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**Federal Act
on National Economic Supply
(National Economic Supply Act, NESAs)**

of 17 June 2016 (Status as of 1 June 2017)

*The Federal Assembly of the Swiss Confederation,
based on Article 102 of the Federal Constitution¹,
and having considered the Federal Council Dispatch dated 3 September 2014²,
decrees:*

Chapter 1 General Provisions

Art. 1 Object and Purpose

This Act regulates the measures designed to guarantee the country's supply of essential goods and services in times of serious shortages that the private sector itself is unable to respond to.

Art. 2 Definitions

In this Act:

- a. *national economic supply* means supplying the country with essential goods and services;
- b. *severe shortages* is a supply situation in which there is an extreme risk of immediate, major damage to the economy or considerable disruption to national economic supply;
- c. *specialist divisions* are organisational units composed of specialists from the private sector and the Confederation, cantons and communes responsible for implementing this Act;
- d. *placing on the market* is the release, free of charge or in return for payment, of compulsory stocks.

AS 2017 3097

¹ SR 101

² BBl 2014 7119

Art. 3 Principles

¹ National economic supply is the responsibility of the private sector.

² If the private sector is unable to guarantee national economic supply in times of severe shortages, the Confederation and, if necessary, the cantons shall take any measures required.

³ The private sector and the public sector shall cooperate. Before any implementing provisions are issued, it should first be ensured that the private sector is unable to ensure national economic supply through voluntary measures.

Art. 4 Essential goods and services

¹ Goods and services are regarded as essential if they are required directly or through economic processes to overcome serious shortages.

² Essential goods are, in particular:

- a. energy sources, together with all the means of production and processing required therefor;
- b. foodstuffs, feedstuffs, therapeutic products, seed and plants;
- c. other indispensable goods that meet day-to-day needs;
- d. raw materials and auxiliary agents for agriculture, trade and industry.

³ Essential services are, in particular:

- a. transport and logistics;
- b. the provision of information and communications services;
- c. transmission and distribution of energy sources and energy;
- d. payment services;
- e. storage of goods and energy.

⁴ Essential services include the operating facilities and resources required therefor.

Chapter 2 Preparatory Measures**Section 1** General Provisions**Art. 5** Mandate

¹ The Federal Council shall mandate the specialist divisions to take preparatory measures to ensure that national economic supply can be ensured in the event of imminent or already existing serious shortages.

² The specialist divisions shall ensure that the preparatory measures do not distort competition.

³ The Federal Council is responsible for coordination between the departments. The Federal Department of Economic Affairs, Education and Research (EAER) has overall responsibility.

⁴ If the voluntary measures taken by the private sector are insufficient, the Federal Council may require companies that are of particular importance to national economic supply to ensure that they are in a position to continue production, processing and delivery, and in particular to have technical and administrative measures in place.

⁵ The foregoing applies without prejudice to the activities of other public authorities to ensure the supply of essential goods and services.

Art. 6 Industry agreements

The Federal Council may decree that industry agreements on ensuring national economic supply in times of severe shortages shall be generally binding provided:

- a. a qualified majority of the businesses in the industry concerned has approved them;
- b. they are in accordance with the federal supply targets;
- c. they guarantee equality of rights, do not violate any mandatory federal or cantonal provisions and do not permanently affect the interests of other economic sectors; and
- d. they are expected to generate significant macroeconomic benefits.

Section 2 Stockpiling

Art. 7 Principles

¹ The Federal Council may require stockpiling of certain essential goods.

² The Federal Office for National Economic Supply (FONES) shall conclude agreements with the companies concerned on the stockpiling of such goods.

³ If an agreement is not concluded within a reasonable period of time, the FONES shall order an agreement to be concluded. In addition, the Federal Council may impose authorisation requirements for the import of goods which must be stockpiled.

Art. 8 Duty to conclude an agreement

¹ Any person who imports, manufactures, processes or places essential goods on the market for the first time is required to conclude an agreement.

² The Federal Council determines which companies are required to conclude an agreement.

