

Federal Act on the National Economic Supply (National Economic Supply Act [NESAs])

of 8 October 1982

The Federal Assembly of the Swiss Confederation,

based on Article 31^{bis} paragraph 3 letter e and Article 32 of the Federal Constitution^{1,2} and having considered a Federal Council Dispatch dated 9 September 1981³,

decrees:

Title 1.: Introduction

Art. 1 Purpose

This Act regulates the precautionary measures for national economic defence as well as measures intended to guarantee the national economic supply of essential goods and services in the case of serious shortages that the private sector itself is unable to counteract.

Art. 2 Essential goods and services

¹ Goods and services are regarded as essential if they are necessary in order that the country can survive in times of threat and can overcome serious shortages or emergency situations.

² In particular, the following are essential:

- a. foodstuffs, therapeutic products and other indispensable goods that meet day to day needs, auxiliary agents and raw materials for agriculture, trade and industry, and energy sources, together with all the means of production required therefor;
- b. transport and telecommunications services;
- c. storage facilities.

¹ [BS 1 3; AS 1980 380, 1996 2502]. The provisions mentioned now correspond to Arts. 45, 46 para. 1, 102 and 147 of the Federal Constitution of 18 April 1999 (SR 101).

² Wording in accordance with Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS 2001 1439 1442; BB1 1999 9261).

³ BB1 1981 III 405

Title 2.: National Economic Defence Measures

Chapter 1.: Principles

Art. 3

¹ The Confederation shall ensure that the country is supplied with essential goods and services in case of any indirect or immediate threat to the country or any other manifestation of power-political force; it shall work in cooperation with the cantons and the private sector.⁴

² The level of readiness of the Confederation, depending on the nature, seriousness and extent of the threat, must be such that national economic defence measures may if necessary be brought into effect without delay.

Chapter 2.: Constant State of Readiness

Section 1.: Maintenance of Stocks

Art. 4 General Remarks

¹ The maintenance of stocks is normally the task of the private sector. In specific fields, the private sector shall be assisted by federal (Art. 18) and, if necessary, cantonal measures. The private sector and public authorities shall cooperate with each other.

² The Federal Council may encourage the establishment, maintenance and increase of stocks through contracts and other means. It shall in particular provide that owners have, in principle, the power of disposal over stocks that have been set up voluntarily and that they may in terms of any management regulations make use of such stocks in their own operations or to supply their customers.

³ ...⁵

⁴ The Federal Council shall ensure that the public is suitably informed, especially in order to encourage the maintenance of household stocks and to prevent panic buying.

Art. 5 Establishment of minimum stocks

Business enterprises involved in the supply of essential goods may be required, subject to their level of productivity, to maintain minimum stocks.

⁴ Wording in accordance with Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001

(AS **2001** 1439 1442; BBl **1999** 9261).

⁵ Repealed by Sec. I of the Federal Act of 24 March 2000 (AS **2001** 1439; BBl **1999** 9261).

Section 2.: Maintenance of Compulsory Stocks

Art. 6 Compulsory stocks agreement

¹ In order to set up compulsory stocks, the Confederation shall enter into agreements with business enterprises.

² The compulsory stocks agreement regulates in particular the following:

- a. the nature and volume of the stockpiled goods;
- b. the storage, treatment, supervision, control and replacement of the stockpiled goods;
- c. the storage location;
- d. funding and insurance;
- e. payments to cover storage costs as well as any reduction in the value, weight and quality of the goods that may result from storage.

³ The compulsory stocks agreement may provide that the owner of the stocks belongs to an organisation (Art. 10) and maintains a constant and adequate free supply of the stockpiled goods, in addition to the compulsory stocks.

⁴ A compulsory stocks agreement may be entered into only in respect of goods that are owned by the stock keeper. Stocks in respect of which third parties hold proprietary rights may be made the subject matter of a compulsory stocks agreement only if all parties with rights to the goods make a joint commitment towards the Confederation and if necessary to the bank providing finance (Art. 11).

Art. 7 Reduction and closure of compulsory stocks. Warehouse receipts

¹ Compulsory stocks may be reduced or closed only with the consent of the Confederation. The owner of the stocks must have repaid the appropriate portion of any loan due to the Bank and have fulfilled any obligations towards the guarantee fund (Art. 10).

² No warehouse receipts may be issued in respect of compulsory stocks.

Art. 8 Guarantee of maintenance of compulsory stocks⁶

¹ The Federal Council may make certain essential goods that are either imported or manufactured or processed in Switzerland subject to the maintenance of compulsory stocks. It may make exceptions for certain uses of such goods.⁷

² For such goods, the Federal Council shall determine the volume required to meet requirements or target volumes. It shall endeavour to distribute the stocks so as to

⁶ Wording in accordance with Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS 2001 1439 1442; BBl 1999 9261).

