paragraph 5, item 3 the verifiers shall be sanctioned with a pecuniary penalty of BGN 2,000 to BGN 20,000.

(3) For a repeated violation the sanction shall be a fine, respectively a pecuniary penalty, as follows:

1. under Paragraph 1 - between BGN 2,000 and BGN 20,000;
2. under Paragraph 2 - between BGN 4,000 and BGN 40,000.

(4) In case of systemic violations under Article 36, Paragraph 5, item 3 the accreditation of verifiers shall be withdrawn pursuant to the National Accreditation of Compliance Assessment Bodies Act.

Article 75. (1) Natural persons violating the requirements for keeping the information in accordance with Article 66(1), Paragraph 1 of Regulation (EU) No. 601/2012 shall be sanctioned with a fine between BGN 1,000 and BGN 5,000, and legal persons or sole traders shall suffer a pecuniary penalty of BGN 10,000 to BGN 25,000.

(2) In case of a repeated violation under Paragraph 1 a fine shall be imposed amounting between BGN 2,000 and BGN 10,000 - for natural persons, respectively a pecuniary penalty of BGN 20,000 to BGN 50,000 - for sole traders and legal persons.

Article 76. (1) For breaching the requirements of Article 48, Paragraph 1 an operator or aircraft operator - legal person or sole trader, shall be sanctioned with a pecuniary penalty of BGN 200 for each tonne of carbon dioxide equivalent for which the operator failed to surrender allowances.

(2) (New, SG No. 41/2015) For each tonne of carbon dioxide equivalent for which the operator failed to surrender allowances issued after 1 January 2013, a pecuniary penalty shall be imposed amounting to the pecuniary penalty under Paragraph 1 multiplied by ratio of the European Index of Consumer Prices for the current year to the European Index of Consumer Prices for 2013 as published by Eurostat.

(3) (Renumbered from Paragraph (2), amended, SG No. 41/2015) Payment of the property sanction under Paragraph 1 and Paragraph 2 shall not release the operator from the obligation to surrender the insufficient amount of allowances during the next calendar year.

Article 77. (1) In the event that an aircraft operator fails to comply with the requirements of Article 35, Paragraph 1, Article 48, Paras. 1 and 5 and where other measures have failed to ensure compliance, the Minister of Environment and Water may request the European Commission to impose an operating ban on the aircraft operator concerned.

(2) The request referred to in Paragraph 1 shall include:

1. details of the enforcement action which has been taken by the competent authority;
2. a justification for the imposition of an operating ban at Community level;
3. a recommendation for the scope of an operating ban at Community level and any conditions that should be applied.

(3) The request referred to in Paragraph 1 shall also contain evidence that the aircraft operator has not complied with its obligations under Paragraph 1.

(4) In the event that the European Commission adopts a decision on the request under Paragraph 2, the competent authorities shall take the measures necessary for its implementation.

(5) The competent authorities shall inform the European Commission of any measures taken to implement the decisions under Paragraph 4.

Article 78. (1) An applicant within the meaning of Article 20 of Regulation (EU) No. 1031/2010 who provides with false or misleading information any auction platform auctioning two-day spot or five-day futures shall be sanctioned with a fine between BGN 1,000 and BGN 10,000 - for natural persons, and a pecuniary penalty of BGN 10,000 to BGN 20,000

- for legal persons.

(2) An applicant under Paragraph 1 who fails to inform immediately the auction platform under Paragraph 1 of any changes in its circumstances that could affect its application for admission to bid in auctions conducted by that auction platform or any admission to bid already granted to it shall be sanctioned with a fine between BGN 1,000 and BGN 10,000 - for natural persons, respectively a pecuniary penalty of BGN 10,000 to BGN 20,000 - for legal persons.

(3) For a repeated violation under Paras. 1 and 2 the sanction shall be a fine, respectively a pecuniary penalty of BGN 2,000 to BGN 20,000 - for natural persons, respectively a pecuniary penalty of BGN 20,000 to BGN 40,000 - for legal persons.

Article 79. Anyone who makes an unauthorised disclosure of inside information within the meaning of Article 3(29) and Article 37(a) of Regulation (EU) No. 1031/2010 to any person working for an auctioneer shall be sanctioned with a fine amounting between BGN 10,000 and BGN 100,000, and in case of a repeated violation - with a fine of BGN 20,000 to BGN 200,000.

Article 80. A person who violates or fails to fulfil its obligations under Article 59, Paragraph 3, shall be sanctioned with a fine amounting between BGN 100 and BGN 600, and in case of a repeated violation - between BGN 200 and BGN 1,200.

Article 81. (1) A supplier of liquid fuels and energy for transport who fails to fulfil its obligation under Article 64, Paragraph 1 shall be sanctioned with a fine between BGN 1,000 and BGN 10,000 - for natural persons, respectively a pecuniary penalty of BGN 2,000 to BGN 20,000 - for legal persons.