³ The FONES may exempt from the obligation to conclude an agreement those companies that would only make a minor contribution to the security of supply.

Art. 9 Minimum demand, quantity and quality

The EAER shall determine for a specific period of time the minimum demand, quantity and quality of each essential commodity which the Federal Council has decreed shall be stockpiled.

Art. 10 Compulsory stocks agreement

The compulsory stocks agreement regulates in particular the following:

- a. the nature and volume of the goods;
- b. the storage, handling, 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;
- f. any transfer of the storage obligation to third parties;
- g. any obligation to participate in the creation of the guarantee fund (Art. 16);
- h. any contractual penalty (Art. 43).

Art. 11 Compulsory stocks

¹ Companies that are contractually obliged to maintain stocks must do so.

² If the obligation to maintain stocks is transferred partially or entirely to a suitable third party, the FONES shall conclude a separate compulsory stocks agreement with the third party on the amounts to be maintained.

³ The EAER may issue a compulsory purchase order if this is necessary in order to exploit existing capacity or to construct warehouses or storage facilities for compulsory stocks. This shall be done in accordance with the Compulsory Purchase Act of 20 June 1930³.

Art. 12 Compulsory stocks ownership

¹ Goods held as compulsory stocks shall be the property of the holder.

² Goods to which third parties claim ownership rights can only be held as compulsory stocks if all entitled parties undertake jointly to operate at the service of the Confederation and if necessary of the loan provider.

³ SR 711

Art. 13 Alterations to and liquidation of compulsory stocks

¹ Compulsory stocks may only be altered or liquidated with the written permission of the FONES; the foregoing applies without prejudice to the release of stocks under Article 31 paragraph 2 letter f.

² Before compulsory stocks are reduced or liquidated, the holder must repay the loan guaranteed by the Confederation pro rata and meet all obligations towards the guarantee fund (Art. 16).

³ If the holder of compulsory stocks is unable to repay the loan or to meet its obligations towards the guarantee fund, the FONES may demand an appropriate guarantee as an alternative.

Art. 14 Supplementary compulsory stockpiling

¹ Companies may make an arrangement with the FONES to stockpile certain amounts of essential goods of a certain quality, even though the Federal Council does not require stocks of them to be held.

² Articles 10, 11 paragraphs 1 and 2, 12 and 13 apply by analogy.

³ In the case of economic intervention, the companies may use at least half of these stocks for their own needs or to supply customers.

Art. 15 Stockpiling by the Confederation

If companies are unable to stockpile essential goods or can only do so to a limited degree, the Confederation may hold its own stocks.

Section 3 Guarantee Funds**Art. 16** Formation of guarantee funds

¹ If economic sectors create special private funds (guarantee funds) earmarked to cover storage costs and counteract price volatility, these must be administered by a private entity and separately from its own assets.

² The EAER is required to authorise the formation, administration, changes to and closure of a guarantee fund and the statutes of the administering private entity.

³ If, pursuant to the compulsory stockpiling contract, a stockpiling company is required to participate in the establishment of a guarantee fund and become a member of the administering entity, the latter is obliged to admit the stockpiling company as a member.

⁴ Companies that are exempt from the obligation to hold compulsory stocks under Article 8 paragraph 3 must participate in the establishment of a guarantee fund similar to the other companies.

⁵ It is not permitted to levy guarantee fund contributions on domestically produced foodstuffs, feedstuffs, seeds or plants.

Art. 17 Oversight

¹ The FONES is responsible for overseeing the guarantee funds and their administering entities.

² If the monies in a guarantee fund are not used for the purpose for which they are intended or if there is a disparity between the amounts collected and the funds required, the FONES shall prescribe appropriate modifications.

Art. 18 Compliance with international obligations

In order to comply with international obligations, the Federal Council may set a ceiling for contributions to the guarantee funds incurred on import.

Art. 19 Border charges

If border charges are reduced as a result of international agreements or of current market regulations, customs duties are first reduced before any reduction to guarantee fund contributions.

