

Building Act

Passed 15 May 2002

(RT¹ I 2002, 47, 297),

entered into force 1 January 2003,

amended by the following Acts:

10.03.2004 entered into force 15.04.2004 - RT I 2004, 18, 131;

11.02.2003 entered into force 01.07.2003 - RT I 2003, 25, 153;

13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579.

Chapter 1

General Provisions

§ 1. Scope of application of Act

(1) This Act provides the requirements for construction works, building materials, construction products, building design documentation and as-built drawings of construction works, and the basis and procedure for the design, building and use of construction works and for the registration of construction works, liability for violations of this Act, and the organisation of state supervision and construction supervision.

(2) This Act provides the requirements for construction works of different types, for the building and use thereof and for persons building them, in so far as this is not regulated by other Acts.

(3) The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375; 2003, 20, 117; 78, 527) apply to the administrative procedure prescribed in this Act, taking into account the specifications arising from this Act.

(4) The provisions of the Product Conformity Attestation Act (RT I 1999, 92, 825; 2002, 6, 20; 2003, 45, 308; 81, 543; 2004, 18, 131; 30, 208) apply to the building materials and construction products specified in this Act, to the assessment of the conformity thereof and to persons connected therewith, taking into account the specifications arising from this Act.

§ 2. Construction works, design and building

(1) A construction works is an integrated thing which is built as a result of human action and is attached to the site subsoil. Construction works are divided into buildings and civil engineering works.

(2) A building is a construction works which has a roof, interior space and envelope structure.

(3) A civil engineering works is a construction works which is not a building. Ship channels constructed by way of dredging the sea bed or the bottom of an internal water body are also deemed to be civil engineering works.

(4) The following are design work:

1) architectural and structural design of construction works or parts thereof;

2) design of utility systems of construction works;

3) design of the technology used in construction works;

4) technological and economic assessment of the required use and maintenance of construction works, based on the service life of the construction works.

(5) The result of design work is building design documentation.

(6) The following are building:

1) erection of construction works;

2) expansion of construction works;

3) reconstruction of construction works;

4) modification of utility systems of construction works;

5) demolition of construction works.

(7) The expansion of construction works is carried out by way of the construction of extensions, the construction of additional storeys or by additional substructure works;

(8) The reconstruction of construction works is the modification of enveloping structures and the modification and replacement of loadbearing and stiffening structures.

§ 3. Requirements for construction works

(1) Construction works shall be designed and built according to good building practices and pursuant to legislation concerning building and building design documentation and shall not be a threat to the life, health or property of persons or to the environment. In the event of the reconstruction or expansion of construction works, the compliance of the reconstructed or expanded parts with the requirements provided in this section shall be ensured. Adherence to the requirements provided for in subsection (7) of this section is not required in the event of the reconstruction of construction works of value in terms of heritage conservation.

(2) The loadings or other influences that are liable to act on construction works shall not lead to the collapse of the whole or part of the work or result in major deformations to an inadmissible degree of the works or its subsoil. Loadings or other influences that are liable to act on construction works shall also not lead to damage to the works, parts of the works or fittings or installed equipment as a result of major deformation of the load-bearing construction, and damage caused by an accidental event shall not be disproportionate to the original cause.

(3) The construction works shall, in the event of an outbreak of fire, maintain its load-bearing capacity for a specific period of time. The spread of fire and smoke within the works and the spread of the fire to neighbouring construction works shall be limited. It shall be possible to evacuate persons from the construction works.

(4) The construction works shall not be a threat to the life, health or property of the occupants or other people or to the environment. The emission of dangerous chemicals within the meaning of the Chemicals Act (RT I 1998, 47, 697; 1999, 45, 512; 2002, 53, 336; 61, 375; 63, 387; 2003, 23, 144; 51, 352; 75, 499; 88, 591) arising from the construction works shall be prevented. The spread of noise, emission of radiation dangerous to humans, pollution or poisoning of the water or soil and faulty elimination of waste water, smoke and solid or liquid wastes related to the construction works shall also be prevented. Damp shall not be present in parts of the works or on surfaces within the works in quantities which could be a threat to the life, health or property of persons.

(5) The use and operation of the construction works shall not present unacceptable risks or accidents to the occupant such as slipping, falling, collision, burns, electrocution and injury from explosion.

(6) Noise perceived by the occupants of the construction works shall be kept down to a level that will not threaten their life or health and will allow them to live or work in satisfactory conditions.

(7) The insulation and the heating, cooling and ventilation installations of the construction works shall ensure that the amount of energy required by the construction works corresponds to the climatic conditions of the location and to the purpose of its use.

(8) The requirements provided in subsections (2)–(7) of this section apply during the service life of the construction works.

(9) If required by the purpose use of the construction works, the works, parts thereof which are for public use and the premises and sites thereof shall be accessible to and usable by persons with reduced mobility and by visually impaired and hearing impaired persons.

(10) The requirements ensuring that persons with reduced mobility and visually impaired and hearing impaired persons are able to move in public construction works shall be established by the Minister of Economic Affairs and Communications.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

(11) The Government of the Republic may, according to the characteristics of the construction works and the safety requirements for its use, establish requirements for the whole or a part of the construction works.

