

**ACT**

of 3 February 2006

amending Act No 106/1999 on free access to information, as amended, Act No 121/2000 on copyright, rights connected with copyright and amending certain laws (the Copyright Act), as amended by Act No 81/2005, and Act No 128/2000 on municipalities (the Municipal Order), as amended

Parliament has passed this Act of the Czech Republic:

**PART ONE**

**Amendment to the Act on Free Access to Information**

Article I

Act No 106/1999 on free access to information, as amended by Act No 101/2000, Act No 159/2000, Act No 39/2001 and Act No 413/2005 is amended as follows:

1. Section 1, including Footnote No 1), shall read:

„§ 1

This Act transposes the relevant regulation of the European Communities<sup>1)</sup> and regulates the rules on the provision of information, and further regulates the conditions of the right of free access to such information.

<sup>1)</sup> Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information.’

2. In Section 2(1) the words ‘and regional government authorities’ shall be replaced by the words ‘regional authorities and their bodies’ and the words ‘managing public funds’ shall be removed.

3. Section 2(3), including Footnote No 1a) and No 1b), shall read:

‘(3) This Act shall not apply to the provision of information which is the subject of industrial property<sup>1a)</sup> or other information where a separate law<sup>1b)</sup> regulates the provision thereof, in particular the handling of applications, including the particulars and method of submitting an application, time limits, appeals and the method of providing information.

<sup>1a)</sup> E.g. Act No 527/1990 on inventions and improvement proposals, as amended, Act No 529/1991 on the protection of topographies of semiconductor products, as amended, Act No 478/1992 on utility designs, as amended, Act No 452/2001 on the protection of designations of origin and geographical indications and amending the Consumer Protection Act, as amended, Act No 441/2003 on trade marks and amending Act No 6/2002 on courts, judges, associate judges and the state administration of courts and amending certain other laws (the Courts and Judges Act), as amended (the Trade Marks Act), as amended by Act No 501/2004.

<sup>1b)</sup> E.g. Act No 123/1998 on the right to information on the environment, and Act No 344/1992 on the property register of the Czech Republic (the Cadastral Act), as amended.’

4. In Section 2, paragraph (4) shall be added, which reads:

‘(4) The obligation to provide information shall not apply to enquiries about views, future decisions and the creation of new information.’

5. In Section 3(2) the words ‘telecommunications equipment<sup>2)</sup> (for example, via the Internet)’ shall be replaced with the words ‘an electronic communications network or service<sup>2)</sup>’.

Footnote No 2 shall read:

<sup>2)</sup> Section 2(h) and (n) of Act No 127/2005 on electronic communications and amending certain related laws (the Electronic Communications Act).’

6. In Section 3, the following new paragraphs (3) and (4) shall be inserted after paragraph (2):

‘(3) For the purposes of this Act, information shall mean any content or part thereof in any form, recorded on any carrier, in particular the content of a written record in an instrument, a record stored in electronic form or an audio, visual or audiovisual recording.

(4) Under this Act, information shall not mean a computer program.’

The former paragraphs (3) and (4) shall be relabelled as paragraphs (5) and (6).

7. In Section 3(5) the words 'in a public library<sup>3)</sup>' shall be replaced with the words 'in a library providing public library and information services in accordance with the Libraries Act<sup>2a)</sup>'.

Footnote No 3 shall be removed.

Footnote 2a shall read:

<sup>2a)</sup> Act No 257/2001 on libraries and on the conditions for the operation of library and information services (the Libraries Act), as amended by Act No 1/2005.'

8. In Section 3(6), the word 'data' ['údaj'] shall be replaced with the word 'information' ['informace'].

9. In Section 4, the present text shall become paragraph (1) and the following paragraphs (2) to (5) shall be added:

(2) Information provided in the form of public disclosure shall be provided in all formats and languages in which it has been created. If such information is publicly disclosed in electronic form, it shall also be disclosed in a format whose specifications are freely available and use of which by the user is not restricted.

(3) If information is provided pursuant to an application, it shall be provided in the formats and languages specified in the content of the application for the provision of information, unless provided otherwise by this Act. Liable entities shall not alter the format or language of information if such an alteration would place an unreasonable burden on the liable entity; in this case the liable entity shall comply with the application by providing information in the format or language in which it was created.

(4) If requested information is part of a larger unit and its extraction would place an unreasonable burden on the liable entity, the liable entity shall provide this full unit in accordance with this Act.

(5) If possible, with consideration for the nature of a submitted application and the method used to record the requested information, the liable entities shall provide information in electronic form.'

10. In Section 5(1), at the end of the text in subparagraph (b) the words 'on the rights and obligations of persons' shall be added.

11. In Section 5(1)(c), the words 'a decision' shall be replaced with the word 'decisions', the words 'on the rights and obligations of persons' shall be inserted after the word 'entity', and the word 'name' shall be replaced with the word 'designation'.

12. At the end of paragraph (1) in Section 5, the full-stop shall be replaced by a comma, and the following subparagraphs (h) to (j) shall be added:

h) exclusive licences granted in accordance with Section 14a(4),

i) resolutions of a superior body on the amount of payments under Section 16a(7),

j) the address of the electronic registry.'

13. In Section 5, the following new paragraphs (2) and (3), including Footnote No 2b), shall be inserted after paragraph (1):

(2) During office hours at their headquarters, liable entities shall make the following available:

a) legal regulations issued within the scope of their competence,

b) lists of main documents, especially those of a conceptual, strategic and programming nature, which can be provided in accordance with this Act, including any draft licensing agreements<sup>2b)</sup> in accordance with Section 14a,

in such a manner that any person may peruse them and make copies of them or extracts from them.

(3) Within 15 days of the provision of information in response to an application, the liable entity shall publicly disclose such information in a manner permitting remote access. With regard to information provided in a form other than in an electronic form, or exceptionally extensive information provided electronically, it shall suffice to publicly disclose accompanying information expressing the content thereof.

<sup>2b)</sup> Act No 121/2000 on copyright, rights connected with copyright and amending certain laws (the Copyright Act), as amended by Act No 81/2005.'

The former paragraphs (2) to (4) shall be relabelled as paragraphs (4) to (6).

14. In Section 5(4), the words 'and paragraph (2)' shall be inserted after the number '(1)', and at the end of paragraph (4) the following sentences shall be added: 'In the case of information specified in paragraph (2)(a), a reference to the place where this information has already been publicly disclosed in a manner permitting remote access shall suffice for the fulfilment of this obligation. The structure of publicly disclosed information shall be laid down in an implementing regulation.'

15. In Section 5(5), the words 'records, lists or registers [‘rejstříky’]’ shall be inserted after the word ‘registers’ [‘registry’] and the word ‘information’ [‘údaje’] shall be replaced with the word ‘information’ [‘informace’].

16. After paragraph (5) in Section 5, the following new paragraph (6) shall be inserted:

‘(6) The obligation to publicly disclose information as set forth in paragraphs (4) and (5) shall be met by the liable entity whereby the liable entity shall forthwith make this information accessible, in a manner permitting remote access, to the administrator of the public administration portal, or shall submit this information to the said administrator. The form and data format of this information which is made accessible or submitted shall be laid down in an implementing regulation.’

The former paragraph (6) shall be relabelled as paragraph (7).

17. In Section 6(1), the words ‘for the provision of information’ shall be inserted after the word ‘application’.

18. After Section 8, the following new Section 8a, including Footnote No 4a), shall be inserted:  
‘Section 8a

Information concerning an individual, manifestations of a personal nature, the privacy of natural persons and personal data shall be provided by the liable entity solely in accordance with legal regulations regulating the protection thereof<sup>4a)</sup>.

<sup>4a)</sup> E.g. Sections 11 to 16 of the Civil Code, Sections 5 and 10 of Act No 101/2000 on personal data protection and amending certain laws.’

19. After Section 8a, the following new Section 8b, including the heading and Footnote No 4b) and No 4c), shall be added:

‘Section 8b

### **Beneficiaries of public resources**

(1) A liable entity shall provide basic personal data<sup>4b)</sup> on a person to whom public resources have been granted.

(2) Paragraph (1) shall not apply to the provision of public resources as set forth in laws in the field of social affairs, healthcare provision, material security in unemployment, state subsidisation of building saving schemes and state aid for the restoration of areas<sup>4c)</sup>.