Section 4**Funding of Compulsory Stocks Maintenance, Fees and Securities****Art. 20** Funding of goods

The Confederation shall guarantee bank loans for funding the goods held as compulsory stocks and as supplementary compulsory stocks.

Art. 21 Assumption of costs by the Confederation

¹ If the monies in the guarantee funds are insufficient to cover the costs of storage and price losses on compulsory stocks, the private administering entities (Art. 16) shall take the necessary measures. They may not levy guarantee fund contributions on domestically produced foodstuffs, feedstuffs, seeds or plants.

² If it can be shown that the costs of compulsory storage cannot be covered by the measures referred to in paragraph 1 nor by the measures prescribed by the FONES in accordance with Article 17 paragraph 2, the Confederation shall bear all or part of the uncovered costs. In the case of foodstuffs, feedstuffs, seeds and plants, the Confederation shall assume all uncovered costs.

³ The Federal Council shall set the criteria according to which it shall assume costs.

Art. 22 Taxes and other public charges

¹ In the assessment of direct federal and cantonal taxation, the following value adjustment may be calculated for goods held as compulsory stocks:

- a. compulsory stocks (Art. 11): maximum 50 per cent of the basic price;

- b. supplementary compulsory stocks (Art. 14): maximum 80 per cent of the purchase or cost price; if the actual value of the goods is less, this shall provide the basis for calculating the value adjustment.

² Undisclosed reserves arising from the value adjustment under paragraph 1 shall be taxed at the time the value adjustment is cancelled.

³ If stocks are no longer subject to compulsory holding as a result of an amendment made to the compulsory stockpiling agreement by the FONES, the cancellation of the value adjustment that is no longer admissible can be apportioned lineally over a maximum of three tax periods. If the compulsory stockholder voluntarily cancels the value adjustment, this apportionment is not permitted.

⁴ Compulsory stocks are not subject to stamp duty.

Art. 23 Securities

¹ If the Confederation has guaranteed the funding of compulsory stocks, the stocks and any indemnity rights shall serve as security. If the stocks are not available in the amount stated, all other goods owned by the holder of compulsory stocks of the same type shall be regarded as compulsory stocks.

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 of separation settlement or of lien. The sole exception to the foregoing is the lien held by the owner of storage depots in respect of claims under Article 485 of the Code of Obligations⁴.

Art. 24 Right of separation

¹ If the Confederation or a third-party undertaking adopts the obligations of the owner of stocks from the guaranteed loans (Art. 20), the Confederation or third party shall directly acquire the ownership of the compulsory stock and any indemnity rights, if:

- a. bankruptcy proceedings are commenced in respect of the owner of stocks;
- b. bankruptcy proceedings are stayed in accordance with Articles 725a, 764, 820 or 903 of the Code of Obligations⁵ or with Article 84a of the Swiss Civil Code⁶; or
- c. the owner of stocks has been granted a debt restructuring moratorium or emergency moratorium.

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 or the third-party undertaking following its repayment of the loans, the Confederation or the third-party undertaking shall first of all settle the liabilities of the compulsory stock owner towards the guarantee fund. The re-

⁴ SR 220

⁵ SR 220

⁶ SR 210

mainder shall pass to the insolvent estate or, in the case of stay of bankruptcy, or debt restructuring moratorium and emergency moratorium proceedings, to the debtor.

³ If the Confederation or third-party undertaking, 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 the case of a stay of bankruptcy or an emergency moratorium on debt enforcement, the Confederation or third-party undertaking shall acquire an interest-bearing claim against the debtor that is not subject to prescription.

Art. 25 Lien

¹ If debt enforcement proceedings are commenced against the owner of compulsory stocks by seizure of assets or realisation of the compulsory stock and any indemnity rights, the Confederation shall in respect of its secured claims have the status of a pledge holder of priority ranking that is not participating in the debt enforcement proceedings.

² Third parties with statutory or contractual rights to the compulsory stock 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.

³ Third-party claims to compulsory stocks or equivalent claims of the debtor can only be made in a debt enforcement process.

