

English is not an official language of the Swiss Confederation. This translation is provided for information purposes only and has no legal force.

## **Federal Act on the Reduction of CO<sub>2</sub> Emissions (CO<sub>2</sub> Act)**

of ... (Status as on ...)

---

*The Federal Assembly of the Swiss Confederation,*  
on the basis of Articles 74 and 89 of the Federal Constitution<sup>1</sup>,  
and having considered the Dispatch of the Federal Council dated ...<sup>2</sup>,  
*decrees:*

### **Chapter 1: General Provisions**

#### **Art. 1** Purpose

<sup>1</sup> This Act is designed to reduce greenhouse gas emissions and in particular CO<sub>2</sub> emissions that are attributable to the use of fossil fuels (heating and motor fuels) as energy sources. The Federal Council shall designate what are greenhouse gases.

<sup>2</sup> This Act should also contribute:

- a. to the reduction of other harmful effects on the environment;
- b. to the economical and efficient use of energy;
- c. to the increased use of renewable energy sources; and
- d. to the avoidance and management of the consequences of the increased concentration of greenhouse gases in the atmosphere.

#### **Art. 2** Terms and definitions

<sup>1</sup> Heating fuels are fossil fuels that are used for the generation of heat, the production of light, for the production of electricity in thermal facilities or for the operation of heat and power cogeneration plants.

<sup>2</sup> Motor fuels are fossil fuels that are used in combustion engines to produce power.

<sup>3</sup> Emission allowances are tradable rights to emit greenhouse gases that are allocated by the Confederation or by states with emissions trading schemes recognised by the Federal Council.

<sup>1</sup> SR 101

<sup>2</sup> BBl 2009 ...

<sup>4</sup> Emission certificates are internationally recognised tradable documents attesting reductions in emissions achieved abroad.

### **Art. 3** Reduction target

<sup>1</sup> Greenhouse gas emissions must be reduced overall by 2020 by 20 per cent of the level in 1990. The Federal Council may stipulate interim targets.

*Alternative:*

<sup>1</sup> *Greenhouse gas emissions must be reduced overall by 2020 by 30 per cent of the level in 1990. The Federal Council may stipulate interim targets.*

<sup>2</sup> The total volume of greenhouse gas emissions is calculated on the basis of the greenhouse gases emitted in Switzerland. Emissions due to aviation fuel consumed on international flights are not taken into account.

<sup>3</sup> The Federal Council may stipulate reduction targets for individual economic sectors in consultation with the parties concerned.

<sup>4</sup> It shall submit proposals in good time to the Federal Assembly on the reduction targets for the period after 2020. It shall consult the parties concerned beforehand.

### **Art. 4** Measures

<sup>1</sup> The reduction target should in the first instance be achieved by means of measures under this Act.

<sup>2</sup> Measures that reduce greenhouse gas emissions in accordance with other legislation should also contribute to achieving the reduction target. These measures in particular include those in the fields of environment and energy, in agriculture, forestry and the timber industry, road traffic and in the taxation of mineral oil, as well as voluntary measures.

### **Art. 5** Crediting of foreign emission reductions

<sup>1</sup> The Federal Council may take appropriate account of reductions in greenhouse gas emissions that have been achieved abroad when calculating emissions under this Act.

<sup>2</sup> It may permit a maximum of half of the emission reductions to be achieved under Article 3 paragraph 1 to be offset through the crediting of measures carried out abroad.

### **Art. 6** Documents attesting domestic emission reductions

<sup>1</sup> The Federal Council may provide for documents to be issued attesting reductions in greenhouse gas emissions achieved voluntarily in Switzerland.

<sup>2</sup> It shall specify the extent to which these documents shall be regarded as equivalent to emission allowances or emission certificates.

**Art. 7** Coordination of adaptation measures

<sup>1</sup> The Confederation shall coordinate the measures to avoid or deal with the harm to persons or damages to property of substantial value that may be caused as a consequence of increased concentration of greenhouse gases in the atmosphere.

<sup>2</sup> It shall arrange for obtaining and synthesising the basic knowledge necessary for these measures.

**Chapter 2:  
Technical Measures to reduce CO<sub>2</sub> Emissions**

**Section 1: Buildings**

**Art. 8**

<sup>1</sup> The cantons shall ensure that that the CO<sub>2</sub> emissions from buildings that are heated with fossil fuels are reduced.

<sup>2</sup> The Federal Council and the cantons shall determine the extent of the reduction and in doing so shall take account of:

- a. the reduction target in accordance with Article 3;
- b. the state of the art; and
- c. economic sustainability.