(3) Basic personal data as set forth in paragraph (1) shall be provided solely in the following scope: given name, surname, year of birth, municipality where the beneficiary has his permanent residence, the amount, purpose and conditions of the public resources granted.

<sup>4b)</sup> Section 5(2)(a) of Act No 101/2000.

<sup>4c)</sup> E.g. Act No 155/1995 on pension insurance, as amended, Act No 48/1995 on public health insurance, as amended, Act No 117/1995 on state social support, as amended, Act No 100/1988 on social security, as amended, Act No 96/1993 on building saving schemes and the state subsidisation of building saving schemes, as amended, and Act No 12/2001 on state aid in the restoration of areas affected by natural or other disasters and amending Act No 363/1999 on insurance, as amended (the Act on State Aid in Area Restoration).’

20. In Section 9(1), the words ‘labelled as trade secrets<sup>6)</sup>’ shall be replaced with the words ‘a trade secret<sup>6)</sup>’.

21. In Section 9(2), the words ‘resources from the national budget, a regional budget or a fund set up under the law<sup>7)</sup> or the management of the assets of such entities’ shall be replaced with the words ‘public resources’ and Footnote No 7) shall be removed.

22. In Section 11(1), the word ‘or’ shall be added at the end of subparagraph a).

23. In Section 11(2), the words ‘this information has arisen without the use of public resources which’ shall be inserted at the beginning of subparagraph a).

24. In Section 11(2), the word ‘or’ shall be added at the end of subparagraph b).

25. In Section 11(2), subparagraph c) shall read:

‘c) this would breach the protection of third-party rights attached to a subject of copyright<sup>2b)</sup>.’  
Footnote No 10 shall be removed.

26. Section 11(3), including Footnote No 11), shall read:

(3) Information which the liable entity has obtained from a third party in the fulfilment of tasks within the scope of control, supervisory, oversight, or similar activities carried out in accordance with a separate legal regulation<sup>11)</sup> where, under that legal regulation, the obligation of confidentiality in respect of the information or other procedure protecting the information from public disclosure or abuse applies, shall not be provided. The liable entity shall provide only that information which has arisen through its activities in the fulfilment of these tasks.

<sup>11)</sup> E.g. Act No 552/1991 on state control, as amended, Act No 15/1998 on the Czech Securities Commission and amending other laws, as amended, Act No 64/1986 on the Czech Trade Inspectorate, as amended, Act No 133/1985 on fire protection, as amended.’.

27. In Section 11(4), the words ‘with the exception of enforceable judgments’ shall be added at the end of subparagraph b).

28. In Section 11, the following paragraph (5), including Footnote No 13a) to No 13d), shall be added:

(5) The liable entity shall not provide information which is the subject of protection under copyright or other rights connected with copyright (hereinafter referred to as ‘copyright’)<sup>2b)</sup> if it is held by

a) radio or television broadcasters who broadcast in accordance with separate legal regulations<sup>13a)</sup>,

b) schools and educational establishments which are part of the education system in accordance with the Schools Act<sup>13b)</sup> and in accordance with the Universities Act<sup>13c)</sup>,

c) libraries providing public library and information services in accordance with the Libraries Act<sup>2a)</sup>,

d) the Academy of Sciences of the Czech Republic and other public institutions which are beneficiaries or joint beneficiaries of research and development aid from public resources in accordance with the Research and Development Aid Act<sup>13d)</sup>, or

e) cultural institutions managing public resources, such as museums, galleries, theatres, orchestras and other artistic groups.

The provision of this information in accordance with separate regulations is not hereby affected.

<sup>13a)</sup> Act No 483/1991 on Czech Television, as amended.

Act No 484/1991 on Czech Radio, as amended.

<sup>13b)</sup> Act No 561/2004 on preschool, primary, secondary, further vocational, and other education (the Schools Act).

<sup>13c)</sup> Act No 111/1998 on universities and amending certain other laws (the Universities Act), as amended.

<sup>13d)</sup> Section 2(2)(b) and (c) of Act No 130/2002 on aid for research and development from public resources and amending certain related laws (the ‘Research and Development Aid Act’).’.

29. In Section 13(1) the words ‘telecommunications equipment’ shall be replaced with the words ‘an electronic communications network or service’.

30. In Section 13(3), the number ‘16’ shall be replaced with the number ‘16a’.

31. In Section 14(1), the final sentence shall be removed.

32. In Section 14, paragraph (2) shall read:

(2) It must be clear from the application to which liable entity it is addressed and that the applicant is seeking the provision of information in accordance with this Act. In the application, a natural person shall specify his given name, surname, date of birth, the address of his permanent residence or, if he is not registered as a permanent resident, the address of his place of abode, and the mailing address, if different from the address of his permanent residence or place of abode. A legal person shall specify its name, registration number, registered office, and mailing address, if different from the registered office. The mailing address shall also mean an electronic address.’.

33. In Section 14, the following new paragraphs (3) and (4), including Footnote No 13e), shall be inserted after paragraph (2):

(3) If an application is made electronically, it shall be submitted via the liable entity’s electronic registry,<sup>13e)</sup> if set up by the liable entity. If the address of the electronic registry is not publicly disclosed, an application may be submitted to any electronic address of the liable entity.

(4) If an application does not contain the particulars under the first sentence of paragraph (2) or a mailing address, or if an electronic application is not submitted in accordance with paragraph (3), it shall not be considered an application within the meaning of this Act.

<sup>13e)</sup> Section 2(y) of Act No 227/2000 on electronic signatures, as amended by Act No 440/2004.’.

The former paragraphs (3) to (5) shall be relabelled as paragraphs (5) to (7).

34. In the introductory part of Section 14(5), the words 'content of an application' shall be replaced with the word 'application' and the following new subparagraph (a) shall be inserted:

'a) if the lack of information about the applicant as set forth in paragraph (2) prevents the procedure for the handling of an application for information in accordance with this Act, in particular in accordance with Section 14a or Section 15, the liable entity shall invite the applicant, within seven days of the date of submission of the application, to make additions to the application; if the applicant fails to comply with this request within 30 days of the delivery thereof, the liable entity shall not process the application,'.

The former subparagraphs (a) to (c) shall be relabelled subparagraphs (b) and (d).

35. In Section 14(5)(b), the words 'as of the date of delivery of the request' shall be inserted after the words '30 days'.

36. In Section 14(5)(c), the word 'three' shall be replaced with the word 'seven' and the words 'as of the date of delivery of the application' shall be inserted after the word 'days'.

37. In Section 14(5), subparagraph d) shall read:

'd) if a decision is not made in accordance with Section 15, the liable entity shall provide information in accordance with the application within a time limit of 15 days as of the date of receipt of the application or as of the date of additions thereto; if a licence is needed in accordance with Section 14a, the liable entity shall finalise the licence offer to the applicant within this timeframe.'.

38. In Section 14(7), the words 'may be' shall be replaced with the words 'under paragraph (5)(d) may be [extended] by the liable entity'.

39. After Section 14, the following new Section 14a, including the heading, shall be added:

'Section 14a

**Certain provisions on a licensing or sub-licensing agreement in the provision of information**

(1) If information which is the subject of copyright protection<sup>2b)</sup> is to be provided under a licensing or sub-licensing agreement and economic rights to the subject of the copyright protection are exercised by a liable entity not specified in Section 11(5), the procedure under the Copyright Act<sup>2b)</sup> shall be followed in matters not regulated by this Act.

(2) Remuneration for the authorisation to use information shall not be higher than the payment under Section 17, unless provided otherwise by a separate legal regulation or licensing agreement between the liable entity and the person who has transferred the right of disposal attached to the subject of copyright to the liable entity.

(3) The conditions for the provision of information laid down in a licensing or sub-licensing agreement (hereinafter referred to as 'licensing agreement') shall facilitate the further use of information by the applicant in accordance with the application, unless otherwise provided by this Act. A licence or sub-licence (hereinafter referred to as 'licence') shall be granted as a non-exclusive licence or sub-licence, with the exception of the cases laid down in paragraph (4).

(4) A liable entity may grant an exclusive licence only if an exclusive licence for the further dissemination of the provided information is necessary and if it is in the public interest. If the liable entity grants an exclusive licence in accordance with the first sentence, the liable entity shall examine, at least every three years, whether the reasons for the granting of the exclusive licence still exist.