Art. 26 Avoidance actions

Avoidance claims in accordance with Articles 285–292 of the Federal Act of 11 April 1889⁷ on Debt Enforcement and Bankruptcy resulting from rulings on goods for which the Confederation or a third party have a right of separation in accordance with Article 24 of this act or a lien in accordance with Article 25 can only be assigned to a creditor once the Confederation or third party has waived the claims.

Section 5 Transport and Other Services

Art. 27

The Federal Council shall take the measures required to guarantee adequate means of transport, information and communication during a period of severe shortages, to keep transport routes and information and communication channels open, and to provide storage depots.

⁷ SR 281.1

Section 6 Use of Domestic Resources

Art. 28 Forestry

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

² If a compensation fund is created in order to cover the costs incurred thereby, the Federal Council may provide for forestry enterprises that do not participate in such a fund to be required to make financial contributions, provided the fund:

- a. is managed by a representative body;
- b. is not involved in timber production, timber processing or the sale of timber or timber products.

³ The administration of the fund may not be financed by contributions under paragraph 2.

Art. 29 Water supply

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

Art. 30 Suitable agricultural land

The Federal Council shall ensure, in particular with planning measures, that sufficient and suitable agricultural land is maintained, in particular crop rotation areas, so that the country has a sufficient supply basis in times of severe shortages.

Chapter 3 Economic Intervention Measures to Prevent Severe Shortages

Art. 31 Regulations on essential goods

¹ In the case of imminent or existing severe shortages, the Federal Council may take temporary measures to intervene in the economy in order to ensure the supply of essential goods.

² It may issue regulations on:

- a. procurement, distribution, use and consumption;
- b. restriction of supply;
- c. processing and adapting production;
- d. using, recovering and recycling raw materials;
- e. increasing storage capacity;
- f. releasing compulsory stocks and other stocks;
- g. the obligation to supply;

- h. increasing imports;
- i. restricting exports.

³ It may, where necessary, conduct legal transactions at the Confederation's expense.

Art. 32 Regulations on essential services

¹ In the case of imminent or existing severe shortages, the Federal Council may take temporary measures to intervene in the economy in order to ensure the supply of essential services.

² It may issue regulations on:

- a. securing, operating, using and commissioning infrastructure of energy supply, of information, communication and transport logistics companies and of means of transport;
- b. expanding, restricting or prohibiting individual services;
- c. the obligation to provide services.

³ It may, where necessary, conduct legal transactions at the Confederation's expense.

Art. 33 Price control and regulations on margins

¹ The Federal Council may order the control of prices of essential goods and services that are the object of economic intervention measures.

² It may issue regulations on restricting price margins for such goods and services.

³ The above is without prejudice to the application of price control regulations for certain goods and services resulting from other legislation.

Art. 34 Temporary inapplicability of other statutory provisions

¹ The Federal Council may, during the period in which the economic intervention measures apply, declare other statutory provisions to be inapplicable. Such provisions are listed in Annex 1.

² Provisions may only be declared inapplicable insofar as they contradict the measures pursuant to this Act.

³ The declaration of inapplicability may not have any irreversible impact or one extending beyond the period during which the measures are in place.

⁴ In the case of imminent or existing severe shortages, the Federal Council may introduce further provisions to Annex 1.

Chapter 4 Support, Compensation and Insurance

Art. 35 Support for measures undertaken by private sector and public entities

¹ The Confederation may support measures undertaken by private and public entities to secure national economic supply within the bounds of the funds approved therefor, provided the measures:

- a. help to considerably strengthen essential supply systems and infrastructure during preparations for a situation severe shortages; or
- b. contribute significantly to the supply of essential goods and services in the case of imminent or existing severe shortages.

² The Confederation shall determine the measures that may receive support, the amount of funds and guarantees and the conditions under which support is given. In doing so it shall take account of the interests of national economic supply, the cost-effectiveness of each measure and the interests of the entities involved.

Art. 36 Guaranties for acquiring means of transport

The Federal Council may grant guarantees to Swiss transport and logistics companies to finance means of transport in as far as:

- a. the vehicles are essential for national economic supply;
- b. the vehicles are registered or matriculated in Switzerland; and
- c. the vehicles have not already been acquired with funds provided by the Confederation under other legislation.