(2) A supplier of liquid fuels and energy for transport who fails to fulfil its obligation under Article 66, Paragraph 1 shall be sanctioned with a fine between BGN 1,000 and BGN 10,000 - for natural persons, respectively a pecuniary penalty of BGN 2,000 to BGN 20,000 - for legal persons.

Article 82. (1) For other violations of this Act and the secondary legislation for its implementation which do not constitute a crime, the offender, if a natural person, shall be fined between BGN 100 and BGN 6,000, and if a legal person - by a pecuniary penalty between BGN 1,000 and BGN 20,000.

(2) In case of a repeated violation under Paragraph 1 natural persons shall be fined by BGN 200 to BGN 12,000, while legal persons shall be imposed a pecuniary penalty of BGN 2,000 to BGN 40,000.

Article 83. (1) The written statements ascertaining administrative violations shall be drawn up by officials authorised by the Minister of Environment and Water in accordance with their remit.

(2) The penal decrees under Paragraph 1 shall be issued by the Minister of Environment and Water or officials authorised thereby.

(3) Violations shall be ascertained, statements shall be drawn up, and penal decrees shall be issued and appealed pursuant to the Administrative Violations and Sanctions Act.

## **SUPPLEMENTARY PROVISIONS**

§ 1. Within the meaning of this Act:

1. "Aircraft operator" means the person who operates an aircraft at the time it performs an aviation activity listed in Annex No. 2 or, where that person is not known or is not identified by the owner of the aircraft, the owner of the aircraft.

2. "Administering member state" means:

a) the European Union Member State which granted the operating licence in respect of an aircraft operator - in the case of an aircraft operator with a valid operating licence granted by a Member State in accordance with the provisions of Regulation (EC) No. 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules

for the operation of air services in the Community (OJ L 293/3, 31 October 2008);

b) the European Union Member State with the greatest estimated attributed aviation emissions from flights performed by that aircraft operator in the base year - in all cases other than the case referred to in (a) above;

c) the European Union Member State with the greatest estimated attributed aviation emissions from flights performed by an aircraft operator during the first two years of the previous period - where in the first two years of the period referred to in Article 37, Paragraph 1 none of the attributed aviation emissions from flights performed by an aircraft operator are attributed to the Member State referred to in (b) above.

3. "Alternative fuels" mean fuels which substitute fossil oil sources in the energy supply to transport and which have a potential to contribute to its decarbonisation; they include electricity, hydrogen, biofuels, synthetic fuels, natural gas, including biomethane, in gaseous form (Compressed Natural Gas - CNG) and liquefied form (Liquefied Natural Gas and Liquefied Petroleum Gas).

4. "Deletion" shall have the meaning assigned to it in Article 3(17) of Regulation (EU) No. 389/2013.

5. For the purposes of item 2 above "base year" means in relation to an aircraft operator which started operating in the Community after 1 January 2006, the first calendar year of operation, and in all other cases, the calendar year starting on 1 January 2006.

6. "Beneficiary" means a person implementing an NGIS project approved by NTEF.

7. "Biofuels" shall have the meaning assigned to it in § 1, item 1 of the additional provisions of the Energy from Renewable Sources Act.

8. "Validation" means the process of independent verification and confirmation of the reliability, plausibility and accuracy of project documentation.

9. "Verifier" means a legal person - verification body within the meaning of Article 3(3) of Regulation (EU) No. 600/2012.

10. "Verification" means the process of independent verification and confirmation of the reliability, plausibility and accuracy of the monitoring system and of reported data and information relating the greenhouse gas emissions.

11. "Electricity generator" means an installation that, on or after 1 January 2005, has produced electricity for sale to third parties, and in which No. activity listed in Annex I is carried out other than the combustion of fuels.

12. "Project activity" means a project activity approved by one or more Annex I Parties in accordance with Article 6 or Article 12 of the Kyoto Protocol and the decisions adopted pursuant to the UNFCCC or the Kyoto Protocol.

13. "Voluntary emissions reduction" means a reduction of greenhouse gas emissions achieved as a result of the implementation of projects certified under any of the voluntary standards.

14. "Suppliers of liquid fuels and energy for transport" means persons who place liquid fuels and energy for transport on the market and are responsible for releasing them for free circulation within the meaning of the Excise Duty and Tax Warehouses Act.

15. "Kyoto units" shall have the meaning specified in Article 3(12) of Regulation (EU) No. 389/2013.

16. "Emission reduction unit (ERU)" is equal to one metric tonne of carbon dioxide equivalent achieved as a result of a "joint implementation" project under Article 6 of the Kyoto Protocol and the decisions adopted pursuant to the UNFCCC or the Kyoto Protocol.