(5) The liable entity shall publish, in a manner permitting remote access, a specimen of the licensing agreement, which may be adapted by the applicant to a specific application and used as a draft for the conclusion of a licensing agreement.

(6) The protection of trade secrets shall not apply to the provisions of licensing agreements concluded in the provision of information under this Act.

40. Section 15, including the heading, shall read:

„§ 15

**Decision on the rejection of an application**

(1) If the liable party does not comply with an application in full or in part, the liable entity shall issue a decision on the rejection of the application or a decision on the rejection of part of the application (hereinafter referred to as 'decision on the rejection of an application') within the time limit for the handling of the application, with the exception of cases where the processing of the application is discontinued.

(2) If an application is not complied with on the grounds of the protection of trade secrets as set forth in Section 9 or the protection of third-party rights attached to the subject of copyright in accordance with Section 11(2)(c), there must be a specification in the grounds of the decision of who exercises the right attached to such trade secrets or who exercises economic rights attached to the subject of copyright, if this person is known to the liable entity.'

41. Section 16, including the heading, shall read:

„§ 16  
**Appeals**

- (1) An appeal may be lodged against a decision of the liable entity to reject an application.
  - (2) The liable party shall present the appeal together with file documents to a superior body within 15 days of the delivery of the appeal.
  - (3) The superior body shall make a decision on an appeal within 15 days of the presentation of the appeal by the liable entity. The time limit for a decision on a remonstrance shall be 15 working days as of the delivery of the remonstrance to the liable entity. This time limit may not be extended.
  - (4) In a judicial review of a decision concerning an appeal, pursuant to an action brought in accordance with a separate legal regulation, the court shall examine whether there are grounds to reject the application. If there are no grounds to reject the application, the court shall cancel the decision concerning the appeal and the liable entity's decision on the rejection of the appeal and shall order the liable entity to provide the requested information.'
- Footnote No 14 shall be removed.

42. After Section 16, the following new Section 16a, including the heading, shall be added:

`Section 16a

**Complaint about the procedure in handling an application for information**

- (1) A complaint about the procedure in handling an application for information (hereinafter referred to as 'complaint') may be submitted by an applicant
  - a) who does not agree with the handling of an application in the manner laid down in Section 6,
  - b) to whom, within the time limit under Section 14(5)(d) or Section 14(7), no information has been provided and no final licence offer has been made, and no decision on the rejection of the application has been issued,
  - c) to whom information has been provided only in part, with no decision on rejection issued for the remainder of the application,
  - d) who does not agree with the amount of the reimbursement of costs under Section 17(3) or with the amount of the remuneration under Section 14a(2) which is demanded in connection with the provision of information.
- (2) A complaint may be lodged in writing or orally; if a complaint is lodged orally and cannot be settled on the spot, the liable entity shall draw up a written record of this complaint.
- (3) A complaint shall be lodged with the liable entity within 30 days
  - a) of delivery of the communication in accordance with Section 6, Section 14(5)(c) or Section 17(3),
  - b) of the expiry of the time limit for the provision of information in accordance with Section 14(5)(d) or Section 14(7).
- (4) A superior body shall make decisions on complaints.
- (5) The liable entity shall present the complaint, together with file documents, to the superior body within seven days of the date on which the liable entity received the complaint, unless, in this time limit, the liable entity upholds the complaint in full and provides the requested information or final licence offer, or issues a decision on the rejection of an application.
- (6) In making its decision on a complaint in accordance with paragraph (1)(a), (b) or (c) the superior body shall examine the liable entity's procedure and shall make a decision
  - a) upholding the liable entity's procedure,
  - b) ordering the liable entity to handle the application or present the applicant with a final licence offer in a set time limit, which shall not be longer than 15 days as of the date of delivery of the superior body's decision, or
  - c) where, by means of a resolution, it takes over the case and provides the information itself, or issues a decision on the rejection of the application itself; this procedure may not be applied vis-à-vis regional government authorities in the performance of their autonomous competence.
- (7) In making its decision on a complaint in accordance with paragraph (1)(d), the superior body shall examine the liable entity's procedure and shall make a decision
  - a) confirming the amount of reimbursement or remuneration,
  - b) reducing the amount of reimbursement or remuneration; this procedure may not be applied vis-à-vis regional government authorities in the performance of their autonomous competence, or

c) ordering the liable entity to remedy the situation in cases of reimbursement or remuneration for the provision of information by a regional government authority within the scope of autonomous competence, such being in a set time limit which shall not be longer than 15 days as of the date of delivery of the superior body's decision.

(8) The superior body shall make a decision on a complaint within 15 days of the presentation of the complaint to the superior body.

(9) A decision under paragraphs (6) and (7) shall be notified to the applicant and the liable entity. No appeal may be lodged against a decision issued in accordance with paragraphs (6) and (7). However, in the case of a decision under paragraph (6)(c), it is not possible to appeal only if the superior body designated under the final sentence of Section 178(2) of the Code of Administrative Procedure or Section 20(5) of this Act has made the decision.

(10) If information is provided in accordance with paragraph (6)(c), the applicant may, within the meaning of paragraph 1(a) or (c), proceed accordingly.'

43. In Section 17(1), the words 'the retrieval of information,' shall be removed and the following sentence shall be added: 'The liable entity may also demand payment for exceptionally extensive retrieval of information.'

44. In Section 17, paragraphs (2) and (3) shall read:

'(2) If remuneration is agreed in a licensing agreement, the reimbursement of costs cannot be demanded.

(3) If the liable entity intends to demand payment for the provision of information, the liable entity shall notify the applicant of this fact, together with the amount of the payment, prior to the provision of information. The circumstances and the method used for the quantification of the amount of the payment by the liable entity must be evident in this notification.'

45. In Section 17, the following new paragraphs (4) and (5) shall be inserted after paragraph (3):

'(4) If the liable entity fails to fulfil the obligation to notify as set forth in paragraph (3) vis-à-vis the applicant, the liable entity shall lose the entitlement to the reimbursement of costs.

(5) The provision of information under paragraph (3) is contingent on the payment of the demanded reimbursement. If the applicant fails to pay the demanded reimbursement of costs within 60 days of the date of notification, the liable entity shall not process the application. Over the duration of the procedure concerning a complaint against demanded reimbursement, the time limit under the second sentence shall be suspended.'

The former paragraph (4) shall be relabelled as paragraph (6).

46. In Section 18(1), in subparagraph a) the words 'and the number of decisions issued on the rejection of an application' shall be added after the word 'information'.

47. In Section 18(1), at the end of subparagraph c) the words 'in cases where a review is conducted of the legitimacy of a decision of the liable entity on the rejection of an application for the provision of information, and an overview of all expenditure incurred by the liable entity in connection with judicial proceedings on rights and obligations under this Act, including the costs of the liable entity's own employees and the costs of legal counsel' shall be inserted.

48. In Section 18(1), subparagraph d) shall read:

'd) a list of exclusive licences granted, including the justification of the need to grant an exclusive licence,'

49. In Section 18(1), the following new subparagraph e) shall be inserted after subparagraph d):

'e) the number of complaints lodged in accordance with Section 16a, the reasons for the complaints, and a brief description of the method used to handle them,'

The former subparagraph e) shall be relabelled as subparagraph f).

50. In Section 18(2), the words ', the information under paragraph (1)(a) to (e) shall be incorporated' shall be replaced with the words 'containing information about its activities, it shall incorporate the information under paragraph (1)'

51. Section 20(4), including Footnote No 17), shall read:

'(4) Unless provided otherwise by this Act, in the procedure under this Act

a) for decisions on the rejection of an application,

b) for appeals procedure and

c) for the counting of time limits, deliveries and costs in complaint proceedings,

the provisions of the Code of Administrative Procedure<sup>17)</sup> shall apply; in the procedure under this Act, the provisions of the Code of Administrative Procedure on the guiding principles for the activities of administrative authorities, provisions on protection from inactivity and the provisions

of Section 178 shall also apply; in other matters the Code of Administrative Procedure shall not be applied.

<sup>17)</sup> Act No 500/2004, the Code of Administrative Procedure.’.

52. In Section 20, the following new paragraphs (5) and (6) shall be added:

‘(5) If it is not possible to designate a superior body in accordance with Section 178 of the Code of Administrative Procedure, the person standing at the head of the liable entity shall make decisions in appeals procedure and complaint proceedings.

(6) Information concerning the devolved competence of a regional government authority shall be provided by regional government authorities in the scope of their devolved competence.’.