<sup>3</sup> The cantons shall submit a report each year to the Confederation on the measures taken.

**Section 2: Private Vehicles**

**Art. 9** Reduction of CO<sub>2</sub> emissions

*Text is proposed in the Dispatch relating to the federal popular initiative “Für menschenfreundlichere Fahrzeuge”*

**Art. 10** Target

*Text is proposed in the Dispatch relating to the federal popular initiative “Für menschenfreundlichere Fahrzeuge”*

**Art. 11** Sanction for non-compliance with the target

*Text is proposed in the Dispatch relating to the federal popular initiative “Für menschenfreundlichere Fahrzeuge”*

## **Chapter 3: Emissions Trading and Compensation**

### **Section 1: Emissions Trading Scheme (ETS)**

#### **Art. 12** Participation on application

<sup>1</sup> Companies from specific economic sectors that operate installations with high or moderate greenhouse gas emissions may apply to participate in the emissions trading scheme.

<sup>2</sup> They must each year surrender emission allowances or emission certificates to the Confederation equal to the emissions caused by these installations. The Federal Council shall determine the extent to which emission certificates may be surrendered. In doing so, it shall take account of comparable international regulations.

<sup>3</sup> The Federal Council shall designate the economic sectors. In doing so, it shall take account of:

- a. the correlation between the CO<sub>2</sub> tax burden and the value added of the economic sector concerned;
- b. the extent to which the CO<sub>2</sub> tax adversely affects the international competitiveness of the economic sector concerned.

#### **Art. 13** Formal commitment to participate

<sup>1</sup> The Federal Council may require companies in specific categories that operate installations with high greenhouse gas emissions to participate in the emissions trading scheme.

<sup>2</sup> They must each year surrender emission allowances or emission certificates to the Confederation equal to the emissions caused by these installations.

<sup>3</sup> The Federal Council shall determine the categories of company.

#### **Art. 14** Exemption from the CO<sub>2</sub> tax

Companies under Articles 12 and 13 (ETS companies) shall be refunded the CO<sub>2</sub> tax on fuels.

#### **Art. 15** Determining the quantity of emission allowances

<sup>1</sup> The Federal Council shall determine in advance the quantity of emission allowances to be made available each year until 2020. In doing so, it shall take account of the reduction target in accordance with Article 3.

<sup>2</sup> It shall retain an appropriate number of emission allowances each year in order to make these available to new market participants.

#### **Art. 16** Issue of emission allowances

<sup>1</sup> The emission allowances shall be issued annually.

<sup>2</sup> They shall be allocated free of charge to the extent that they are required for the greenhouse gas efficient operation of ETS companies. The other emission allowances shall be auctioned off.

<sup>3</sup> The Federal Council shall regulate the details and in doing so shall take account of comparable international regulations.

**Art. 17** Reporting

The ETS companies must report annually to the Confederation on their greenhouse gas emissions.

**Art. 18** Penalty for failure to surrender emission allowances and emission certificates

<sup>1</sup> The ETS companies must pay the Confederation the sum of 160 francs per tonne CO<sub>2</sub> equivalent (CO<sub>2</sub>eq) for emissions that are neither covered by emission allowances nor, if permitted, by emission certificates,

<sup>2</sup> The unsurrendered emission allowances or emission certificates must be surrendered to the Confederation the following year.

## **Section 2: Compensation in the case of Fossil-Fuel Thermal Power Plants**

**Art. 19** Principle

<sup>1</sup> Fossil-fuel thermal power plants (power plants) may only be constructed and operated if their operators provide the Confederation with an undertaking:

- a. to compensate in full for the CO<sub>2</sub> emissions caused; and
- b. to operate the power plant according to the current state of the art. The Federal Council shall specify the minimum overall efficiency level that must be guaranteed.

<sup>2</sup> No more than 50 per cent of the CO<sub>2</sub> emissions may be compensated for using emission certificates.

<sup>3</sup> Power plants are installations that use fossil fuels to generate either electricity alone or electricity and heat at the same time. Installations shall be included in the second category if they:

- a. are primarily designed for the production of electricity; or
- b. are primarily designed to produce heat and have a total output of over 100 megawatts.

**Art. 20** Compensation agreement

<sup>1</sup> The details of the formal commitment in accordance with Article 19 shall be regulated in an agreement between the power plant operator and the Confederation.

<sup>2</sup> The agreement may not be revised during the licensing procedure for power plants.