Art. 37 Security against means of transport

¹ The means of transport, all related operating equipment and documents, and the indemnity rights shall serve as security for the Confederation as soon as it has granted its guarantee. Insofar as a public register exists, the Confederation's claim to security in rem against the means of transport shall be noted in this register *ex officio*.

² Where the Confederation has honoured a guarantee, it shall have a right of separation in relation to the means of transport plus all related operating equipment and documents and any rights to compensation, and in the case of distraint, it shall have a priority lien up to the amount of the sum guaranteed.

³ The provisions concerning the right of separation and lien over compulsory stocks (Art. 24–26) apply *mutatis mutandis*.

⁴ The FONES can demand additional security if the value of the means of transport and the indemnity rights are insufficient or uncertain to cover the guarantee claim.

⁵ The Federal Council shall regulate the details of granting guarantees and the technical requirements for the means of transport.

Art. 38 Compensation

¹ The Confederation may pay compensation to private and public sector undertakings for measures under Articles 5 paragraph 4 and 31-33 insofar as:

- a. the measures need to be taken quickly; and
- b. the undertakings do not suffer any substantial unreasonable loss.

² The Federal Council shall decide on the conditions for compensation.

³ The FONES shall specify the compensation amount in each individual case and the requirements therefor. In particular it shall take into account the undertakings' own particular interests in the measures and the benefits that they may draw from them.

Art. 39 Insurance and reinsurance

¹ The Confederation may provide insurance and reinsurance cover if such cover is not obtainable on the insurance market or is not obtainable on reasonable conditions. It may offer cover for:

- a. essential goods and services;
- b. essential means of transport;
- c. warehouses.

² It may provide insurance cover against the risk of war and other risks such as piracy, insurgency and terrorism.

³ The Federal Council shall regulate the scope and application of insurance and reinsurance cover, and determine the date from which such insurance may come into force and the date on which cover may be granted.

⁴ The Confederation shall provide cover in accordance with the principles customary for private insurance and against payment of a premium. It may deviate from this only to the extent that these principles would make the insurance cover which is necessary for the economic provision of the country impossible.

⁵ The FONES shall set the amount of the premium to be paid and the conditions in an insurance contract. The premium shall be calculated according to the risks involved, the scope of cover and the insurance period.

⁶ Private insurance institutions licensed in Switzerland may be consulted over technical aspects of the insurance cover.

⁷ Premiums and funds received shall be recorded in the Confederation's annual financial statements and used for the purpose of covering the claims. The earmarked funds shall bear interest.

⁸ If the fund's assets are not sufficient to cover the losses, the Confederation shall raise the shortfall from general financial resources. The advance shall be repaid out of premium revenue.

Chapter 5 Administrative Measures

Art. 40 Coercive measures

If any of the provisions in this Act, the implementing ordinances, rulings or contracts are infringed, the FONES may:

- a. take alternative measures at the cost of the obligor;
- b. issue precautionary seizure orders;
- c. withdraw or refuse authorisations; and
- d. impose sales and purchasing restrictions and restrict allocations.

Art. 41 Recovery and forfeiture to the Confederation

¹ Funding assistance and similar payments may be recovered, irrespective of liability under the criminal law, if they have been wrongfully paid out or if the undertaking fails to comply with the obligations imposed on it despite receiving a warning.

² Goods and proprietary advantages that have been obtained or granted as a result of a violation of this Act or its implementing 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 an undertaking no longer possesses the goods or assets by means of which it has obtained an unlawful advantage, the Confederation shall be accorded a right to damages against the undertaking corresponding to the value of the unlawfully obtained advantage.

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

⁵ Recovery and forfeiture pursuant to this provision take precedence over the provisions on forfeiture in Articles 70–72 of the Swiss Criminal Code⁸.

Art. 42 Ruling on administrative measures

¹ The FONES shall, by means of a ruling, take measures in accordance with Articles 40 and 41.