17. "Emission" means the release of greenhouse gases into the atmosphere from sources in an installation or the release from an aircraft performing an aviation activity listed in Annex No. 2 of the gases specified in respect of that activity.

18. "Life-cycle greenhouse gas emissions" means all net emissions of CO<sub>2</sub>, CH<sub>4</sub> and N<sub>2</sub>O that can be assigned to the fuel (including any blended components) or energy supplied. This includes all relevant stages from extraction or cultivation, including land-use changes, transport and distribution, processing and combustion.

19. "Greenhouse gas emissions per unit of energy (intensity)" means the total mass of CO<sub>2</sub> equivalent greenhouse gas emissions associated with the fuel, divided by the total energy content of the fuel (for fuel, expressed as its low heating value).

20. "Energy for transport" means energy for use in different types of vehicles, non-road mobile machinery (including inland waterway vessels), agricultural and forestry tractors, or recreational craft, other than the energy generated from liquid transportation fuels.

21. "Combustion" means any oxidation of fuels, regardless of the way in which the heat, electrical or mechanical energy produced by this process is used, and any other directly associated activities, including waste gas scrubbing.

22. (Amended, SG No. 41/2015) "Drafting of national greenhouse gas inventories" means summarising the data submitted by the authorities referred to in Article 12, Paragraph 1, items 2 - 6, items 8 - 15 and calculating the amount of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol on Substances that Deplete the Ozone Layer adopted on 16 September 1987 (ratified by Decree No. 2235 - SG No. 82/1989) (SG No. 71/1999) discharged into the atmosphere, pursuant to the procedure set out in the ordinance referred to in Article 5, item 4.

23. "Climate change" means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.

24. "Installation" means a stationary technical unit where:

a) one or more activities listed in Annex No. 1 are carried out;

b) any other activities carried out on that site which are directly associated and/or have a technical connection with the facilities referred to in (a) above and which could have an effect on emissions and pollution.

25. "Historical aviation emissions" means the mean average of the annual emissions in the calendar years 2004, 2005, and 2006 from aircraft performing an aviation activity listed in Annex No. 2.

26. "Allowance" means an allowance to emit one tonne of carbon dioxide equivalent during a specified period, which shall be valid only for the purposes of EU ETS and shall be transferable in accordance with the provisions of this Act.

27. "Climate system" means the totality of the atmosphere, hydrosphere, biosphere, and geosphere and their interactions.

28. "Clearing" shall have the meaning assigned to it in Article 3(32) of Regulation (EU) No. 1031/2010.

29. "Credit" means emission reduction units (ERUs) and/or certified emission reductions (CERs).

30. "Persons placing liquid fuels on the market" means the persons within the meaning of § 1, item 18 of the additional provisions to the Clean Ambient Air Act.

31. "Persons placing energy for transport on the market" means the persons who place on the market and supply energy for transport to end users within the meaning of the Energy Act.

32. "Developing countries" means the countries not listed in Annex I to UNFCCC.

33. "National Registry for Greenhouse Gas Emissions Allowance Trading" means the aggregate of user accounts under the jurisdiction of the Republic of Bulgaria in the Union registry and the registry under the Kyoto Protocol pursuant to Regulation (EU) No. 389/2013.

34. "Start of normal operation" means the first day of a continuous 90-day period where the operation of one of the modules of the installation reaches 40 per cent of its capacity according to the approved investment project.

35. "New installation" means an installation for which the grounds for making an application for issue of a greenhouse gas emissions permit pursuant to Article 32 occur after the entry into force of this Act.

36. "New entrant" means:

a) any installation carrying out one or more of the activities indicated in Annex No. 1, which has obtained a greenhouse gas emissions permit for the first time after 30 June 2011;

b) any installation carrying out one or more of the activities indicated in Annex No. 1 that has ceased its operations within the meaning of Article 22 of Commission Decision 2011/278/EU and for which a new greenhouse gas emissions permit was obtained for the first time after 30 June 2011;

c) any installation carrying out an activity which is included on a voluntary basis by the Republic of Bulgaria in EU ETS for the first time;

d) any installation carrying out one or more of the activities indicated in Annex No. 1, or an activity referred to in (b) above which has had an extension of its capacity by more than 10 per cent after 30 June 2011, only in so far as this extension is concerned.

37. "The public" shall have the meaning assigned to it in § 1, item 24 of the additional provisions of the Environmental Protection Act.

38. "Operator" shall have the meaning assigned to it in § 1, item 43 of the additional provisions of the Environmental Protection Act.

39. "Commercial air transport operator" means an aircraft operator that, for remuneration, provides air transport services for the carriage of passengers, freight and/or mail.

40. "Sectors or subsectors exposed to a significant risk of carbon leakage" means the sectors and subsectors listed in the Annex to Commission Decision 2010/2/EU of 24 December 2009 determining, pursuant to Directive 2003/87/EC of the European Parliament and of the Council, a list of sectors and subsectors which are deemed to be exposed to a significant risk of carbon leakage (OJ L 1/10, 5 January 2009).