§ 4. Guarantee of construction works

(1) For the purposes of this Act, a guarantee is an obligation assumed by a building contractor to ensure that the work executed by the contractor complies with the conditions of the corresponding contract and that the construction works being built or any part thereof will, if used for its intended purpose and properly maintained, retain its safety, usability and high quality for a set period of time so enabling the construction works as a whole or any part thereof to be used.

(2) The guarantee specified in subsection (1) of this section shall be granted for a period of at least two years as of the date on which building is completed, and that date shall be determined by the building contractor and the owner of the construction works or the construction works under construction (hereinafter owner of the construction works) in a contract entered into between them. If the date of completion of building is not determined in a contract, the guarantee of the construction works is deemed to begin as of the date on which the building contractor delivers the construction works or a part thereof to the owner of the construction works. The guarantee granted by the manufacturer of equipment incorporated in a construction works in a permanent manner in the course of construction applies to such equipment and the duration of the guarantee granted to equipment by building contractors shall not be less than six months.

(3) Construction faults which become evident during the guarantee period of a construction works shall be eliminated by the building contractor at the contractor's expense and within a reasonable period of time.

Chapter 2

Building Material and Construction Product

§ 5. Building material and construction product

(1) A building material is any material intended for incorporation in a construction works in a permanent manner.

(2) A construction product is any product intended for incorporation in a construction works in a permanent manner.

(3) Building materials and construction products (hereafter construction products) shall, when incorporated in a construction works in a permanent manner, enable the construction works as a whole to comply with the requirements provided in subsections 3 (2)–(7) of this Act for its economically reasonable service life, provided that the construction works has been built pursuant to the provisions of subsection 3 (1).

(4) Based on the requirements provided in subsection (3) of this section and taking into account the provisions of the Product Safety Act (RT I 1998, 40, 613; 1999, 82, 753; 2000, 86, 546; 2002, 47, 297; 61, 375; 63, 387; 2003, 20, 120), a Minister authorised by the Government of the Republic may establish safety requirements for different categories of construction products.

§ 6. Marketing of construction products and their incorporation in construction works in permanent manner

(1) A construction product may be marketed or incorporated in a construction works in a permanent manner if:

1) when incorporated in construction works in a permanent manner, it enables a construction works which has been built according to requirements to comply as a whole with the requirements provided in subsections 3 (2)–(7) of this Act;

2) it conforms to the safety requirements established for construction products, if such requirements exist;

3) its conformity has been attested pursuant to the procedure provided for in this Act and legislation established on the basis thereof;

4) the construction product, its packaging or an accompanying document is marked with a conformity mark, if required.

(2) For the purposes of this Act, the marketing of a construction product is the placing of a construction product on the market within the meaning of the Product Conformity Attestation Act or the transfer of a construction product in the course of economic activities.

(3) The manufacturer of a construction product, or the authorised representative thereof or the supplier within the meaning of the Product Conformity Attestation Act shall provide information on the characteristics and scope of use of the construction product to be placed on the market within the meaning of the Product Conformity Attestation Act.

§ 7. Attestation of conformity of construction products

(1) The conformity of a construction product and the attestation thereof, pursuant to the procedure established on the basis of subsection (3) of this section, shall be guaranteed by the manufacturer of the construction product or the authorised representative thereof or the supplier within the meaning of the Product Conformity Attestation Act.

(2) Attestation of the conformity of a construction product shall be based on a harmonised standard, technical approval of the construction product or a standard adopted by a standardisation body of a Member State of the European Union or a state which has joined the European Free Trade Association (EFTA) and approved by the European Union Standing Committee on Construction.

(3) The procedure for attestation of the conformity of a construction product and the conformity assessment procedures required for attestation of the conformity of different categories of construction products shall be established by the Minister of Economic Affairs and Communications.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

(4) The obligation to involve a notified body may be prescribed in the conformity assessment procedures required for assessment and attestation of the conformity of construction products.

§ 8. Technical approval of construction product

(1) The technical approval of a construction product is a document issued by an approval body which contains the technical assessment of the construction product and the conformity thereof and with which compliance is not compulsory. The technical approval of a construction product shall be based on the guidelines for the technical approval of the construction product as issued by the European Organisation for Technical Approvals and in which the requirements for the construction product and the methods of assessing the conformity thereof are prescribed. In the case where the European Organisation for Technical Approval has approved the grant of technical approval to a construction product but no specific guidelines have been issued for the technical approval thereof, the technical approval of the construction product shall be based on relevant documentation concerning the construction product, prepared in consideration of the requirements prescribed for construction works.

(2) The manufacturer of a construction product or the authorised representative thereof may apply to an approval body for technical approval of the construction product.

(3) Technical approval of a construction product may be applied for:

1) in the absence in respect of the construction product of a harmonised standard or a standard adopted by a standardisation body of a Member State of the European Union or a state which has joined the European Free Trade Association (EFTA) and approved by the European Union Standing Committee on Construction, or

2) if the construction product differs to a significant extent from a harmonised standard or a standard adopted by a standardisation body of a Member State of the European Union or a state which has joined the European Free Trade Association (EFTA) and approved by the European Union Standing Committee on Construction.