53. In Section 21, the present text shall become paragraph (1) and the following paragraphs (2) and (3) shall be added:

‘(2) The government shall issue an order laying down the principles for determining reimbursement of costs and licence fees for the provision of information.

(3) By means of a Decree, the Ministry of Informatics shall lay down

a) the structure of information publicly disclosed about the liable entity in accordance with

Section 5(1) and (2) in a manner permitting remote access,

b) an outline description of the procedures under Section 5(1)(d),

c) the form and data format of information for making available or transferring the information under Section 5(6).’.

## Article II

### **Transitional provisions**

1. For the handling of applications received by the liable entity before the date that this Act enters into effect, current legal regulations shall apply.

2. Licensing or sub-licensing agreements under which an exclusive licence has been granted for the provision of information in accordance with Act No 106/1999, in the wording effective until the effective date of this Act, and which have been concluded prior to the effective date of this Act shall cease to be effective on expiry of an agreed period which shall end no later than 31 December 2008.

## Article III

### **Authorisation to promulgate the consolidated text**

The Prime Minister is authorised to promulgate the consolidated text of Act No 106/1999 on free access to information, as amended, in the Collection of Laws.

## **PART TWO**

### **Amendment to the Copyright Act**

## Article IV

Act No 121/2000 on copyright, rights connected with copyright and amending certain laws (the Copyright Act), as amended by Act No 81/2005, is amended as follows:

1. In the first sentence of Section 47(1), the words ‘, unless provided otherwise by a separate legal regulation<sup>4a)</sup>’ shall be inserted after the word ‘non-exclusive’.

Footnote 4a shall read:

<sup>4a)</sup> Section 14a(3) and (4) of Act No 106/1999 on free access to information, as amended by Act No 61/2006.’.

2. In Section 94(3), the words ‘Section 3(a)’ shall be removed.

3. In Section 94, the present text shall become paragraph (1) and the following paragraph (2) shall be added:

(2) Section 3(a) shall apply mutatis mutandis to the maker of the database constituting part of the legal regulation.’.

## **PART THREE**

### **Amendment to the Municipalities Act**

## Article V



In Section 109(3) of Act No 128/2000 on municipalities (the Municipal Order), as amended by Act No 313/2002, at the end of subparagraph b) the semi-colon shall be replaced by a full-stop and subparagraph c), including Footnote No 34, shall be removed.

**PART FOUR  
EFFECT**

Article VI

This Act shall enter into effect on 1 January 2006.

**Zaorálek**, *manu propria*  
**Klaus**, *manu propria*  
pp. **Sobotka**, *manu propria*

**ACT**  
of 3 February 2006  
**amending Act No 124/2002 on transfers of funds, electronic payment instruments and payment systems (the Payments Act)**  
**as amended by Act No 257/2004, and other laws**

Parliament has passed this Act of the Czech Republic:

**PART ONE**  
**Amendment to the Payments Act**

Article I

Act No 124/2002 on transfers of funds, electronic payment instruments and payment systems (the Payments Act), as amended by Act No 257/2004 is amended as follows:

1. In the initial part of Section 1, the words 'transposes the relevant regulations of the European Communities<sup>1)</sup> and' shall be inserted after the word 'Act'.

Footnote No 1 shall read:

<sup>1)</sup> Directive 97/5/EC of the European Parliament and of the Council of 27 January 1997 on cross-border credit transfers.

Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems.

Directive 2000/46/EC of the European Parliament and of the Council of 18 September 2000 on the taking up, pursuit of and prudential supervision of the business of electronic money institutions.'

The previous Footnotes 1) to 11) shall be relabelled as Footnotes 2) to 12), including the corresponding references to the footnotes.

2. In Section 3(3), at the end of subparagraph a) the comma shall be replaced with a full-stop; subparagraphs b) to d), including Footnotes 4 to 6, and the labelling of subparagraph a) shall be removed.

3. In Section 14, subparagraphs a) and b), including Footnote No 9), shall read:

'a) banks, branches of foreign banks, the Czech National Bank, savings and loan associations, electronic money institutions (Section 18b), foreign banks and foreign electronic money institutions which operate on the territory of the Czech Republic under a single licence in accordance with the Banks Act<sup>9)</sup>, and other persons who issue electronic payment instruments (Section 15(1)) as their business activity, if all these entities issue electronic payment instruments on the territory of the Czech Republic (hereinafter referred to as 'issuer'),  
b) persons who, under an agreement with the issuer, use an electronic payment instrument (hereinafter referred to as 'holder').

<sup>9)</sup> Section 5a et seq. of Act No 21/1992 on banks, as amended by Act No 126/2002.'

4. In Section 14, the present text shall become paragraph (1) and the following paragraphs (2) and (3) shall be added:

(2) Banks, savings and loan associations and electronic money institutions shall proceed in accordance with Section 20 also in the performance of their operations outside the territory of the Czech Republic.

(3) Section 18b(3) and Sections 18c to 18f shall apply to electronic money institutions also in their activities outside the territory of the Czech Republic. This shall not apply to the requirements placed on the internal management and control system of an electronic money institution (Section 18d(4)) in the field of liquidity risk management.'

5. In Section 15(2), the words 'and which is accepted as a payment instrument by persons other than the issuer thereof' shall be removed.

6. In Section 15, paragraphs (3) and (4) shall read:

'(3) Electronic money shall mean monetary value which

a) represents a claim on the issuer,

b) is stored on an electronic money instrument,

c) is issued on receipt of funds of an amount not less in value than the value of the electronic money issued, and

d) is accepted as means of payment by persons other than the issuer.

(4) Funds received shall not constitute a deposit as set forth in the Banks Act if they are exchanged forthwith for electronic money by persons authorised to issue electronic money (Section 18a).’.

7. The following new Sections 18a to 18f, including Footnotes 9a to 9d, shall be inserted after Section 18:

Section 18a

**Persons authorised to issue electronic money**

Electronic money may be issued solely by

- a) banks and branches of foreign banks, if the activities of issuing and administering means of payment are specified in the licence granted to them,
- b) foreign banks, if they are authorised to issue means of payment on the territory of the Czech Republic under a single licence as set forth in the Banks Act<sup>9)</sup>,
- c) savings and loan associations for their members, if issuing and administering means of payments are specified in the licence granted to them,
- d) electronic money institutions (Section 18b),
- e) foreign electronic money institutions which carry out activities in accordance with this Act on the territory of the Czech Republic under a single licence,
- f) the Czech National Bank,
- g) other persons pursuant to permission from the Czech National Bank (Section 19).

**Electronic money institutions and foreign electronic money institutions**

Section 18b

(1) An electronic money institution is a public limited company or a European company<sup>9a)</sup> with its registered office on the territory of the Czech Republic which issues electronic money and which has been granted a licence by the Czech National Bank for this activity.

(2) The Czech National Bank shall not grant a licence to a person in respect of whom the difference in

a) the sum of its

1. paid-up registered capital,
  2. paid-up share premium,
  3. statutory reserve funds,
  4. other reserve funds created from after-tax profit, with the exception of reserve funds created for specific purposes, and
  5. retained earnings stated in financial statements verified by an auditor and approved by the general meeting, the distribution of which has not been decided on by the general meeting, and
- b) accumulated losses, including the loss from the previous accounting period is not at least CZK 35 000 000.

(3) The activities of electronic money institutions shall be subject to the supervision of the Czech National Bank.

Section 18c

(1) Besides issuing electronic money, electronic money institutions may only carry out related activities and data storage, such being under the terms and conditions laid down therefor in the licence.

(2) Electronic money institutions shall not

- a) grant loans in any form whatsoever,
- b) acquire a share in the registered capital or voting rights of other persons or exercise control<sup>9b)</sup> over them, with the exception of persons who provide ancillary services associated with the issue of electronic money by this institution.

Section 18d

(1) Unless otherwise provided by this Act

a) electronic money institutions and

b) foreign electronic money institutions carrying out activities in accordance with this Act on the territory of the Czech Republic under a single licence<sup>9)</sup>, but only in the scope in which they apply to a foreign bank carrying out activities on the territory of the Czech Republic under a single licence<sup>9)</sup>,

shall be subject mutatis mutandis to Section 3(3), Part Two to Part Seven, with the exception of the third sentence of Section 4(1), Section 12(4), Section 20b and Section 20c, Part Eight, with the exception of Section 26f(1), and Part Nine to Part Twelve, with the exception of Sections 37 to 38b and Section 39 of the Banks Act.