41. "Greenhouse gases" means: carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF<sub>6</sub>), and other gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and re-emit infrared radiation.

42. A "repeated" violation is a violation committed within one year of the entry into force of the penal decree sanctioning the offender for a violation of the same type.

43. For the purposes of the definition in item 57 "payload" means the total mass of freight, mail and passengers carried during an aviation activity.

44. "Two-day spot" means allowances auctioned for delivery at an agreed date no later than the second trading day from the day of the auction, pursuant to Article 38(2)(a) of Regulation (EC) No. 1287/2006.

45. "Surrender" shall have the meaning assigned to it in Article 3, item 15 of Regulation (EU) No. 389/2013.

46. "Assigned amount unit (AAUs)" means a unit of "assigned amount" equal to one metric tonne of carbon dioxide equivalent issued pursuant to the relevant provisions in the annex to decision 13/CMP.1.

47. "Assigned amount" means the total amount of greenhouse gas emissions assigned to the Republic of Bulgaria under the Kyoto Protocol for the period between 1 January 2008 and 31 December 2012.

48. "Change in operation of the installation" shall have the meaning assigned to it in § 1, item 40 of the additional provisions to the Environmental Protection Act.

49. "Placing on the market" shall have the meaning assigned to it in § 1, item 17 of the additional provisions of the Clean Ambient Air Act.

50. For the purposes of the definition in item 57 "distance" means the great circle distance between the aerodrome of departure and the aerodrome of arrival plus an additional fixed factor of 95 km.

51. "Certified emission reduction (CERs)" is a unit equal to one metric tonne of carbon dioxide equivalent achieved as a result of a "clean development" project under Article 12 of the Kyoto Protocol and the decisions adopted pursuant to the UNFCCC or the Kyoto Protocol.

52. "Settlement" shall have the meaning assigned to it in Article 3, item 34 of Regulation (EU) No. 1031/2010.

53. "Clearing system" shall have the meaning assigned to it in Article 3, item 31 of Regulation (EU) No. 1031/2010.

54. "Settlement system" shall have the meaning assigned to it in Article 3, item 36 of Regulation (EU) No. 1031/2010.

55. "Liquid transportation fuels" means liquid fuels within the meaning of § 1, item 21 of the additional provisions to the Clean Ambient Air Act used in positive ignition engines and compression ignition engines in road vehicles and non-road mobile machinery (including inland waterway vessels when not navigating at sea), agricultural and forestry tractors, as well as recreational craft when not navigating at sea.

56. "Tonne of carbon dioxide equivalent" means one metric tonne of carbon dioxide (CO<sub>2</sub>) or an amount of any other greenhouse gas with an equivalent global-warming potential.

57. "Tonne-kilometre" means a tonne of payload within the meaning of item 43, carried a distance of one kilometre.

58. "Auction platform" means an institution which organises the financial transactions constituting the auction procedure during the third period of EU ETS through a clearing or settlement system.

59. "Attributed aviation emissions" means emissions from all flights falling within the aviation activities listed in Annex No. 2 which depart from an aerodrome situated in the territory of a Member State and those which arrive in such an aerodrome from a third country.

60. "Systematic violations" are cases where within three years two or more violations of the requirements of Regulation (EU) No. 600/2012 are committed in verifying the annual reports on greenhouse gas emissions by an installation operator or aircraft operator.

§ 2. (1) The Act introduces the requirements of:

1. Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC;

2. Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms;

3. Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms (OJ L 8/3, 13 January 2009);

4. Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community (OJ L 140/63, 5 June 2009);



5. Directive 2009/30/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions and amending Council Directive 1999/32/EC as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC (OJ L 140/88, 5 June 2009).

(2) This Act makes provisions for the application of:

1. Decision No. 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020;

2. Commission Regulation 2011/278/EU of 27 April 2011 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council;

3. Commission Regulation 2013/162/EU of 26 March 2013 on determining Member States' annual emission allocations for the period from 2013 to 2020 pursuant to Decision No. 406/2009/EC of the European Parliament and of the Council (OJ L 90/106, 28 March 2013);

4. Decision No. 377/2013/EU of the European Parliament and of the Council of 24 April 2013 derogating temporarily from Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community (OJ L 113/1, 25 April 2013);

5. Decision No. 529/2013/EU of the European Parliament and of the Council of 21 May 2013 on accounting rules on greenhouse gas emissions and removals resulting from activities relating to land use, land-use change and forestry and on information concerning actions relating to those activities (OJ L 165/80, 18 June 2013);

6. Article 18(3) and Article 59, paras. (4) through (7) of Commission Regulation (EU) No. 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community;

7. Commission Regulation (EU) No. 600/2012 of 21 June 2012 on the verification of greenhouse gas emission reports and tonne-kilometre reports and the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council;

8. Commission Regulation (EU) No. 601/2012 of 21 June 2012 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council;

9. Commission Regulation (EU) No. 389/2013 of 2 May 2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No. 280/2004/EC and No. 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulations (EU) No. 920/2010 and No. 1193/2011;

10. Regulation (EU) No. 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No. 280/2004/EC;

11. Commission Regulation (EU) No. 1123/2013 of 8 November 2013 on determining international credit entitlements pursuant to Directive 2003/87/EC of the European Parliament and of the Council.