⁷ Wording in accordance with Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS 2001 1439 1442; BBl 1999 9261).

meet the requirements of the various regions of the country and the requirements of national defence.

³ Anyone who imports such goods or brings such goods into circulation on the domestic market for the first time as a manufacturer, processor or trader is required to maintain stocks. The Federal Council shall decide who is required to maintain stocks.⁸

⁴ The Federal Council may make the import of such goods subject to a licence requirement and the licence conditional on entering into a compulsory stocks agreement.⁹

⁵ Compulsory stocks agreements must be entered into with the Confederation in respect of goods that are subject to an obligation to maintain stocks.¹⁰

⁶ By way of exception, anyone may be exempted from the obligation to maintain stocks if he enters into the same financial commitment towards the organisation that administers the guarantee fund or a similar facility as he would have been subject to in terms of a compulsory stocks agreement.¹¹

⁷ In the compulsory stocks agreement, it may be agreed that part of the obligation to maintain stocks be assumed by third parties. In this case, the Confederation shall enter into a separate compulsory stocks agreement with the third party with regard to the relevant volumes of stocks.¹²

Art. 9 Disposable portion of the compulsory stocks

In terms of the management and use regulations in accordance with Articles 23 and 28, the owner of the stocks shall have the right of disposal over a minimum of half of the volume of compulsory stocks for his own operations or in order to supply his customers.

Art. 10 Guarantee funds and similar facilities

¹ Compulsory stocks agreements may provide that individual owners of stocks must contribute to a guarantee fund or similar facility set up by their economic sector to cover the storage costs and the loss in value of the compulsory stocks.

² The creation, modification or closure of such facilities requires the approval of the Federal Department of Economic Affairs (DEA). If the relevant economic sectors establish or enlist the services of corporate bodies in order to carry out the tasks of

⁸ Wording in accordance with Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001

(AS **2001** 1439 1442; BBl **1999** 9261).

⁹ Inserted by Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS **2001** 1439 1442; BBl **1999** 9261).

¹⁰ Inserted by Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS **2001** 1439 1442; BBl **1999** 9261).

¹¹ Inserted by Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS **2001** 1439 1442; BBl **1999** 9261).

¹² Inserted by Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS **2001** 1439 1442; BBl **1999** 9261).

the facilities, the articles of incorporation of such bodies require the approval of the DEA.¹³

³ If the public interest so requires, the articles of incorporation may depart from the private law provisions on the acquisition and loss of membership as well as on the acquisition and use of resources.

Art. 10a¹⁴ Compliance with international obligations

¹ In order to comply with international obligations, the Federal Council may stipulate the maximum permitted level of contributions to the guarantee fund and similar facilities. It may delegate this power to the DEA.

² If the maximum permitted level of guarantee fund contributions is reduced as a result of international agreement, the reduction of the contributions is effected by the same percentage as the customs duties. In justified cases, exceptions to the foregoing are permitted.

Art. 11 Funding. Cover for uninsurable risks

¹ The Confederation shall facilitate the funding of the maintenance of compulsory stocks by guaranteeing bank loans; it may also facilitate borrowing at low interest rates in any other way.

² The Federal Council shall regulate cover for uninsurable risks.

Art. 11a¹⁵ Assumption of the costs of maintaining compulsory stocks by the Confederation

In the event that the storage costs and the loss in value of compulsory stocks of basic foodstuffs, whether imported or produced or processed in Switzerland, can no longer be funded from the resources in the guarantee fund or similar facilities, the Confederation may assume all or part of the shortfall. The Federal Council shall decide on which compulsory stocks shall receive such subsidies.

Art. 12 Security for the Confederation

¹ As soon as the Confederation has guaranteed the funding of a compulsory stock, the compulsory stock and any indemnity rights shall serve as security.

² Private or public law rights to such compulsory stocks and indemnity rights that are held by third parties in terms of the law or the agreement shall remain ineffective in the event that the Confederation holds a right to separate settlement or a lien (Art. 13 and 14). The sole exception to the foregoing is the right of retention

¹³ Wording in accordance with Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS 2001 1439 1442; BBl 1999 9261).

¹⁴ Inserted by Sec. I of the Federal Act of 16. Dez. 1994, in force since 1 July 1995 (AS 1995 1794 1795; BBl 1994 IV 950).

¹⁵ Inserted by Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS 2001 1439 1442; BBl 1999 9261).

held by the owner of storage depots in respect of claims under Article 485 of the Code of Obligations¹⁶.

Art. 13 Right of the Confederation to separate settlement

¹ On the commencement of bankruptcy proceedings in respect of the owner of stocks or if such proceedings are dismissed in accordance with Articles 725¹⁷, 764, 817 or 903 of the Code of Obligations¹⁸, or if the owner has been granted a composition moratorium or emergency moratorium on debt enforcement, the Confederation shall directly acquire the ownership of the compulsory stock and any indemnity rights, provided the Confederation assumes the contractual obligations of the owner in respect of the bank loans.