- (2) The sole activity recognised under a single licence<sup>9c)</sup> is the issue of electronic money.
- (3) The Czech National Bank shall lay down, by decree, the particulars of an application for an electronic money institution licence, the particulars of an application for consent to acquire or increase a qualifying holding in an electronic money institution, to a person concluding a controlling agreement with an electronic money institution or to a person executing an act in law aimed at taking control of an electronic money institution, and the particulars of a notification on a reduction in the qualifying holding in an electronic money institution or on the relinquishment of the status of a controlling entity vis-à-vis an electronic money institution.
- (4) The Czech National Bank shall set, by means of a measure, the requirements of the internal management and control system of an electronic money institution and conditions for the fulfilment of the requirement under a separate law<sup>9d)</sup> concerning the internal management and control system, including the risk management system. The requirements placed on the internal management and control system of an electronic money institution shall also apply, in the case of liquidity risk management, to branches of foreign electronic money institutions carrying out business activities in accordance with this Act on the territory of the Czech Republic under a single licence.
- (5) An electronic money institution shall publish quarterly information on its shareholder structure, and on its activities and financial indicators to the extent and in the manner laid down in a measure of the Czech National Bank.
- (6) An electronic money institution shall provide the Czech National Bank with information for the purposes of supervision on an individual and consolidated basis. The method, structure, content and time limits for the provision of information shall be laid down by the Czech National Bank in a measure.

#### Section 18e

- (1) An electronic money institution shall have at all times own funds at the amount set by the Czech National Bank in relation to its total financial liabilities related to outstanding electronic money. This amount and the structure of own funds of an electronic money institution, the method for the calculation thereof, the rules for the calculation of total financial liabilities related to outstanding electronic money, and the rules for reporting these facts to the Czech National Bank shall be stipulated by the Czech National Bank in a measure.
- (2) The own funds of an electronic money institution shall not fall below CZK 35 000 000.

#### Section 18f

- (1) An electronic money institution shall have investments in the amount of their financial liabilities related to outstanding electronic money solely in the assets defined by the Czech National Bank and under the conditions stipulated by the Czech National Bank.
- (2) The list of assets set forth in paragraph (1), the conditions of investment in such assets, including investment limits and restrictions, the asset valuation method and the rules for reporting the calculation of compliance with the limits and restrictions to the Czech National Bank shall be laid down by the Czech National Bank in a measure.

<sup>9a)</sup> Act No 627/2004 on European companies.

<sup>9b)</sup> Section 17 of Act No 21/1992, as amended.

<sup>9c)</sup> Section 5d of Act No 21/1992, as amended by Act No 126/2002.

<sup>9d)</sup> Section 22(1) of Act No 21/1992, as amended by Act No 126/2002.‘.

8. The heading of Section 19 shall read: **‘ Conditions for the issue of electronic money by other persons based on permission from the Czech National Bank’.**

9. In Section 19, paragraph (1) shall read:

‘(1) The other persons referred to in Section 18a(g) may issue electronic money solely on the basis of permission from the Czech National Bank, provided that the electronic money instrument issued to a holder stores electronic money at a value corresponding to no more than EUR 150 and

a) the total amount of the issuer’s liabilities related to outstanding electronic money shall not, as a rule, exceed an amount equivalent to EUR 5 000 000, and at no time shall exceed an amount equivalent to EUR 6 000 000, or

b) electronic money issued by this person is accepted as a means of payment solely by a limited number of service providers who

1. in relation to the issuer are a controlled entity, controlling entity or entity controlled by the same entity as the issuer, or

2. are in a close financial or business relationship with the issuer, such as common action in marketing or a common distribution network, or

3. provide their services in the same building, complex of buildings or other similarly closely defined area.’.
10. In the first sentence of Section 19(2) the word ‘funds’ shall be replaced with the word ‘money’ and the words ‘and the number of electronic instruments issued’ shall be removed.
11. In the second sentence of Section 19(2), the words ‘electronic money instruments and’ shall be removed.
12. In Section 19(3), the words ‘Prior consent’ shall be replaced with the word ‘Permission’ and the word ‘money instrument’ shall be replaced with the word ‘money’.
13. In Section 19, paragraph (4) shall read:  
‘(4) The Czech National Bank shall supervise compliance with the conditions under which permission to issue electronic money was granted. Should the Czech National Bank discover that the issuer is in breach of the conditions under which permission to issue electronic money was granted, the Czech National Bank may revoke this permission in administrative proceedings.’.
14. After paragraph (4) in Section 19, the following new paragraph (5) shall be inserted:  
‘(5) Permission to issue electronic money shall expire when the effects of a declaration of bankruptcy on the issuer’s assets enters into effect.’.  
The former paragraph (5) shall be relabelled as paragraph (6).
15. In Section 20(1), the words ‘electronic money instrument’ shall be replaced with the words ‘electronic money’.
16. In Section 20(2) the words ‘CZK 300’ shall be replaced with the words ‘corresponding to the value of EUR 10’.
17. Section 22, including the heading, is revoked.
18. In Section 24(1), subparagraph e) shall be removed.  
The former subparagraph f) shall be relabelled as subparagraph e).
19. In Section 24(1)(e), the words ‘and e)’ shall be removed.
20. In Section 28(4), the words ‘in writing without undue delay’ shall be inserted after the word ‘obliged’.
21. In the second sentence of Section 28(5), the words ‘the Czech National Bank of a change in their registered office or place of business without undue delay after the change takes effect’ shall be replaced with the words ‘the Czech National Bank in writing, without undue delay, of their participation in the given system, a specification of this system, the state which notified the Commission of the European Communities of the given system, the address of their registered office or place of business, and of any changes to these facts forthwith after such a change occurs’.
22. After Section 31, the following new Section 31a, including the heading and Footnote 11a), shall be added:

‘Section 31a  
**Procedural fines**

- (1) The Czech National Bank may impose a procedural fine of up to CZK 100 000 on an operator, participant in the system, or natural person who fails to provide persons authorised to supervise the systems with information or the necessary cooperation as set forth in Section 31(2).
- (2) A procedural fine may be imposed repeatedly. The sum of such procedural fines shall not exceed CZK 200 000.
- (3) Proceedings on the imposition of a procedural fine may be commenced within two months of the date of failure to fulfil an obligation.
- (4) Procedural fines shall be collected and enforced by the locally competent revenue office. Income from procedural fines shall be the income of the national budget.
- (5) The collection and enforcement of procedural fines shall proceed in accordance with the act regulating the administration of taxes and charges<sup>11a)</sup>.

<sup>11a)</sup> Act No 337/1992 on the administration of taxes and charges, as amended.’.

23. In the heading of Section 32, the words ‘and sanctions’ shall be removed.
24. In Section 32(1), subparagraph e) shall be removed.

The former subparagraph f) shall be relabelled as subparagraph e).