² If the Confederation incurs procedural costs when recovering goods or proprietary advantages, third parties who have sustained loss in terms of Article 41 paragraph 4 must each bear an appropriate share of such costs. The FONES shall determine the amount due in a ruling.

Art. 43 Penalty damages

¹ The FONES shall in each case determine the level of the penalty damages to be imposed, subject to the contractually agreed limits.

² If the imposition of penalty damages or the level of such damages is contested, the FONES shall refer the matter to the Federal Administrative Court.

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

Art. 44 Prescription

¹ Claims by the Confederation in accordance with Articles 41 and 43 are subject to a prescriptive period 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 prescriptive period under the criminal law, then this longer period applies.

² The prescriptive period 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 41 paragraph 4 are subject to a prescriptive period 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.

Chapter 6 Legal Remedies

Art. 45 Opposition

¹ Opposition may be filed against rulings based on Articles 31–33 or related implementing provisions.

² The opposition must be made in writing to the competent authority within five days of the ruling being issued. It must contain an application and set out the facts justifying opposition.

Art. 46 Objection

¹ An objection may be filed with the FONES against rulings issued by business organisations (Art. 60).

² An objection may be filed with the Federal Administrative Court against rulings of the final cantonal instance.

³ Objections to rulings based on Articles 31–33 or related implementing provisions must be submitted within five days. They shall have no suspensive effect.

⁴ In addition, the objection procedure is governed by the general provisions on the administration of federal justice.

Art. 47 Claims procedure

On application, the Federal Administrative Court shall rule on disputes between:

- a. parties to compulsory stocks agreements under this Act;
- b. holders of compulsory stocks and compulsory stocks organisations.

Art. 48 Civil courts

The civil courts have jurisdiction in disputes over:

- a. the right of separation and lien held by the Confederation in respect of compulsory stocks and means of transport;
- b. any indemnity rights held by the Confederation and avoidance actions.

Chapter 7 Criminal Provisions**Art. 49** Violation of national economic supply measures

¹ Any person who wilfully:

- a. violates regulations on measures based on Articles 5 paragraph 4, 28 paragraph 1, 29, 31 paragraph 1, 32 paragraph 1 and 33 paragraph 2;
- b. ignores a ruling based on this Act or related implementing provisions despite being notified of the penalties that may be imposed under this Article;
- c. breaches a contract entered into on the basis of this Act or related implementing provisions despite being notified of the penalties that may be imposed under this Article

is liable to a custodial sentence not exceeding three years or a monetary penalty.

² If the offender acts negligently, the penalty shall be a monetary penalty not exceeding 180 daily penalty units.

Art. 50 Violation of the obligation to provide information

Any person who is required to provide information under Article 64, a related implementing provision, a ruling or agreement but provides untrue or incomplete information is liable to a custodial sentence not exceeding one year or to a monetary penalty.

Art. 51 Fraud in respect of payments and services

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 Law of 22 March 1974⁹ apply. The penalty is however a custodial sentence not exceeding five years or a monetary penalty.

⁹ SR 313.0

Art. 52 Handling stolen goods

¹ Any person who 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 custodial sentence not exceeding five years or to a monetary penalty.

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. 53 Assisting offenders

¹ Any person who in relation to criminal proceedings for an offence under Articles 49–52 assists another in evading prosecution or the execution of a penalty, and any person who 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 Any person who assists by unlawful means in making the implementation of a measure under this Act or its implementing provisions impossible is liable to a custodial sentence not exceeding five years or to a monetary penalty.

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. 54 Spreading rumours

Any person who in times of impending threat or existing severe shortages knowingly spreads false or distorting allegations in relation to measures relating to national economic supply with the intention of obtaining undue advantage for himself or another is liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 55 Prosecution

¹ The cantons prosecute and judge offences under this Act.

² Offences against the provisions of this Act relating to authorisation requirements for the import of goods (Art. 7 para. 3) and on restricting exports (Art. 31 para. 2 let. i) are prosecuted and judged by the Federal Customs Administration (FCA).