² If the value of the compulsory stock or the indemnity rights at the time of the actual takeover or the concluded sale and after deduction of all costs exceeds the value of the rights of the Confederation following its repayment of the loans, the Confederation shall first of all settle the liabilities of the debtor towards the guarantee fund. The remainder shall pass to the insolvent estate or in the case of stay of bankruptcy, or composition moratorium and emergency moratorium proceedings to the debtor.

³ If the Confederation, after deduction of all the costs, is not repaid in full by taking ownership of or selling the goods, it shall participate in the bankruptcy proceedings or in the composition agreement in respect of the shortfall. In the case of a stay of bankruptcy or an emergency moratorium on debt enforcement, the Confederation shall acquire a claim against the debtor that is not subject to the statute of limitations.

Art. 14 Lien of the Confederation

¹ If debt enforcement proceedings are commenced against the owner of stocks by seizure of assets or realisation of pledged property, namely the compulsory stock and any indemnity rights, the Confederation shall in respect of its secured claims (Art. 12) have the status of a pledge holder of priority ranking that is not participating in the debt enforcement proceedings. Third parties with statutory or contractual rights to the compulsory stock (Art. 12 para. 2 sentence 1) acquire a right to be paid as creditors in respect of their claims that ranks immediately behind the Confederation and, if applicable, behind the guarantee fund.

² The rights of third parties to goods constituting the compulsory stocks or to any indemnity claims of the debtor may only be asserted by debt enforcement proceedings.

¹⁶ SR 220

¹⁷ Now: Art. 725a.

¹⁸ SR 220

Art. 15 Avoidance actions

In the event that the claims of the Confederation are not fully covered by the right to separate settlement and right of lien, the Confederation has the exclusive right to avoid rulings (Art. 285 ff. DCBA¹⁹). This avoidance action is subject to a ten-year statute of limitations.

Art. 16 Taxes and other public charges

¹ In the assessment of direct federal taxation, the special risks inherent in the maintenance of compulsory stocks shall be given appropriate consideration. The Federal Council shall regulate the details and coordinate such details with the cantons with regard to direct cantonal taxation.

² Compulsory stocks agreements are not subject to any stamp duty or similar charges.

Art. 17 Storage space

If it is not possible to acquire real estate for the construction of storage space or facilities for goods constituting the compulsory stocks or to acquire the necessary storage space and facilities on reasonable terms and by mutual agreement, the Federal Department of Economic Affairs has the right of compulsory purchase in accordance with the Compulsory Purchase Act²⁰.

Section 3.: Maintenance of Federal Stocks

Art. 18

¹ The Confederation holds stocks to meet its requirements, above all for the equipment and provisioning of the armed forces.

² It may establish its own stocks to supplement the compulsory stocks if the owner of stocks is unable on his own to maintain sufficient stocks in accordance with Article 6 et seq.

Section 4.: Use of Domestic Resources

Art. 19 Forestry

¹ In order to guarantee national economic defence, the Federal Council may order the increased exploitation of the forests.

¹⁹ SR 281.1

²⁰ SR 711

² In order to cover the costs incurred thereby, a compensation fund may be created; the fund will be financed by means of charges levied at a standard rate on all timber-cutting activities by forest owners.

³ The Confederation may provide financial aid in order to equip forestry enterprises with machines and facilities, provided these are essential to the increasing exploitation of the forests.

Art. 20 Water supply

The Federal Council may legislate to guarantee the supply of drinking water in emergency situations.

Art. 21 Studies and trials

The Federal Council may through financial aid or other suitable means support studies and trials as well as other preparatory measures that are in the interests of national economic supply.

Section 5.: Transport and other Services

Art. 22

¹ The Federal Council shall take the measures required in order to guarantee adequate means of transport and communication, to keep transport routes and communication channels open, and to provide storage depots.

² To enable the conduct of certain transport operations that are in the interests of national economic supply and to secure the required means of transport, the Confederation may in response to a well-founded application or in terms of any transport contract that it has itself entered into provide insurance or reinsurance in respect of the risk of war and similar risks.