25. After Part Four, the following new Part Five, including headings and Footnote 11b), shall be added:

**'PART FIVE  
ADMINISTRATIVE DELICTS**

Section 34a

- (1) An issuer shall perpetrate an administrative delict by
- a) failing to provide information about its business conditions for the issuance and use of electronic payment instruments as set forth in Section 17(1),
  - b) failing to provide information in its business conditions for the issuance and use of electronic payment instruments concerning the compliance of these conditions with, and derogations of these conditions from, the model business conditions of the Czech National Bank or any amendments thereto in accordance with Section 17(2) and (3),
  - c) failing to provide the Czech National Bank with its business conditions for the issuance and use of electronic payment instruments as set forth in Section 17(4),
  - d) failing to redeem electronic money in accordance with Section 20(1) and (2) or
  - e) failing to set conditions for the redemption of electronic money in accordance with Section 20(3).
- (2) An electronic money institution shall perpetrate an administrative delict by
- a) carrying out activities other than those referred to in Section 18c(1),
  - b) granting credit or acquiring a holding in registered capital or voting rights, or exercising control<sup>9b)</sup> in contravention of Section 18(2),
  - c) by failing to comply with any of the requirements placed on the internal management and control system by the Czech National Bank or any of the requirements under a separate law<sup>9d)</sup> placed on the auditing of the internal management and control system, including the risk management system set forth in Section 18d(4),
  - d) breaching the obligation to disclose information as set forth in Section 18d(5) or (6),
  - e) failing to comply with any of the requirements concerning own funds as set forth in Section 18e, or
  - f) investing funds in contravention of the requirements set forth in Section 18f(1).
- (3) A legal person or natural person carrying on business activities shall perpetrate an administrative delict by
- a) breaching a condition under which it was granted permission to issue electronic money as set forth in Section 19(1), or
  - b) breaching the obligation to notify as set forth in Section 19(2) or (5).
- (4) A legal person or natural person carrying on business activities shall perpetrate an administrative delict by issuing electronic money without a licence pursuant to Section 18b(1) or permission of the Czech National Bank pursuant to Section 19(1).
- (5) An operator of, or participant in, a system shall perpetrate an administrative delict by
- a) failing to comply with a condition laid down as a settlement principle under Section 23(2), principle under Section 23(2),
  - b) failing to notify a change as referred to in Section 28(1), or
  - c) failing to seek prior consent as referred to in Section 28(2) or (3).
- (6) A system operator shall an administrative delict by failing to comply with a condition specified in the licence pursuant to Section 30(4) in the operation of the system.
- (7) A system participant, or a legal person or a natural person carrying on business activities as referred to in Section 28(5) shall perpetrate an administrative delict by failing to provide information on systems or on the rules of these systems in accordance with Section 28(4), or by breaching the obligation to notify as laid down in Section 28(5).
- (8) A fine of up to CZK 1 000 000 shall be imposed for an administrative delict under paragraph (1); a fine of up to CZK 20 000 000 shall be imposed for an administrative delict under paragraph (3); and a fine of up to CZK 50 000 000 shall be imposed for an administrative delict under paragraph (2) and paragraphs (4) to (7).

Section 34b

**Common provisions**

- (1) A legal person shall not be held responsible for an administrative delict if it proves that it took all reasonable efforts to prevent the breach of the legal obligation.
- (2) When determining the amount of a fine to be imposed on a legal person, the seriousness of the administrative delict, in particular the manner in which it was perpetrated and the consequences thereof, and the circumstances under which it was perpetrated shall be taken into account.

(3) The liability of a legal person for an administrative delict becomes extinct if the administrative authority fails to commence proceedings within three years of learning of the administrative delict, but no later than ten years from the day the delict was perpetrated.  
(4) Administrative delicts under this Act shall be heard in the first instance by the Czech National Bank.

(5) The provisions of this Act on the liability and penalisation of a legal person shall apply to liability for conduct arising from, or directly related to, the business activity of a natural person<sup>11b)</sup>.

(6) Fines shall be collected and enforced by the locally competent revenue office. Income from fines shall be the income of the national budget.

(7) The collection and enforcement of fines shall proceed in accordance with the act regulating the administration of taxes and charges<sup>11a)</sup>.

<sup>11b)</sup> Section 2(2) of Act No 513/1991, the Commercial Code, as amended by Act No 85/2004.'. The former Part Five and Part Six shall be relabelled as Part Six and Part Seven.

26. In Section 35(1), the words 'Part Three and Part Four' shall be replaced with the words 'Part Three to Part Five'.

27. In Section 35, paragraphs (4) to (7) shall be removed.

The former paragraphs (8) to (10) shall be relabelled as paragraphs (4) to (6).

28. In Section 35, paragraph (6) shall read:

'(6) A remonstrance may be lodged against a decision of the Czech National Bank in accordance with Part Three to Part Five of this Act. The Bank Board of the Czech National Bank shall make decisions on remonstrances. A remonstrance shall not have suspensory effect, with the exception of a remonstrance against a decision on the granting of permission, a remonstrance against a decision on the granting of, or amendment to, a licence, or a remonstrance against a decision on the imposition of a procedural fine or a fine.'

#### Article II

#### **Transitional provision**

1. Previous consents of the Czech National Bank concerning the issue of electronic money instruments issued by the Czech National Bank in accordance with Act No 124/2002 on transfers of funds, electronic payment instruments and payment systems (the Payments Act), in the wording effective until the date that this Act enters into effect, shall be considered permissions of the Czech National Bank to issue electronic money in accordance with Section 19 of Act No 124/2002 on payments, in the wording effective as of the date that this Act enters into effect.

2. Proceedings commenced prior to the date on which this Act enters into effect shall be completed in accordance with existing legal regulations.

#### Article III

The Prime Minister is authorised to promulgate the consolidated text of Act No 124/2002 on transfers of funds, electronic payment instruments and payment systems (the Payments Act), as amended, in the Collection of Laws.

#### **PART TWO**

#### **Amendment to the Banks Act**

#### Article IV

Act No 21/1992 on banks, as amended by Act No 264/1992, Act No 292/1993, Act No 156/1994, Act No 83/1995, Act No 84/1995, Act No 61/1996, Act No 306/1997, Act No 16/1998, Act No 127/1998, Act No 165/1998, Act No 120/2001, Act No 239/2001, Act No 319/2001, Act No 126/2002, Act No 453/2003, Act No 257/2004, Act No 439/2004 and Act No 377/2005, shall be amended as follows:

1. In Section 2(1), subparagraph b) shall be removed and the labelling of subparagraph a) shall be removed.

2. In Section 2, paragraph (2) shall be deleted.

The former paragraph (3) shall be relabelled as paragraph (2).

3. In the first sentence of Section 5a(1) the words 'and persons authorised to issue electronic money instruments with their registered office in European Union Member States' shall be removed and the word 'person' shall be replaced with the word 'bank'.

4. In the third sentence of Section 5a(1) the words 'and persons authorised to issue electronic money instruments with their registered office in European Union Member States' shall be removed.

5. In Section 5a(2), the word 'persons' shall be replaced with the word 'banks'.

6. In Section 5a(3) the words 'or persons authorised to issue electronic money instruments' and the words 'and persons authorised to issue electronic money instruments' shall be removed.

7. In the second sentence of Section 5a(7) the words 'or persons authorised to issue electronic money instruments' and the words ', in the case of a person authorised to issue electronic money instruments pursuant to paragraph (1)' shall be removed.

8. In Section 38(3), at the end of subparagraph i) the full-stop shall be replaced with a comma and subparagraph j) shall be added which, including Footnote 9c), shall read:

'j) a financial arbiter making decisions in accordance with a separate legal regulation<sup>9c)</sup> in disputes between a petitioner and an institution.

<sup>9c)</sup> Act No 229/2002 on the financial arbiter, as amended by Act No 558/2004.'

### **PART THREE** **Amendment to the Czech National Bank Act**

#### Article V

Act No 6/1993 on the Czech National Bank, as amended by Act No 60/1993, Act No 15/1998, Act No 442/2000, Finding of the Constitutional Court promulgated under number 278/2001, Act No 482/2001, Act No 127/2002, Act No 257/2004 and Act No 377/2005, shall be amended as follows:

1. In Section 2(2), the following new subparagraph e), including Footnotes 1a and 1b, shall be inserted after subparagraph d):

'e) exercise supervision over the activities of electronic money institutions<sup>1a)</sup>, branches of foreign electronic money institutions carrying on business activities on the territory of the Czech Republic under a single licence, holdings where part thereof is an electronic money institution with its registered office on the territory of the Czech Republic, and other persons who issue electronic money in accordance with a separate legal regulation<sup>1b)</sup>,

<sup>1a)</sup> Section 18b of Act No 124/2002 on transfers of funds, electronic payment instruments and payment systems (the Payments Act), as amended by Act No 62/2006.

<sup>1b)</sup> Section 19 of the Payments Act, as amended by Act No 62/2006.'

The former subparagraph e) shall be relabelled as subparagraph f).

The previous Footnote 1a) shall be relabelled as Footnote 1c), including the corresponding reference to the footnote.

2. In Section 2, paragraph (3) shall read:

'(3) In the performance of its tasks, the Czech National Bank shall cooperate with central banks of other states, bodies exercising supervision over banks, electronic money institutions and financial markets of other states, and international financial organisations and international organisations responsible for the supervision of banks, electronic money institutions and financial markets.'

3. In Section 24, subparagraph a) shall read:

'a) in a measure promulgated in the Bulletin of the Czech National Bank, the rules for the prudential business activity of banks, branches of foreign banks, electronic money institutions<sup>1a)</sup> and branches of foreign electronic money institutions carrying on business activities on the territory of the Czech Republic under a single licence,'.