**Art. 21** Contractual penalty for non-compliance with the commitment

<sup>1</sup> Anyone who fails to comply with the compensation commitment shall pay a contractual penalty to the Confederation as specified in the agreement.

<sup>2</sup> The amount of the contractual penalty shall be determined by the estimated value of the compensation not provided.

**Art. 22** Exemption from the CO<sub>2</sub> tax

The power plants shall be refunded the CO<sub>2</sub> tax on fuels that they have paid.

### **Section 3: Compensation in the case of Motor Fuels**

**Art. 23** Principle

<sup>1</sup> Anyone who in accordance with the Mineral Oil Tax Act of 21 June 1996<sup>3</sup> releases fuels for free circulation must compensate for part of the CO<sub>2</sub> emissions that are attributable to the use of the fuels to produce energy by surrendering certified emission reductions to the Confederation.

<sup>2</sup> The compensation rate amounts to 25 per cent. The Federal Council may increase it to a maximum of 35 per cent, provided this is necessary in order to achieve the reduction target in accordance with Article 3.

*Alternative:*

<sup>2</sup> *The compensation rate amounts to 40 per cent. The Federal Council may increase it to a maximum of 50 per cent, provided this is necessary in order to achieve the reduction target in accordance with Article 3.*

<sup>3</sup> The Federal Council may exempt the release for free circulation of minor quantities of fuel from the duty to provide compensation.

**Art. 24** Duty to provide compensation

Persons liable to pay tax under the Mineral Oil Tax Act of 21 June 1996<sup>4</sup> shall be subject to the duty to provide compensation.

**Art. 25** Penalty for failure to comply with the duty to provide compensation

<sup>1</sup> Anyone who fails to comply with the duty to provide compensation must pay the Confederation the sum of 160 francs for each tonne of CO<sub>2</sub> that is not compensated for.

<sup>2</sup> The unsurrendered emission certificates must be surrendered to the Confederation in the following year.

### **Chapter 4: CO<sub>2</sub> tax**

**Art. 26** CO<sub>2</sub> tax on heating fuels

<sup>1</sup> The Confederation shall levy a CO<sub>2</sub> tax on the production, extraction and import of heating fuels.

<sup>3</sup> SR 641.61

<sup>4</sup> SR 641.61

<sup>2</sup> The rate of tax shall amount to 36 francs per tonne of CO<sub>2</sub>. The Federal Council may increase the rate to a maximum of 120 francs if CO<sub>2</sub> emissions from heating fuels have not been reduced in comparison with the 1990 level by 18 per cent by 2014 and by 21 per cent by 2017.

*Alternative:*

<sup>2</sup> *The rate of tax shall amount to 60 francs for each tonne of CO<sub>2</sub>. The Federal Council may increase the rate to a maximum of 180 francs if CO<sub>2</sub> emissions from heating fuels have not been reduced in comparison with the 1990 level by 21 per cent by 2014 and by 27 per cent by 2017.*

**Art. 27** CO<sub>2</sub> tax on motor fuels

<sup>1</sup> The Confederation shall levy a CO<sub>2</sub> tax on the production, extraction and import of motor fuels, provided this is necessary in order to achieve of the reduction target in accordance with Article 3. In doing so, it shall in particular take account of the incentive effect of the mineral oil tax and motor fuel prices.

<sup>2</sup> The rate of tax shall amount to no more than 120 francs per tonne of CO<sub>2</sub>.

*Alternative:*

<sup>2</sup> *The rate of tax shall amount to no more than 180 francs per tonne of CO<sub>2</sub>.*

**Art. 28** Tax liability

The following shall be liable to pay the tax:

- a. tax on coal: persons required to declare imports under the Customs Act of 18 March 2005<sup>5</sup> as well as domestic manufacturers and producers;
- b. tax on other fossil fuels: persons liable to pay the mineral oil tax in accordance with the Mineral Oil Tax Act of 21 June 1996<sup>6</sup>.

**Art. 29** Refund of the CO<sub>2</sub> tax

<sup>1</sup> On application, the following shall be refunded:

- a. the CO<sub>2</sub> tax on heating and motor fuels to persons who prove that they have not used heating or motor fuels to produce energy;
- b. the CO<sub>2</sub> tax on heating fuels to companies in specific economic sectors, provided they undertake to the Confederation to reduce greenhouse gas emissions by a specific amount by 2020 and to submit a report each year on their efforts to do so.