Chapter 3.: Measures in the event of an Impending Threat

Art. 23 Measures

¹ If the supply of essential goods or services is seriously endangered or disrupted as a result of an impending threat of war or power-political unrest, the Federal Council may take measures:

- a. to increase and adapt domestic production in the agriculture industry (such as the conduct of expansion and exploitation programmes, introduction of cultivation and compulsory supply regimes) and in the energy industry as well as by exploiting natural resources and substitute materials;

- b. to procure goods (by entering into contracts, through joint measures by importers, by funding these measures, by indemnifying against losses and uninsurable risks, by compulsory supply);
- c. to establish and maintain production plants;
- d. to control production (such as stipulating the manufacturing process, product uses and production volumes);
- e. to limit exports;
- f. to increase and to relocate stocks;
- g. to distribute goods in an appropriate manner (such as allotment, quota fixing, rationing, imposing embargos and preventing hoarding);
- h. to reduce consumption;
- i. to guarantee the provision of services, in particular transport (such as the introduction of a duty to provide services, by ensuring the availability of means of transport, by amending or repealing regulations on operating, transport, and timetable or flight schedule requirements, or by making the sale or withdrawal of means of transport subject to authorisation).

² The Federal Council shall in particular regulate the use of compulsory stocks.

Art. 24 Prices

¹ The Federal Council may order the monitoring of the prices of essential goods and services for as long as management and use regulations in accordance with Article 23 apply.

² If necessary, it may fix maximum prices.

Art. 25 Requisition

¹ When bringing into force measures in the case of impending threat (Arts. 23 and 24), the Federal Council may grant the authorities responsible for national economic defence the right of requisition.

² The required preparations must be made in times of peace.

³ The Federal Council shall regulate the details.

⁴ The requisition of cargo vessels that operate on the high seas and in foreign waters, as well as certain aircraft shall be subject to special regulations.

Title 3.: **Measures to counteract Serious Shortages** **due to Market Disruption**

Art. 26 Support measures

¹ In order to prevent or remedy serious shortages as a result of market disruption that the private sector is unable to counteract on its own, the Federal Council may encourage the maintenance of stocks as well as the procurement and distribution of goods. It may grant financial aid if this is the only effective support measure available.

² The Confederation may support economic self-help measures taken by organisations and economic sectors.

Art. 27²¹ Use of compulsory stocks

The compulsory stocks established as part of the national economic defence (Art. 6–17) may also be used in measures to counteract serious shortages as a result of market disruption (Art. 28 para. 1 let. a).

Art. 28 Further measures

¹ If the private sector is unable to guarantee supplies and if the support measures of the Confederation are insufficient, the Federal Council may if required and until the serious shortages are overcome legislate in the case of certain essential goods on:

- a.²² the release of compulsory stocks;
- b. the volumes required for production, processing, distribution and consumption;
- c. the reduction in consumption;
- d. the use of goods and their categorisation depending on their importance to the national supply;
- e. the limitation of exports;
- f. the recovery of materials and recycling of waste materials;
- g. the procurement of substitute goods.

² Subject to the same requirements, the Federal Council may also legislate on essential services, depending on their importance to the national supply.

²¹ Wording in accordance with Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS **2001** 1439 1442; BBl **1999** 9261).

²² Wording in accordance with Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS **2001** 1439 1442; BBl **1999** 9261).

³ For as long as regulations in terms of this Article apply, the Federal Council may order the monitoring of the prices of the relevant goods and services. If necessary, it may fix maximum prices.

⁴ In order to overcome shortages, the Federal Council may, as a precautionary measure and to maintain its constant state of readiness, delegate the power to release compulsory stocks to the DEA.²³

Art. 29 Federal measures

In the event that the national supply cannot be guaranteed by other means, the Federal Council is authorised to enter into contracts for the account of the Confederation.

Art. 30 Prohibition of price adjustment measures

Measures taken under Title 3 of this Act may not be used to counteract fluctuations in price, provided the supply volume is sufficient.

Title 4.: Administrative Measures and Penalty Damages

Art. 31 Withdrawal of non-proprietary advantages

If the authorities are misled through incorrect information or the withholding of information or if any attempt is made to mislead the authorities in this manner, then non-proprietary advantages that result from measures under this Act may be withdrawn.

Art. 32 Recovery and forfeiture to the Confederation of goods and proprietary advantages that are unlawfully granted or obtained

¹ Subsidies and similar payments may be recovered, irrespective of liability under the criminal law, if they have been wrongfully paid out or if the recipient fails to comply with the conditions imposed on him despite receiving a warning.

² Goods and proprietary advantages that have been obtained as a result of a violation of this Act or of implementation provisions, individual rulings and contracts based thereon shall be forfeited to the Confederation, irrespective of liability under the criminal law for the violation.

³ In the event that a person no longer possesses the goods or assets by means of which he has obtained an unlawful advantage, the Confederation shall be accorded the right to damages against him corresponding to the value of the unlawfully obtained advantage.

²³ Inserted by Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS 2001 1439 1442; BBl 1999 9261).

⁴ Third parties who are not at fault but who have sustained loss as a result of the conduct of persons liable to return goods may request that the competent federal authority return the share of confiscated goods and proprietary advantages due to them.