4. In Section 26(1), the word 'discount' shall be replaced with the word 'lombard'.

5. The following new Section 26a shall be inserted after Section 26:

'Section 26a

The Czech National Bank shall set rules for the fulfilment of the obligations laid down in Sections 25 and 26 by means of a measure promulgated in the Bulletin of the Czech National Bank.'

6. In the second sentence of Section 38(1), the word 'settlement shall be replaced with the word 'clearing'.



7. In Section 41(2), subparagraph a) shall read:

'a) banks, branches of foreign banks, electronic money institutions<sup>1a)</sup> and branches of foreign electronic money institutions carrying on business activities on the territory of the Czech Republic under a single licence,'.

8. In Section 41(2)(b), the words 'or electronic money institutions' shall be inserted after the noun 'bank' and the adjective 'bank' shall be removed.

9. In the second sentence of Section 41(3), the words 'and branches of foreign banks and binding methodology for the preparation and organisational and communication conditions for the transfer of all information and documentation' shall be replaced with the words 'branches of foreign banks, electronic money institutions<sup>1a)</sup> and branches of foreign electronic money institutions, and the organisational and communication conditions for the transfer thereof to the Czech National Bank'.

10. In Section 41, at the end of paragraph (3) the following sentence shall be added: 'The Czech National Bank shall set the methodology for the preparation of all information and documentation by means of a measure.'

11. In Section 41(4), the second sentence shall be replaced with the sentence 'If a bank, branch of a foreign bank, electronic money institution, branch of a foreign electronic money institution or other person specified in paragraph (2)(b) fails to present requested information and documentation or repeatedly presents such information and documentation in an incomplete or incorrect manner, the Czech National Bank shall proceed in accordance with a separate legal regulation<sup>9a)</sup> vis-à-vis banks, branches of foreign banks, electronic money institutions, branches of foreign electronic money institutions, and vis-à-vis other persons included in a holding if these persons are obliged to provide information for the purposes of supervision on a consolidated basis.'

Footnote 9a shall read:

<sup>9a)</sup> Act No 21/1992 on banks, as amended.

Act No 124/2002 on transfers of funds, electronic payment instruments and payment systems, as amended by Act No 257/2004 and Act No 62/2006.'

The previous Footnote 9a) shall be relabelled as Footnote 9b), including the corresponding reference to the footnote.

12. In Section 44(1), the following new subparagraph b) shall be inserted after subparagraph a):  
'b) the activities of electronic money institutions<sup>1a)</sup>, branches of foreign electronic money institutions carrying on business activities on the territory of the Czech Republic under a single licence, holdings where part thereof is an electronic money institution with its registered office on the territory of the Czech Republic, and other persons who issue electronic money in accordance with a separate legal regulation<sup>1b)</sup>,'.

The former subparagraphs a) and c) shall be relabelled as subparagraphs c) and d).

13. In Section 44(1)(c), the words 'than banks' shall be removed.

14. In Section 44(2)(a), the words 'and permission' shall be replaced with the words ', permission and prior consent'.

15. In the first sentence of Section 49b(1), the words 'within the purview of the Act' shall be inserted after the word 'issues'.

16. In the second sentence of Section 49b(1), the word 'and' shall be replaced by a comma and the words ', electronic money institutions<sup>1a)</sup> and branches of foreign electronic money institutions' shall be added after the word 'banks'.

## **PART FOUR**

### **Amendment to the Act on Business on the Capital Market**

#### Article VI

Act No 256/2004 on business on the capital market, as amended by Act No 635/2004, Act No 179/2005 and Act No 377/2005, shall be amended as follows:

1. In Section 82(4), subparagraph c) shall be removed.

The former subparagraphs d) to h) shall be relabelled as subparagraphs c) to g).

2. In Section 82(4)(f), the word 'e)' shall be replaced with the word 'd)'.

**PART FIVE**  
**Amendment to the Trade Licensing Act**

Article VII

In Section 3(3)(a) of Act No 455/1991, the Trade Licensing Act, as amended by Act No 120/2001, Act No 256/2001, Act No 477/2001, Act No 281/2002, Act No 162/2003, Act No 354/2003, Act No 167/2004, Act No 257/2004, Act No 38/2004 and Act No 499/2004, the words 'electronic money institutions<sup>11a)</sup>, operators of payment systems<sup>11b)</sup>,' shall be inserted after the word 'banks,<sup>11)</sup>'. Footnotes 11a) and 11b) shall read:

<sup>11a)</sup> Section 18b of Act No 124/2002 on transfers of funds, electronic payment instruments and payment systems (the Payments Act), as amended by Act No 62/2006.

<sup>11b)</sup> Section 30 of Act No 124/2002.'

**PART SIX**  
**Amendment to the Act on the Administration of Taxes and Charges**

Article VIII

Act No 337/1992 on the administration of taxes and charges, as amended by Act No 35/1993, Act No 157/1993, Act No 302/1993, Act No 315/1993, Act No 323/1993, Act No 85/1994, Act No 255/1994, Act No 59/1995, Act No 118/1995, Act No 323/1996, Act No 61/1997, Act No 242/1997, Act No 91/1998, Act No 168/1998, Act No 29/2000, Act No 159/2000, Act No 218/2000, Act No 227/2000, Act No 367/2000, Act No 492/2000, Act No 120/2001, Act No 271/2001, Act No 320/2001, Act No 226/2002, Act No 320/2002, Act No 322/2003, Act No 354/2003, Act No 438/2003, Act No 440/2003, Act No 479/2003, Act No 19/2004, Act No 237/2004, Act No 254/2004, Act No 436/2004, Act No 501/2004, Act No 554/2004, Act No 179/2005 and Act No 215/2005, shall be amended as follows:

1. In the first sentence of Section 4(10), the words ', branches of foreign banks (hereinafter referred to as 'banks'), savings and loan associations,' shall be inserted after the word 'banks', and the words 'savings and loan association' shall be inserted after the word 'bank'.
2. In the final sentence of Section 4(12), the words 'or a savings and loan association' shall be inserted after the word 'bank'.
3. In Section 32(2)(d), the words 'or a savings and loan association' shall be inserted after the word 'bank'.
4. In the second sentence of Section 33(6), the words 'and savings and loan associations' shall be inserted after the word 'banks'.
5. Section 34(11), including Footnotes 21) and 22), shall read:  
'(11) Banks and savings and loan associations shall provide account numbers, details of their holders, balances of funds in accounts and movements thereof, and details about loans and deposits<sup>12)</sup> at the written request of the tax administrator. Information about the implementation or mediation of the transfer of funds shall also be disclosed by other persons who conduct or mediate transfers of funds as their business activity<sup>22)</sup>.

<sup>21)</sup> Section 38(3)(c) of Act No 21/1992, as amended.

<sup>22)</sup> Section 2(1)(a) of Act No 124/2002 on transfers of funds, electronic payment instruments and payment systems (the Payments Act).'

6. In Section 59(1), the following sentence shall be added: 'If a payment is remitted in foreign currency, the tax administrator shall record it in the personal tax account of the tax debtor at the amount at which it was cleared to the account in Czech currency.'

7. In Section 59(3)(a), the words 'or a savings and loan association' shall be inserted after the words 'at a bank'.

8. In Section 59(3)(b)(1), the words ',savings and loan association' shall be inserted after the word 'bank'.

9. In the first sentence of Section 59(6), the words 'paid by the debtor' shall be replaced by the words 'carried out by the tax entity'.

10. In Section 59, at the end of paragraph (6) the following sentences shall be added: 'The tax administrator shall refund only a payment which has been made by apparent mistake at the request of a

bank, savings and loan association or holder of a postal licence submitted no later than the day on which the payment of the tax is cleared to the tax administrator's account; if a request is made at a later date, this payment may be refunded only if a refundable excess payment has occurred due to this payment which has not been refunded to the tax debtor by the time the request is handled, and which has not been used to cover any tax arrears, such being only up to the amount of this excess payment, even if it is lower than CZK 50. A similar procedure shall apply if the request is made by the person who made the payment on behalf of the tax debtor, if this person proves the apparent mistake in the payment and at the same time does not have any tax arrears of his own. If a request cannot be upheld, the tax administrator shall issue the applicant with confirmation of the received payment and of the identity of the tax debtor for the payment of whose tax arrears it was recorded as a result of the error caused by the applicant.'