<sup>2</sup> The Federal Council shall designate the economic sectors. In doing so, it shall take account of:

- a. the correlation between the CO<sub>2</sub> tax burden and the value added of the economic sector concerned;
- b. the extent to which the CO<sub>2</sub> tax adversely affects the international competitiveness of the economic sector concerned.

<sup>5</sup> SR 631.0

<sup>6</sup> SR 641.61

<sup>3</sup> The extent of the formal commitment to reduce greenhouse gas emissions shall be determined in particular by:

- a. the average greenhouse gas emissions allocated for the years 2008–2012;
- b. the reduction target in accordance with Article 3.

<sup>4</sup> The Federal Council shall determine the extent to which companies may fulfil their formal commitments by surrendering emission certificates.

<sup>5</sup> The Federal Council may decide not to make a refund if the cost of doing so is unreasonable given the amount involved.

**Art. 30**            Penalty for failure to comply with the formal commitment

<sup>1</sup> Companies in accordance with Article 29 paragraph 1 letter b that do not comply with the formal commitment that they have made to the Confederation must pay the Confederation the sum of 160 francs for each excess tonne of CO<sub>2</sub> that has been emitted.

<sup>2</sup> Emission certificates for the excess tonnes CO<sub>2</sub>eq emitted must be surrendered to the Confederation in the following year.

**Art. 31**            Procedure

<sup>1</sup> The levying and refund of the CO<sub>2</sub> tax are governed by the procedural provisions of the mineral oil tax legislation, subject to paragraph 2.

<sup>2</sup> In the case of the import and export of coal, the procedural provisions of the customs legislation apply.

## **Chapter 5: Use of the Revenues**

**Art. 32**            Reduction of CO<sub>2</sub> emissions from buildings

<sup>1</sup> A third of the revenue from the CO<sub>2</sub> tax, but no more than 200 million francs per annum, shall be used to finance measures to reduce CO<sub>2</sub> emissions from buildings. Subject to the said limit, the Confederation shall grant the cantons global subsidies for:

- a. the energy-efficient renovation of existing residential and public buildings;
- b. the promotion of renewable energy sources, waste heat recovery and building services engineering to the extent of no more than a third of the earmarked revenues per annum.

<sup>2</sup> The Confederation shall grant subsidies:

- a. for measures in accordance with paragraph 1 letter a: on the basis of a programme agreement concluded with the cantons, They guarantee harmonised implementation;
- b. for measures in accordance with paragraph 1 letter b: within the framework of the global subsidies in accordance with Article 15 of the Energy Act of 26 June 1998<sup>7</sup>.

<sup>7</sup> SR 730.0



<sup>3</sup> The level of financial assistance is governed by the effectiveness of the measures.

<sup>4</sup> The granting of subsidies to the cantons shall be permitted until the end of 2019. The Federal Council shall submit a report to Parliament on the effectiveness of the subsidies in 2015.

**Art. 33** Distribution to the public and to the private sector

<sup>1</sup> The remaining revenue from the CO<sub>2</sub> tax shall be redistributed to the general public and the business community in proportion to their original payments

<sup>2</sup> The portion due to the public shall be distributed uniformly to all natural persons. The Federal Council shall regulate the details of and procedure for the distribution.. It may commission the cantons, public corporations or private individuals to carry out the distribution in return for appropriate remuneration.

<sup>3</sup> The portion due to the business community shall be distributed to employers via the compensation funds of the Federal Old Age and Survivors' Insurance (Art. 5 Federal Act of 20 December 1946<sup>8</sup> on the Federal Old Age and Survivors Insurance) in proportion to the salaries paid to employees. These funds shall receive appropriate remuneration for this task.

**Art. 34** Distribution to the public

*Text is proposed in the Dispatch relating to the federal popular initiative "Für menschenfreundlichere Fahrzeuge".*

**Art. 35** Calculation of the revenues

The revenues are calculated by deducting the implementation costs from the income including interest.

## **Chapter 6: Enforcement and Promotion**

**Art. 36** Enforcement

<sup>1</sup> The Federal Council shall enforce the Act and shall issue the implementing provisions. Before doing so, it shall consult the cantons and interested groups.

<sup>2</sup> For specific tasks, the Federal Council may call on the services of the cantons and private organisations.

<sup>3</sup> It shall regulate the procedure for the imposition of penalties.

<sup>4</sup> The Federal Office for the Environment is the specialist federal agency for the assessment of matters relating to climate protection.

**Art. 37** Evaluation

<sup>1</sup> The Federal Council shall periodically evaluate:

- a. the effectiveness of the measures under this Act;
- b. the necessity of additional measures.