12. (New, SG No. 41/2015) Regulation (EU) No. 421/2014 of the European Parliament and of the Council of 16 April 2014 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in view of the implementation by 2020 of an international agreement applying a single global market-based measure to international aviation emissions (OJ, L 129/1 of 30 April 2014).

# TRANSITORY AND CONCLUDING PROVISIONS

§ 3. (1) No later than 31 March 2015 the exchange of CERs and ERUs for equivalent emission allowances under Article 49, Paragraph 7 shall be made by the Executive Director of ExEA on request by the persons referred to in Article 49, Paragraph 1.

(2) ERUs for reducing or limiting greenhouse gas emissions from the activities listed in Annex No. 1 shall not be issued after 1 January 2013.

(3) (New, SG No. 41/2015) Operators and aircraft operators who did not use up the CERs and ERUs allocated to them for the 2008 – 2012 period or are using credits pursuant to the procedure set out in Article 49, Para. 1, shall be entitled to request that the the Executive Director of ExEA issue allowances valid from and after 2013 in exchange for:

1. certified emission reductions and ERUs which met the criteria for use within EU ETS during the 2008 – 2012 period, issued for emission reductions from and after 2013 from projects registered before 2013;

2. certified emission reductions which met the criteria for use within EU ETS during the 2008 – 2012 period, issued for emission reductions from and after 2013 from new projects started in or after 2013 in the least developed countries classified by the United Nations Organisation as least developed on the basis of three indicators – poverty, human resource weakness and high economic vulnerability.

(4) (New, SG No. 41/2015) In the cases referred to in Para. 3 the Executive Director of ExEA shall exchange and issue allowances valid from and after 2013, and any exchange as referred to in item 2 shall occur no later than 31 December 2020.

(5) (New, SG No. 41/2015) The requirements referred to in Articles 35 and 36 and Article 48, Para. 1 shall not apply to:

1. aircraft operators performing flights to and from aerodromes located in countries outside the European Economic Area (EEA) in each calendar year from 1 January 2013 to 31 December 2016;

2. aircraft operators performing flights between an aerodrome located in an outermost region within the meaning of Article 349 of the Treaty on the Functioning of the European Union and an aerodrome located in another region of the EEA in each calendar year from 1 January 2013 to 31 December 2016;

3. allowances surrendered by 30 April 2015, corresponding to the verified 2013 emissions from flights between aerodromes located in the States in the European Economic Area, as well as verified 2013 emissions for those flights being reported by 31 March 2015

The European Economic Area shall include the states which are party to the European Economic Area Agreement, the states which acceded to the European Union in 2013 and the outermost regions within the meaning of Article 349 of the Treaty on the Functioning of the European Union

(6) (New, SG No. 41/2015) The requirements referred to in Articles 35, 36, 48 and 50 shall not apply to aircraft operators with total annual emissions lower than 25 000 tonnes CO<sub>2</sub> which shall be considered to be verified emissions if determined by using the small emitters tool approved under Commission Regulation (EU) No. 606/2010 of 9 July 2010 on the approval of a simplified tool developed by the European organisation for air safety navigation (Eurocontrol) to estimate the fuel consumption of certain small emitting aircraft operators (OJ, L 175/25 of 10 July 2010) and populated by Eurocontrol with data from its ETS support facility.

§ 4. The terms and procedure for spending the revenues from auctioning of greenhouse gas emissions allowances from installations paid into the budget of the Ministry of Environment and Water by 31 December 2012 shall be set out in a Council of Ministers decision.

§ 5. (1) Applications for approval or reporting of project activities under Chapter Three, Section III filed prior to the entry into force of this Act shall be considered following the procedure currently in effect.

(2) Applications for issue or review of greenhouse gas permits filed prior to the entry into force of this Act shall be considered following the procedure currently in effect.

(3) Greenhouse gas emissions permits issued prior to the entry into force of this Act shall remain effective.

§ 6. Entities existing prior to the date of entry into force of this Act which are accredited as verifiers shall retain the right to perform verification activities.

§ 7. (1) Financial measures and measures relating to the free allocation of greenhouse gas emissions allowances shall be implemented in compliance with the legislation on state aid.