11. Section 61, including the heading, shall read:

„§ 61  
**Date of payment**

(1) The date of payment is

a) in the case of non-cash transfers made by a bank or savings and loan association from an account in the Czech Republic, the date on which the funds are cleared from the account, in the case of a transfer from an account held in foreign currency or abroad, the date on which the funds are cleared to the tax administrator's account, or

b) in the case of cash payments in Czech currency, the date on which the bank, savings and loan association, or holder of a postal licence receives the cash or the date on which the cash is received by an employee of the tax administrator; if a cash payment is made in foreign currency, the date on which the funds are cleared to the tax administrator's account.

(2) If a payment is not duly made, paragraph (1) shall apply only if the person making the payment has used, of his own accord or at the request of the tax administrator, all legal means to remedy the situation, as a result of which the payment is subsequently remitted to the tax administrator.

(3) A bank or a savings and loan association where the tax administrator's account is held shall notify the tax administrator of the date on which the funds are cleared from the mandator's account or the date on which the cash is received, such being with a specification of the identification of the payment and the mandator. In like manner, a postal licence holder shall notify the tax administrator, directly or by means of the bank or savings and loan association concerned, of the date on which it received the cash and transferred the cash payment to the bank or savings and loan association where the tax administrator's account is held, such being with a specification of the identification of the payment and the mandator. In the event of unclear payments, the obligation of the bank, savings and loan association, or postal licence holder to provide information free of charge shall also apply to other information identifying the mandator in more detail.

(4) A postal licence holder who receives a payment via postal order shall forward the payment for transfer to the bank which keeps the postal licence holder's account within two working days of the date that the payment is received; for the further transfer of this payment, the time limits under the Payments Act shall apply.

(5) If a postal licence holder fails to respect the time limit under paragraph (4), the postal licence holder shall pay the tax administrator interest in the amount of twice the discount rate set by the Czech National Bank. A postal licence holder shall also transfer interest to the tax administrator which is paid to the postal licence holder by a bank or a savings and loan association for non-compliance with the time limits under the Payments Act.

(6) The interest under paragraph (5) and the interest paid to the tax administrator under the Payments Act shall be deemed tax incidentals.'

12. In the second sentence of Section 62(4), the words ', savings and loan associations' shall be inserted after the word 'banks'.

13. In Section 62(5), the words 'and savings and loan associations' shall be inserted after the word 'banks'.

14. In Section 73(6)(a), the words 'and savings and loan associations' shall be inserted after the word 'banks'.

15. Section 99 shall read:

„§ 99

In the administration of taxes, Act No 500/2004, the Code of Administrative Procedure, shall not apply, with the exception of the procedure under Section 175 concerning the handling of complaints.'

**PART SEVEN**  
**Amendment to the Act on Social Security Contributions and the State Employment Policy Contribution**

Article IX

Act No 589/1992 on social insurance contributions and the state employment policy contribution, as amended by Act No 10/1993, Act No 160/1993, Act No 307/1993, Act No 42/1994, Act No 241/1994, Act No 59/1995, Act No 118/1995, Act No 149/1995, Act No 160/1995, Act No 113/1997, Act No 134/1997, Act No 306/1997, Act No 18/2000, Act No 29/2000, Act No 118/2000, Act No 132/2000, Act No 220/2000, Act No 238/2000, Act No 492/2000, Act No 353/2001, Act No 263/2002, Act No 309/2002, Act No 362/2003, Act No 424/2003, Act No 425/2003, Act No 437/2003, Act No 186/2004, Act No 281/2004, Act No 359/2004, Act No 436/2004, Act No 168/2005, Act No 253/2005 and Act No 377/2005, shall be amended as follows:

1. In Section 17(2), the words 'subparagraphs a) and c)' shall be added at the end of the second sentence.
2. Section 19, including the heading, shall read:

„§ 19

**Method of payment of contributions**

- (1) Contributions shall be paid in the Czech currency
  - a) by non-cash transfer from an account held at a bank or a savings and loan association in the Czech Republic, or from an account held abroad, to the relevant account of the competent social security authority (Sections 9 and 10),
  - b) in cash via a bank, savings and loan association or postal licence holder in the Czech Republic to the relevant account as set forth in paragraph a), and in the case of an amount of not more than CZK 5 000, also to an employee of the competent district social security authority authorised to receive contributions, or
  - c) in cash abroad to the relevant account under subparagraph a).
- (2) The date of payment of contributions shall be considered
  - a) in the case of non-cash transfers from an account held at a bank or savings and loan association in the Czech Republic, the date on which the payment is cleared from the account of the party paying the contribution,
  - b) in the case of non-cash transfers from an account held abroad or in the case of cash payments abroad, the day on which the payment is cleared to the relevant account of the competent social security authority (Sections 9 and 10),
  - c) in the case of cash payments in the Czech Republic, on the date that the bank, savings and loan association, postal licence holder or competent district social security authority receives the cash.
- (3) The bank at which the social security authority holds its account shall notify the social security authority of the date on which a payment is cleared from the mandator's account or the date on which a cash payment is received at the bank or savings and loan association. A postal licence holder shall notify the social security authority, directly or via the bank concerned, of the date on which it received cash and when it transferred the payment in cash to the bank holding its account.
- (4) A postal licence holder who receives a payment via postal order shall forward the payment for transfer to the bank which keeps the postal licence holder's account within two working days of the date that the payment is received; for the further transfer of this payment, the time limits under the Payments Act shall apply.
- (5) If a postal licence holder fails to respect the time limit under paragraph (4), the postal licence holder shall pay the social security authority interest in the amount of twice the discount rate set by the Czech National Bank and prevailing on the first day of the calendar quarter in which the paid amount was meant to be transferred at the latest. A postal licence holder shall also transfer interest to the social security authority which is paid to the postal licence holder by a bank or a savings and loan association for non-compliance with the time limits under the Payments Act.
- (6) Savings and loan associations shall provide account numbers, details of their holders, balances of funds in accounts and movements thereof, and details about loans and deposits at the written request of the social security authority.'

**PART EIGHT**  
**Amendment to the Act on General Health Insurance Premiums**

Article X

In Act No 592/1992 on general health insurance premiums, as amended by Act No 59/1995, Act No 29/2000, and Act No 118/2000, Section 17, including the heading shall read as follows:

„§ 17

#### **Method of payment of premiums**

(1) Contributions shall be paid in the Czech currency

a) by non-cash transfer from an account held at a bank or a savings and loan association in the Czech Republic, or from an account held abroad, to the account of the competent health insurance company, or

b) in cash via a bank, savings and loan association or postal licence holder in the Czech Republic to the relevant account as set forth in paragraph a), or to an employee of the competent health insurance company authorised to receive premiums.

(2) The date of payment of premiums shall be considered

a) in the case of non-cash transfers from an account held at a bank or savings and loan association in the Czech Republic, the date on which the payment is cleared from the account of the party paying the premium,

b) in the case of non-cash transfers from an account held abroad, the day on which the payment is cleared to the relevant account of the competent health insurance company,

c) in the case of cash payments in the Czech Republic, on the date that the bank, savings and loan association, postal licence holder or competent health insurance company receives the cash.

(3) The bank at which the competent health insurance company holds its account shall notify the competent health insurance company of the date on which a payment is cleared from the mandator's account or the date on which a cash payment is received at the bank or savings and loan association. A postal licence holder shall notify the competent health insurance company, directly or via the bank concerned, of the date on which it received cash and when it transferred the payment in cash to the bank holding its account.

(4) A postal licence holder who receives a payment via postal order shall forward the payment for transfer to the bank which keeps the postal licence holder's account within two working days of the date that the payment is received; for the further transfer of this payment, the time limits under the Payments Act shall apply.

(5) If a postal licence holder fails to respect the time limit under paragraph (4), the postal licence holder shall pay the competent health insurance company interest in the amount of twice the discount rate set by the Czech National Bank and prevailing on the first day of the calendar quarter in which the paid amount was meant to be transferred at the latest. A postal licence holder shall also transfer interest to the competent health insurance company which is paid to the postal licence holder by a bank or a savings and loan association for non-compliance with the time limits under the Payments Act.'

#### **PART NINE EFFECT**

##### Article XI

This Act shall enter into effect on the date of promulgation hereof.

**Zaorálek**, *manu propria*  
**Klaus**, *manu propria*  
pp. **Sobotka**, *manu propria*