Art. 33 Special administrative measures

The competent federal authority may order precautionary seizures, revoke or refuse licences, impose charges and limits on allocations and reductions on allotments, and take enforcement measures in the event of the violation of the provisions of this Act or its implementation ordinances or decrees in relation to the following:²⁴

- a. maintenance of stocks;
- b. storage depots;
- c. manufacture of goods;
- d. processing of goods;
- e. distribution of goods;
- f. use of goods;
- g. consumption of goods;
- h. export restrictions;
- i. prices;
- k. procurement of goods;
- l. services.

Art. 34 Penalty damages

¹ Penalty damages may be stipulated in the compulsory stocks agreement.

² The competent federal authorities shall in each case determine the level of the penalty damages to be imposed, subject to the contractually agreed limits. If the imposition of penalty damages or the level of such damages is contested, the federal authority in question shall refer the matter to the Commission for Compulsory Stocks²⁵ (Art. 39).

³ The imposition of penalty damages does not relieve the penalised party of his obligation to fulfil his contractual obligations.

Art. 35 Ruling on administrative measures

¹ The competent federal authority shall, by means of a ruling, notify those affected of measures ordered in accordance with Articles 31–33.

²⁴ Wording in accordance with Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001

(AS **2001** 1439 1442; BBl **1999** 9261).

²⁵ Now the DEA Appeals Commission.

² If the Confederation incurs procedural costs when recovering goods or proprietary advantages, the third parties who have sustained loss (Art. 32 para. 4) must each bear an appropriate share of such costs. The competent federal authority shall determine the amount due in a ruling.

Art. 36 Statute of limitations

¹ Claims of the Confederation in accordance with Articles 32 and 34 are subject to a statute of limitations of one year from the date on which the legal basis for the claim came to the knowledge of the competent federal authority, and five years at the latest from the date on which the claim arose. If, however, the claim is derived from a criminal offence that is subject to a longer statute of limitations under the criminal law, then this longer period applies.

² The statute of limitations is interrupted by any act asserting the claim; it is suspended for as long as the respondent may not be pursued in Switzerland.

³ The claims of parties who have suffered loss in terms of Article 32 paragraph 4 are subject to a statute of limitations of one year from the date on which the party suffering loss was notified of the seizure of the unlawfully obtained goods or proprietary assets by the Confederation, but at the latest five years from the date of seizure.

Art. 37 Status in relation to prosecution

¹ In addition to the ordering of administrative measures and the imposition of penalty damages, the right to take criminal proceedings is reserved.

² In any prosecution raised, the authority responsible (Art. 50 para. 2) must mention any administrative measures already taken and any penalty damages imposed.

Title 5.: Appeals Procedure

Art. 38 Appeals against rulings

The appellate instances are:

- a.²⁶ the Federal Office for National Economic Supply (the Federal Office) in respect of rulings made by national economic supply units (Art. 53 para. 2) and the business organisations involved;
- b.²⁷ the DEA Appeals Commission for first instance rulings and appeal decisions made by the Federal Office as well as for final cantonal decisions;

²⁶ Wording in accordance with Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS **2001** 1439 1442; BBl **1999** 9261).

²⁷ Wording in accordance with Annex Sec. 24 of the Federal Act of 4 Oct. 1991, in force since 1 Jan. 1994 (AS **1992** 288; SR **173.110.01** Art. 2 Abs. 1; BBl **1991** II 465).

- c.²⁸ the Swiss Federal Supreme Court for decisions of the DEA Appeals Commission, provided an administrative court appeal is permitted; in cases relating to Articles 23–28, the decision of the DEA Appeals Commission is final;
- d. ...²⁹

Art. 39³⁰ Disputes relating to compulsory stocks

The DEA Appeals Commission sits as an arbitration commission in disputes between:

- a. parties to compulsory stocks agreements;
- b. owners of compulsory stocks and compulsory stocks organisations;
- c. the Confederation and compulsory stocks organisations.

Art. 40 Procedure

The procedure before the Swiss Federal Supreme Court is governed by the Federal Act on the Administration of Federal Justice³¹, before other federal authorities by the Federal Act on Administrative Procedure³² and before cantonal authorities by cantonal law, subject to the limits imposed by federal law.

Art. 41 Civil courts

The civil courts have jurisdiction for disputes over the right to separate settlement, the lien and any rights to indemnity held by the Confederation in respect of compulsory stocks, and avoidance actions (Art. 13–15).

Title 6.: Criminal Provisions

Art. 42 Violation of the obligation to maintain stocks

¹ Whoever wilfully fails to comply with an obligation to maintain stocks imposed in terms of Article 5, a ruling on the conclusion of a compulsory stocks agreement in accordance with Article 8 paragraph 5, or on the making of corresponding payments

²⁸ Wording in accordance with Annex Sec. 24 of the Federal Act of 4 Oct. 1991, in force since 1 Jan. 1994 (AS 1992 288; SR 173.110.01 Art. 2 Abs. 1; BBl 1991 II 465).