(2) The administrator of state aid granted pursuant to this Act, unless otherwise provided for in another act, shall be the Minister of Environment and Water.

(3) State aid within the meaning of § 1, item 1 of the State Aid Act which is subject to notification to the European Commission may not be effected until issue of the respective act by the European Commission permitting the aid.

§ 8. The Markets in Financial Instruments Act (promulgated, SG No. 52/2007; amended, SG No. 109/2007, SG No. 69/2008, SG No. 24, 93 and 95/2009, SG No. 43/2010, SG No. 77/2011, SG No. 21, 38, and 103/2012, SG No. 70 and 109/2013) shall be amended and supplemented, as follows:

1. In Article 7:

a) At the end of Paragraph 1 the following text shall be added: "with the exception of those referred to in Paras. 2 and 3";

b) the following Paragraphs 3, 4, and 5 shall be added:

"(3) Investment intermediaries who are entitled to perform investment activities pursuant to Article 5, Paragraph 2, item 3, may bid directly on their own account, while investment intermediaries who are entitled to perform investment activities pursuant to Article 5, Paragraph 2, item 2 may bid on behalf of clients in two-day spot auctions under the terms and following the procedure of Commission Regulation (EU) No. 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community (OJ L 302/1, 18 November 2010), hereinafter "Regulation (EU) No. 1031/2010", upon obtaining authorisation from the Commission issued pursuant to Article 13, Paragraph 4.

(4) Investment intermediaries willing to perform activities referred to in Paragraph 3 on behalf of clients should:

1. hold initial capital of No. less than BGN 1,000,000;

2. maintain own funds which are more than or equal to the amount referred to in item 1 above at any time following the permit issue.

(5) Investment intermediaries who obtained authorisation pursuant to Article 13, Paragraph 4 shall perform the activities referred to in Paragraph 3 in compliance with the requirements of Regulation (EU) No. 1031/2010."

2. In Article 13:

a) A new Paragraph 4 shall be added:

"(4) An investment intermediary willing to perform activities referred to in Article 7, Paragraph 3 shall make an application to the Commission and shall attach to it the documents referred to in Paragraph 2, items 1, 2, 3, and 5 as well as other documents and information required by ordinance. The application may be made together with the application referred to in Paragraph 2; in such a case the Commission shall issue separate decisions on each of the applications.";

b) Paras. 4 and 5 shall be renumbered to Paras. 5 and 6, respectively.

3. Paragraph 1 in Article 14 shall be amended, as follows:

"(1) The Commission shall issue a decision on the application referred to in:

1. Article 13, Paragraphs 2 and 3 - within three months of receipt, and where supplementary information and documents were requested - within one month of their receipt;

2. Article 13, Paragraph 4 - within one month of receipt, and where supplementary information and documents were requested - within one month of their receipt;

3. Article 13, Paragraph 4, submitted together with the application referred to in Article 13, Paras. 2 and 3 - within three months of receipt, and where supplementary information and documents were requested - within one month of receipt."

4. In Article 15, Paragraph 1 the words "the scope of already granted authorisation" shall be followed by "or authorisation referred to in Article 7, Paragraph 3".

5. Paragraph 6 shall be added to Article 16:

"(6) The Commission shall refuse to issue the authorisation referred to in Article 7, Paragraph 3 in the cases referred to in Paragraph 1, items 1, 5, 10, 11, and 14. Paras. 2 and 5 respectively shall apply to the refusal."

6. In Article 20:

a) the following new Paragraph 3 shall be added:

"(3) The Commission may withdraw the authorisation referred to in Article 7, Paragraph 3 where the investment intermediary:

1. does not make use of the authorisation referred to in Article 7, Paragraph 3 within 12 months of the issue, expressly renounces the authorisation or fails to perform activities in accordance with the authorisation for more than a year;

2. provided inaccurate information which served as grounds for issuing the authorisation;

3. no longer meets the conditions under which authorisation was granted or the requirements for performing the activity in accordance with the authorisation and for a period of three months does not achieve compliance with these requirements;

4. seriously and systematically infringes and/or allows another to infringe seriously or systematically the requirements for performing the activity in accordance with the authorisation.";

b) Paragraphs 3, 4, and 5 shall be renumbered to Paragraphs 4, 5, and 6, respectively;

c) the following new Paragraph 7 shall be added:

"(7) In the cases referred to in Paragraph 3 Paras. 4 and 5 and Articles 21 - 23, respectively, shall apply."

7. In Article 21, Paragraph 6 the words "Paragraph 4" shall be replaced by the words "Paragraph 5".

8. Paragraph 5 shall be added to Article 118:

"(5) With a view to preventing and terminating a violation of Regulation (EU) No. 1031/2010 by the persons who were granted an authorisation pursuant to Article 7, Paragraph 3, as well as in cases where the controlling functions of the Commission or of the Deputy Chairperson are hindered, the Commission, respectively the Deputy Chairperson, shall take the steps referred to in Paras. 1 and 4."