<sup>8</sup> SR 831.10

<sup>2</sup> In doing so, it shall take account of climate-relevant factors such as population, economic and traffic growth.

<sup>3</sup> It shall base its assessment on statistical surveys.

<sup>4</sup> It shall submit regular reports to the Federal Assembly.

## **Chapter 7: Criminal Provisions**

### **Art. 38**            CO<sub>2</sub> tax evasion

<sup>1</sup> Anyone who wilfully obtains an unlawful tax advantage for himself or for another, in particular by evading the CO<sub>2</sub> tax, or by obtaining an unlawful tax exemption, refund or distribution, shall be liable to a fine of up to three times the amount of the unlawful benefit.

<sup>2</sup> Attempts and complicity are offences.

<sup>3</sup> Anyone who obtains for himself or for another an unlawful tax advantage through negligence shall be liable to a fine of up to the amount of the unlawful benefit.

### **Art. 39**            CO<sub>2</sub> tax evasion

<sup>1</sup> Unless the offence carries a higher penalty under another provision, a fine may be imposed on anyone who, whether wilfully or through negligence:

- a. fails unlawfully to register as a person liable to pay the tax;
- b. fails to keep, prepare, retain or file accounts, receipts, business documents and other records in the proper manner, or fails to comply with his duty to provide information;
- c. in an application for a tax exemption, refund or reimbursement, or in its capacity as a legal entity compelled to provide information, makes untrue statements, conceals important facts, presents false documentary evidence about such facts;
- d. fails to declare data or objects relevant for levying the tax, or declares them incorrectly;
- e. declares in accounts or other documents CO<sub>2</sub> tax that has not been paid or that has not been paid to the extent declared; or
- f. obstructs, impedes or prevents the proper conduct of an inspection.

<sup>2</sup> In serious cases, or in the event of a subsequent offence, a fine of up to 30,000 Swiss francs or, if it is higher, an amount up to the value of the evaded tax may be imposed.

### **Art. 40**            Presentation of false documents on private vehicles

*Text is proposed in the Dispatch relating to the federal popular initiative “Für menschenfreundlichere Fahrzeuge”.*

**Art. 41** Relationship with the Federal Act on Administrative Criminal Law

<sup>1</sup> Offences shall be prosecuted and adjudicated in accordance with the Federal Act of 22 March 1974<sup>9</sup> on Administrative Criminal Law.

<sup>2</sup> The prosecuting and adjudicating authority shall be the Federal Customs Administration for offences under Articles 38 and 39 and the Federal Office X<sup>10</sup> for offences under Article 40.

<sup>3</sup> If an act is at the same time an offence under Articles 38 and 39 and an offence against other federal tax legislation that is subject to prosecution by the Customs Administration, the penalty for the more serious offence shall be imposed and may be increased appropriately.

## **Chapter 8: Final Provisions**

**Art. 42** International law agreements

The Federal Council may enter into bilateral international law agreements on the reciprocal acknowledgement of emission allowances and emission certificates or of an emissions trading scheme, provided implementation does not require the law to be amended.

**Art. 43** Repeal of current legislation

The CO<sub>2</sub> Act of 8 October 1999<sup>11</sup> is repealed.

**Art. 44** Carrying forward of unused emission allowances and emission certificates

<sup>1</sup> Emission allowances that are not used in the period 2008–2012 may be carried forward without limitation to the period 2013–2020.

<sup>2</sup> Emission reductions that are not used in the period 2008–2012 may be carried forward to the period 2013–2020 subject to limitations. The Federal Council shall regulate the details.

**Art. 45** Transitional provision on the levying and refund of the CO<sub>2</sub> tax and the distribution of the revenue

<sup>1</sup> In respect of fossil fuels that have been released for free circulation prior to the commencement of this Act, the CO<sub>2</sub> tax shall be levied or refunded in accordance with the previous law.

<sup>2</sup> The revenue from the CO<sub>2</sub> tax levied prior to the commencement of this Act shall be distributed to the public and the business community in accordance with the previous law.

<sup>9</sup> SR 313.0

<sup>10</sup> Text is proposed in the Dispatch relating to the federal popular initiative “Für menschenfreundlichere Fahrzeuge”.

<sup>11</sup> [AS 2000 979, 2007 1411 Art. 8 let. a]

**Art. 46**          Referendum and commencement

<sup>1</sup> This Act is subject to an optional referendum.

<sup>2</sup> The Federal Council shall determine the commencement date.