²⁹ Repealed by Annex Sec. 24 of the Federal Act of 4 Oct. 1991 (AS 1992 288; BBl 1991 II 465).

³⁰ Wording in accordance with Annex Sec. 24 of the Federal Act of 4 Oct. 1991, in force since 1 Jan. 1994 (AS 1992 288; SR 173.110.01 Art. 2 Abs. 1; BBl 1991 II 465).

³¹ SR 173.110

³² SR 172.021

in accordance with Article 8 paragraph 6, despite being issued with a warning, is liable to a term of imprisonment or to a fine of up to 100 000 francs.³³

² The same penalties apply to anyone who wilfully reduces the volume or quality of his contractually agreed compulsory stocks in respect of the funding of which he has accepted a federally guaranteed loan.

³ If the offender acts through negligence, then the penalty is a term of detention or a fine of up to 50 000 francs.

⁴ A term of detention or a fine of up to 50 000 francs is also imposed on anyone who wilfully reduces the volume or quality of his contractually agreed compulsory stocks, in respect of which Confederation has not issued a guarantee. Minor contractual violations are not penalised.

⁵ The prosecution of contraventions under paragraphs 3 and 4 and the penalties that may be imposed are subject to a statute of limitations of five years. If this five year period is suspended or interrupted, then it is extended by a further two and a half years.

Art. 43 Violation of the obligation to provide information

¹ Whoever in violation of a contractual obligation provides untrue or incomplete information in written reports is liable to a term of imprisonment of up to one year or to a fine.

² Whoever fails to comply with the obligation to provide information (Art. 57 para. 1) despite being requested to do so and being notified of the penalties that may be imposed under this Article, is liable to a term of detention or a fine.

³ The same penalties apply to anyone who fails to provide information despite being under a contractual obligation to do so.

Art. 44 Violation of the duty of confidentiality

¹ For violations of the duty of confidentiality under Article 58, Article 320 of the Swiss Criminal Code³⁴ applies.

² The application of further criminal provisions of the Swiss Criminal Code and of the Military Criminal Code³⁵ is reserved.

Art. 45 Fraud in respect of payments and services

¹ In cases of fraud in respect of payment and services, forgery of documents, obtaining a false certificate by fraud, and suppression of documents, Articles 14–16 of the Federal Act on Administrative Criminal Law³⁶ apply.

³³ Wording in accordance with Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS 2001 1439 1442; BBl 1999 9261).

³⁴ SR 311.0

³⁵ SR 321.0

³⁶ SR 313.0

² The penalty is however a term of imprisonment of up to five years or a fine of up to 100 000 francs.

Art. 45^a³⁷ Handling stolen goods

¹ Whoever takes possession of, accepts as a gift or as the subject of a pledge, conceals, or assists in the disposal of goods which he knows or must believe to have been acquired by way of an offence under this Act is liable to a term of imprisonment of up to five years or to a fine of up to 100 000 francs.

² The person in receipt of stolen goods is liable to the penalties that may be imposed in respect of the principal offence if they are less severe.

Art. 45^b³⁸ Assisting offenders

1. Whoever in relation to criminal proceedings for an offence under Articles 42–48 assists another to evade prosecution or the execution of a penalty,

whoever assists in securing for the offender or another participant the advantages obtained from such an offence,

is liable to the penalties that may be imposed on the offender.

2. Whoever assists by unlawful means in making the implementation of a measure under this Act or its implementing provisions impossible is liable to a term of imprisonment of up to five years or to a fine of up to 100 000 francs.

3. If the offender is closely related to the beneficiaries of his offence, then the court may at its discretion reduce or dispense with the penalty.

Art. 46 Spreading rumours

¹ Whoever in times of appreciable impending threat wilfully makes or spreads false or distorted allegations in relation to measures that are in effect or pending and that relate to the national economic supply is liable to a term of detention or to a fine.

² If the offender acts with the intention of obtaining an unlawful advantage for himself or another, the penalty is a term of imprisonment or a fine.

Art. 47 Contraventions in respect of measures against serious shortages

¹ Whoever wilfully contravenes the regulations issued on the basis of Articles 27 and 28 is liable to a term of detention or to a fine of up to 20 000 francs.

² The same penalties apply to anyone who, despite receiving notice of the penalties under this Article, wilfully:

- a. fails to comply with an individual ruling that applies directly to him; or

³⁷ Inserted by Sec. I of the Federal Act of 7 Oct. 1994, in force since 1 March 1995 (AS 1995 1018 1019; BBl 1991 II 969).