9. Article 127a shall be added:

"Article 127a. (1) A representative, employee or member of the managing bodies of an entity which was granted an authorisation pursuant to Article 7, Paragraph 3, who infringes or allows another to infringe Article 13(3) of Regulation (EU) No. 1031/2010, shall be sanctioned with a fine between BGN 1,000 and BGN 10,000, or between BGN 2,000 and BGN 20,000 in case of a repeated violation.

(2) In the cases under Paragraph 1 the legal persons referred to in Paragraph 1 shall be sanctioned by a pecuniary penalty amounting between BGN 10,000 and BGN 100,000; in case of a repeated violation the penalty will be in an amount between BGN 20,000 and BGN 200,000."

10. In Article 128, Paragraph 1 the words "Article 127" shall be followed by "and 127a".

§ 9. The Energy Efficiency Act (promulgated, SG No. 98/2008; amended, SG No. 6, 19, 42 and 82/2009, SG No. 15, 52 and 97/2010, SG No. 35/2011, SG No. 38/2012 and SG No. 15, 24, 59, and 66/2013) shall be amended, as follows:

1. B Article 1, Paragraph 3, item 1 the words "Article 131c of the Environmental Protection Act" shall be replaced by "Article 31 of the Climate Change Mitigation Act".

2. Paragraph 1, item 5 in Article 57, shall be repealed.

§ 10. The Measures Against Money Laundering Act (promulgated, SG No. 85/1998; amended, SG No. 1 and 102/2001, SG No. 31/2003, SG No. 103 and 105/2005, SG No. 30, 54, 59, 82 and 108/2006, SG No. 52, 92 and 109/2007, SG No. 16, 36, 67 and 69/2008, SG No. 22, 23 and 93/2009, SG No. 88 and 101/2010, SG No. 16, 48, 57 and 96/2011, SG No. 44, 60 and 102/2012, SG No. 52/2013 and 1/2014) shall be supplemented as follows:

1. Item 33 shall be added to Article 3, Paragraph 2, as follows:

"33. The Executive Director of the Executive Environment Agency as the national administrator within the meaning of Commission Regulation (EU) No. 389/2013 of 2 May 2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No. 280/2004/EC and No. 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulations (EU) No. 920/2010 and No. 1193/2011 (OJ L 122/1, 3 May 2013)."

2. § 1b shall be added to the additional provisions:

"§ 1b. This Act envisages measures for implementation of Commission Regulation (EU) No. 389/2013 of 2 May 2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No. 280/2004/EC and No. 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulations (EU) No. 920/2010 and No. 1193/2011."

§ 11. The Environmental Protection Act (promulgated, SG No. 91/2002; corrected, SG No. 98/2002; amended, SG No. 86/2003, SG No. 70, 74, 77, 88, 95 and 105/2005, SG No. 30, 65, 82, 99, 102 and 105/2006, SG No. 31, 41 and 89/2007, SG No. 36, 52 and 105/2008, SG No. 12, 19, 32, 35, 47, 82, 93 and 103/2009, SG No. 46 and 61/2010, SG No. 35 and 42/2011, SG No. 32, 38, 53 and 82/2012 and SG No. 15, 27 and 66/2013) shall be amended, as follows:

1. B Article 68, Paragraph 1, item 3a the words "and of allowances for aviation activities" shall be deleted.

2. Article 77a shall be repealed.

3. Articles 131a, 131b, 131c, 131d, 131e, 131f, 131g, 131h, 131i and 131j shall be repealed.

4. B Article 131k:

a) items 1, 2 and 3 shall be repealed;

b) in item 5 the word "2003" shall be followed by full stop and the reminder of the text shall be deleted.

5. Articles 131l, 131m, 131n, 131o, 131p, 131q, 131r, 131s and 131t shall be repealed.

6. Articles 142a and 142b, Article 142c, Paragraph 2, Articles 142d, 142e, 142f, 142g and 142h shall be repealed.

7. Article 164a shall be repealed.

8. Article 164c shall be repealed.

9. In § 1 of the additional provisions:

a) in item 36 the words "Annex No. 6" shall be replaced by "Annexes No. 1 and No. 2 to the Climate Change Mitigation Act";

b) items 43a, 43b, 43c, 43d, 43e, 43f, 43g, 43h, 43i, 43j, 43k, 43l, 43m, 43n, 43o and 43p shall be repealed;

c) item 58 shall be repealed;

d) item 59 shall be amended, as follows:

"59. "Greenhouse gases" shall mean greenhouse gases within the meaning of § 1, item 41 of the additional provisions of the Climate Change Mitigation Act.";

e) items 60, 61, 62, 62a, 63 and 64 shall be repealed;

f) items 66, 67, 68 and 69 shall be repealed.