³ If an offence both contravenes paragraph 2 and constitutes an offence prosecuted by the FCA, the penalty for the more serious offence applies. The FCA may increase the penalty appropriately.

Art. 56 FONES legal status

The FONES may exercise the rights of a private plaintiff in proceedings and may also reject a summary penalty order. The public prosecutor shall notify the FONES that preliminary proceedings have been initiated.

Chapter 8 Enforcement

Art. 57 Principles

¹ The Federal Council shall issue the implementing provisions and order all necessary measures.

² It shall appoint the individual specialist divisions. These may maintain full-time offices.

³ To mitigate severe shortages, it may transfer the authority to release compulsory stocks to the EAER as a precautionary measure.

⁴ It may authorise the FONES to issue provisions of a technical or administrative nature for the implementation of measures under Articles 31–33.

⁵ It shall ensure that the general public, private sector and public authorities are sufficiently informed about the supply situation and issues recommendations on increasing security of supply.

Art. 58 Delegate for National Economic Supply

¹ The Federal Council shall appoint a Delegate for National Economic Supply from the private sector.

² The Delegate heads the FONES and the specialist divisions on a part-time basis.

Art. 59 Cantons

¹ The cantons shall 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 shall supervise 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.

Art. 60 Private-sector organisations

¹ The Federal Council may transfer public tasks to private-sector organisations in accordance with this Act, in particular:

- a. monitoring and supervisory activities;
- b. market observation and analysis;
- c. implementing preparatory and intervention measures.

² It may delegate tasks relating to stockpiling to private entities which administer guarantee funds. The FONES may conclude service agreements with the private entities.

³ The FONES oversees the organisations charged with these tasks.

Art. 61 International cooperation

¹ In order to ensure national economic supply, the Federal Council may conclude international agreements on:

- a. the exchange of information and cooperation;
- b. participation in international bodies in the field of economic supply;
- c. the preparation, application and coordination of measures to overcome supply crises.

² It may also introduce economic intervention measures to meet international obligations even if there is no existing domestic supply shortage or threat thereof.

Art. 62 Monitoring of supply situation and statistical surveys

¹ The Federal Council shall constantly monitor the supply situation and commission statistical surveys required to guarantee national economic supply.

² In this it refers to surveys conducted by other authorities and by the private sector. It ensures that the gathering and processing of statistical data does not distort competition.

Art. 63 Duty of confidentiality

Any person involved in the implementation of this Act is required to preserve professional confidentiality.

Art. 64 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, make the required documents available and permit access to their premises and land.

² Article 169 of the Criminal Procedure Code¹⁰ applies by analogy.

³ Irrespective of any duty of confidentiality, the FCA shall provide the FONES, the specialist divisions, the private entities managing the guarantee funds and the private-sector organisations with receipts and data, insofar as these are essential for the implementation of the Act.

¹⁰ SR 312.0

Chapter 9 Final provisions

Art. 65 Repeal and amendment of other legislation

The repeal and amendment of other legislation is regulated in Annex 2.

Art. 66 Referendum and commencement

¹ This Act is subject to an optional referendum.

² The Federal Council shall determine the commencement date.

Commencement date: 1 June 2017¹¹

¹¹ BRB vom 10. Mai 2017.

Annex 1
(Art. 34 paras. 1 and 4)

Temporary non-applicability of provisions of other legislation

The Federal Council may declare the following provisions to be temporarily inapplicable:

1. Article 2 paragraph 2 of the Road Traffic Act of 19 December 1958¹².

¹² SR 741.01

Repeal and amendment of other legislation

I

The National Economic Supply Act of 8 October 1982¹³ is repealed.

II

The following legislation is amended as follows:

...¹⁴

¹³ [AS 1983 931, 1992 288 Annex No 24, 1995 1018 1794, 1996 3371 Annex 2 No 1, 2001 1439, 2006 2197 Annex No 48, 2010 1881 Annex 1 No II 18, 2012 3655 No I 15]

¹⁴ The amendment can be consulted in AS 2017 3097.