³⁸ Inserted by Sec. I of the Federal Act of 7 Oct. 1994, in force since 1 March 1995 (AS 1995 1018 1019; BBl 1991 II 969).

b. violates an agreement that he has entered into that is based on Articles 27 and 28 or a regulation issued on the basis of those provisions.

³ Attempts and complicity are also offences.

⁴ If the offender acts through negligence, then the penalty is a fine of up to 10 000 francs. Minor contractual violations are not penalised.

⁵ The prosecution of contraventions and the penalties that may be imposed are subject to a statute of limitations of five years. If this five year period is suspended or interrupted, then it is extended by a further two and a half years.

Art. 48 Misdemeanours against measures in the event of impending threat

¹ Whoever wilfully violates the regulations issued on the basis of Articles 23–25 is liable to a term of imprisonment of up to five years or to a fine of up to 100 000 francs.³⁹

² The same penalties apply to anyone who, despite receiving notice of the penalties under this Article, wilfully:

- a. fails to comply with an individual ruling that applies directly to him; or
- b. violates an agreement that he has entered into

that is based on Articles 23-25 or a regulation issued on the basis of those provisions.

³ If the offender acts through negligence, then the penalty is a term of detention or a fine of up to 50 000 francs. Minor contractual violations are not penalised.⁴⁰

⁴ The prosecution of contraventions under Paragraph 3 and the penalties that may be imposed are subject to a statute of limitations of five years. If this five year period is suspended or interrupted, then it is extended by a further two and a half years.

Art. 49 Scope of application of the Swiss Criminal Code and of administrative criminal law

¹ The general provisions of the Swiss Criminal Code apply⁴¹.

² For offences in a business enterprise, Articles 6 and 7 of the Federal Act on Administrative Criminal Law⁴² apply. They also apply to business enterprises and administrative bodies of public law corporations and institutions.

³⁹ Wording according to Sec. I of the Federal Act of 7 Oct. 1994, in force since 1 March 1995

(AS **1995** 1018 1019; BBl **1991** II 969).

⁴⁰ Wording according to Sec. I of the Federal Act of 7 Oct. 1994, in force since 1 March 1995

(AS **1995** 1018 1019; BBl **1991** II 969).

⁴¹ SR **311.0**

⁴² SR **313.0**

Art. 50 Prosecution

¹ The cantons prosecute and judge offences, including cases under Article 45.

² In respect of offences under this Act, the Federal Office may require cantonal authorities to instigate and conduct proceedings.

³ All judgements, penalty orders of the administrative authorities and decisions to dismiss proceedings must be intimated without delay, free of charge, and with full copies of documents to the Federal Office.

Art. 51 Scope of application of the Customs Act

Offences against the provisions of this Act in respect of the requirement to obtain an import licence (Art. 8) and the restriction on exports (Art. 23 and 28) are penalised in accordance with the terms of Customs Act⁴³.

Title 7.: Enforcement Provisions

Art. 52 Principles

¹ The Federal Council is responsible for the enforcement of this Act and shall take the required measures. It may authorise the delegate (Art. 53) and the authorities responsible for national economic supply to issue generally applicable regulations in order to implement measures in the case of impending threat (Art. 23–25).⁴⁴

² It shall call on the cantons and private sector organisations for support.

³ The cantons and private sector organisations that have an interest therein must be consulted before the enactment of implementing provisions. Exceptions to the foregoing are permitted only when so required for reasons of confidentiality or urgency.

⁴ The Federal Council must report to the Federal Assembly if measures under Articles 23–25 and 28–29 are taken. The Federal Assembly may require that such measures be repealed, modified or supplemented.

Art. 52a⁴⁵ Participation in international measures to ensure economic supply

The Federal Council may also take measures in accordance with Articles 23, 24 and 26–28 in order to comply with international obligations to guarantee the supply of essential goods and services.

⁴³ **SR 631.0**

⁴⁴ Wording of second sentence in accordance with Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS **2001** 1439 1442; BBl **1999** 9261).

⁴⁵ Inserted by Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS **2001** 1439 1442; BBl **1999** 9261).

Art. 53 Organs of the Confederation

¹ The Federal Council shall appoint from the private sector a delegate for national economic supply who is accountable to the DEA. The delegate is in charge of the overall organisation of national economic supply. He is responsible for all preparatory measures carried out in terms of this Act.⁴⁶

² The task of implementing this Act shall be assigned to the delegate, together with the Federal Office and the following units of national economic supply:

- a. Food Supply Unit;
- b. Industry Unit;
- c. Transport Unit;
- d. Manpower Unit.⁴⁷

³ The units are staffed by part-time specialists from the private sector and cantonal and communal administrations as well as by federal public officials.⁴⁸ They may maintain permanent administrative offices.

⁴ The Federal Council may if necessary create further units.⁴⁹

⁵ The Federal Council may assign duties in terms of this Act to other existing federal offices; such offices are regarded as equivalent to the units.⁵⁰

⁶ The Federal Council regulates the details.