10. Annex No. 6 to Article 131a, Paragraph 4 and Annex No. 7 to Article 131i, Paragraph 5 shall be repealed.

§ 12. Item 9 shall be added to Article 13, Paragraph 2 of the Regional Development Act (promulgated, SG No. 50/2008; amended, SG No. 47, 82 and 93/2009, SG No. 82/2012 and SG No. 66/2013):

"9. measures for climate change mitigation and adaptation to changes that have already occurred."

§ 13. Secondary legislation issued on the basis of provisions contained in the Environmental Protection Act and repealed with § 11 shall remain in force until the relevant ordinances pursuant to Article 5 are adopted, insofar as they do not conflict this Act.

§ 14. Within two months of the promulgation of the Act the Financial Supervision Commission shall adopt amendments to the secondary legislation ensuing from the Markets in Financial Instruments Act necessary for the implementation of Article 53, Paragraph 2.

§ 15. The Credit Institutions Act (promulgated, SG No. 59/2006; amended, SG No. 105/2006, SG No. 52, 59, and 109/2007, SG No. 69/2008, SG No. 23, 24, 44, 93 and 95/2009, SG No. 94 and 101/2010, SG No. 77 and 105/2011, SG No. 38 and 44/2012, SG No. 52, 70, and 109/2013) shall be supplemented as follows:

1. Paragraph 6 shall be added to Article 2:

"(6) Banks which are authorised to conduct banking business under Paragraph 2, subparagraph 9 may bid directly on behalf of clients in two-day spot auctions under Article 3, Paragraph 3 of Commission Regulation (EU) No. 1031 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community (OJ L 302/1, 18 November 2010), hereinafter "Regulation (EU) No. 1031/2010", subject to a permit by the BNB. The terms and procedure for issuance of the permit, the required documents for issuance thereof, as well as the grounds for refusal shall be defined in an ordinance issued by the BNB

2. Paragraph 12 shall be added to Article 103:

"(12) The Bulgarian National Bank may furthermore apply measures under Paragraph 2 in cases of violation of the provisions of Regulation (EU) No. 1031/2010."

3. In Article 152, Paragraph 1 the words "the application thereof" shall be followed by "or of Regulation (EU) No. 1031/2010".

§ 16. Within six months of the promulgation of the Act the Council of Ministers shall adopt the ordinances referred to in Article 5.

§ 17. Within three months of the entry into force of the Act the authorities referred to in Article 4, Paragraph 2 shall adopt the relevant amendments to their statutes with a view to the implementation of the provisions of this Act.

§ 18. The Minister of Environment and Water shall issue the instructions referred to in Article 29 and Article 70, item 1 within three months of the entry into force of the Act.

§ 19. (Amended, SG No. 14/2015, supplemented, SG No. 41/2015) The implementation of this Act is entrusted to the Minister of Environment and Water, the Minister of Energy, the Minister of Economy, the Minister of Regional Development and Public Works, the Minister of Transport, Information Technology and Communications and the Minister of Agriculture and Food.

§ 20. The Act shall enter into force as of the date of its promulgation in the State Gazette.

**Annex No. 1**

to Article 30, Paragraph 3

1. Installations or parts of installations used for research, development and testing of new products and processes and installations exclusively using biomass are not covered by the greenhouse gas emissions trading scheme.

2. The threshold values given below generally refer to production capacities or outputs. Where several activities falling under the same category are carried out in the same installation, the capacities of such activities are added together.

3. When the total rated thermal input of an installation is calculated in order to decide upon its inclusion in the Community scheme, the rated thermal inputs of all technical units which are part of it, in which fuels are combusted within the installation, are added together. These units could include all types of boilers, burners, turbines, heaters, furnaces, incinerators, calciners, kilns, ovens, dryers, engines, fuel cells, chemical looping combustion units, flares, and thermal or catalytic post-combustion units. Units with a rated thermal input under 3 MW and units which use exclusively biomass shall not be taken into account for the purposes of this calculation. "Units using exclusively biomass" includes units which use fossil fuels only during start-up or shut-down of the unit.

4. If a unit serves an activity for which the threshold is not expressed as total rated thermal input, the threshold of this activity shall take precedence for the decision about the inclusion in the greenhouse gas emissions trading scheme.

5. When the capacity threshold of any activity in this Annex is found to be exceeded in an installation, all units in which fuels are combusted, other than units for the incineration of hazardous or municipal waste, shall be included in the greenhouse gas emission permit.

to Article 30, Paragraph 3  
(Supplemented, SG No. 41/2015)

From 1 January 2012 all flights which arrive at or depart from an aerodrome situated in the territory of a Member State to which the Treaty on the Functioning of the European Union applies shall be included in the greenhouse gas emissions trading scheme.