Art. 54 Cantons

¹ The cantons issue the regulations for the implementation of the tasks assigned to them and make the required administrative appointments.

² In the event that a canton fails to issue the required implementing provisions in time, then the Federal Council shall order the necessary measures by enacting an ordinance.

³ The Federal Council supervises implementation by the cantons. It shall act in individual cases in the place of any canton that has failed to fulfil its duties. In such cases, the canton pays the costs incurred.

⁴⁶ Wording in accordance with Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS **2001** 1439 1442; BBl **1999** 9261).

⁴⁷ Wording in accordance with Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS **2001** 1439 1442; BBl **1999** 9261).

⁴⁸ Wording in accordance with Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS **2001** 1439 1442; BBl **1999** 9261).

⁴⁹ Wording in accordance with Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS **2001** 1439 1442; BBl **1999** 9261).

⁵⁰ Wording in accordance with Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS **2001** 1439 1442; BBl **1999** 9261).

Art. 55 Private sector organisations

The Federal Council supervises implementation by private sector organisations. It may issue them with directives thereon.

Art. 56 Statistical surveys

The Federal Council may order the statistical surveys required in order to guarantee the national economic supply.

Art. 57 Obligation to provide information

¹ Everyone must provide the competent authorities and the private sector organisations involved with all the information required for the implementation of this Act, and with the required documents, in particular books, correspondence and invoices, and must permit access to premises.

² Article 79 of the Federal Criminal Procedure Code⁵¹ applies by analogy.

³ Irrespective of any duty of confidentiality, the Federal Customs Administration shall provide the Federal Office and the private sector organisations involved with receipts and data, insofar as this is essential for the implementation of the Act.⁵²

Art. 58⁵³ Duty of confidentiality

Whoever works for a unit or a private sector organisation responsible for the implementation of this Act is required to preserve professional confidentiality.

Title 8.: Final Provisions

Art. 59 Amendment of current legislation

1. The Customs Act⁵⁴ is amended as follows:

Art. 42 para. 3

...⁵⁵

2. The Government and Administration Organisation Act⁵⁶ is amended as follows:

Art. 58 para. 1 let. C

...

Art. 60 Repeal of current law

¹ The Federal Council shall determine the procedure for the repeal of the Federal Act of 30 September 1955⁵⁷ on War-time Economic Provision; it may require that the said Act be phased out.⁵⁸

² On the coming into force of this Act, the Federal Decree of 19 June 1981⁵⁹ on the Electricity Supply shall be repealed.

Art. 61 Protection of assets

Until special legislation on the protection of assets comes into force, the Federal Council Decree of 12 April 1957⁶⁰ on Precautionary Measures for Legal Entities, Partnerships and Sole Proprietorships, and the Federal Council Decree of 12 April 1957⁶¹ on the Protection of Securities and Similar Instruments by means of Precautionary Measures shall remain in force.

Art. 62 Referendum and Commencement

¹ This Act is subject to an optional referendum.

² The Federal Council shall determine the date on which this Act comes into force; it may require that it be phased into force.

Commencement Date: 1 September 1983⁶²

Art. 22 para. 2: 1 June 1986⁶³

⁵¹ **SR 312.0**

⁵² Wording according to Annex 2 of the Mineral Oil Tax Act of 21 June 1996, in force since 1 Jan. 1997 (SR **641.61**).

⁵³ Wording in accordance with Sec. I of the Federal Act of 24 March 2000, in force since 1 July 2001 (AS **2001** 1439 1442; BBl **1999** 9261).

⁵⁴ **SR 631.0**

⁵⁵ Text inserted in said Federal Act.

⁵⁶ [AS **1979** 114, **1983** 170, **1985** 699, **1987** 226 Sec. II 2 808, **1989** 2116, **1990** 3 Art. 1 1530 Sec. II 1 1587 Art. 1, **1991** 362 Sec. I, **1992** 2 Art. 1 288 Annex Sec. 2 510 581 Annex Sec. 2, **1993** 1770, **1995** 978 4093 Annex Sec. 2 4362 Art. 1 5050 Annex Sec. 1, **1996** 546 Annex Sec. 1 1486 1498 Annex Sec. 1. AS **1997** 2022 Art. 63]

⁵⁷ [AS **1956** 85. AS **1983** 949 Art. 1, **1986** 811 Art. 1 Abs. 2]

⁵⁸ See SR **531.02**

⁵⁹ AS **1981** 1801

⁶⁰ SR **531.54**

⁶¹ SR **531.55**

⁶² Art. 2 of the Ordinance of 6 July 1983 (SR **531.02**)

⁶³ Art. 1 para. 1 of the Ordinance of 7 May 1986 (SR **531.03**)