§ 9. Approval body

(1) The following may act as an approval body:

1) a person the purpose of the activities of which, as specified in the articles of association, is to prepare and publish technical approvals of construction products and to represent Estonia at the European Organisation for Technical Approvals (hereafter the Estonian approval body), or

2) a person operating within the territory of a Member State of the European Union or a state which has joined the European Free Trade Association (EFTA), which has been granted the right to prepare and publish technical approvals of construction products and of which the Commission of the European Communities has been notified.

(2) The Estonian approval body is required to:

1) fulfil obligations concerning the technical approval of construction products assumed by international agreements and delegated by the state;

2) participate in the work of the European Organisation for Technical Approvals;

3) prepare and publish technical approvals of construction products;

4) inform the public of technical approvals of construction products.

(3) On the proposal of the Minister of Economic Affairs and Communications, the Government of the Republic shall grant the right to act as the Estonian approval body to one person who conforms to the requirements specified in clause (1) 1) of this section. The right to act as the Estonian approval body shall be prescribed in a contract under public law between the Government of the Republic and the approval body in which the obligations and rights of the parties are determined, including co-ordination of the exchange of information on technical approvals of construction products.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

(4) A person who wishes to act as the Estonian approval body shall submit an application to the Minister of Economic Affairs and Communications in which the person shall prove that it is capable of fulfilling the obligations provided for in subsection (2) of this section.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

§ 10. Notified bodies and requirements for persons upon grant of right to act as notified body

(1) For the purposes of this Act, a notified body is a designated body which, within the limits of its competence, conducts the conformity assessment procedures required for attestation of the conformity of construction products, acting as:

1) a certification body which issues certificates of conformity to construction products, or

2) a certification body which inspects and assesses the operations of manufacturers of construction products and which inspects and assesses the conformity of construction products, or

3) an inspection body which inspects and assesses the operations of manufacturers of construction products and which inspects and assesses the conformity of construction products, or

4) a testing laboratory which measures, tests and/or determines in another manner the characteristics or performance of construction products.

(2) The right to act as a notified body is granted to a person for up to five years on the basis of a written application.

(3) A person which applies for the right to act as a notified body or is acting as a notified body shall conform to the following requirements:

1) meet the requirements set out in the Product Conformity Attestation Act;

2) be accredited pursuant to the Product Conformity Attestation Act as a certification body, inspection body and/or testing laboratory for the assessment and attestation of the conformity of construction products;

3) have liability insurance which meets the requirements provided for in § 11 of this Act and is valid for the entire period of operation as a notified body.

§ 11. Liability insurance of notified body

A notified body shall have liability insurance for an insured sum which:

- 1) guarantees that all damages which may be caused to third persons by its operation as a notified body will be compensated;
- 2) is at least 500 000 kroons.

Chapter 3 Requirements for Building

§ 12. Requirements for building

- (1) Building shall be performed pursuant to building design documentation, except in the event of the building of small construction works in the cases prescribed by this Act.
- (2) A building permit is mandatory for building, except in the event of the building of small construction works. A building permit does not grant the holder thereof the right to build without the permission of the owner of the land unit or construction works specified in the building permit.
- (3) Building contractors who meet the requirements set out in § 41 of this Act have the right to build.
- (4) In the event of the building of a detached house, summer-house, garden house, farm building or small construction works intended for use by the owner, adherence to the provisions of subsection (3) of this section is not mandatory.

§ 13. Building of roads, utility networks and utility works

Local governments shall undertake to organise the building of public roads, public green zones, external lighting and rainwater pipes on the basis of a detailed plan up to the boundary of a land unit specified in a building permit, unless the local government in question and the person requesting the preparation of the detailed plan or the applicant for the building permit agree otherwise.

§ 14. Utility networks and utility works

(1) The owner of an immovable shall permit utility networks and utility works (heating, water supply or sewerage systems, telecommunications or power networks, weak current installations, gaseous fuel installations, electrical installations or pressure assemblies and construction works necessary for servicing thereof) to be built on the owner's immovable on the ground, in the earth and in the airspace if the building thereof is not possible without using the immovable or if the building thereof at another location would cause excessive expense. The owner of an immovable shall also permit work to be performed if it is necessary for servicing a utility network or utility works situated on the owner's immovable on a legal basis. Emergency work may be performed without the prior agreement of the owner of the immovable.

(2) The provisions of subsection (1) of this section do not apply if the utility network or utility works do not enable the immovable to be used in the manner intended.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

§ 15. Small construction works and temporary construction works

(1) A small construction works is one of the following situated on one registered immovable, having an area occupied by the construction works of up to 60 m² and being designed with a height of up to 5 m above ground level:

- 1) a construction works with no public functions;
- 2) a civil engineering works necessary to service existing construction works, which is connected to a power line or construction works connected thereto which belongs to a network operator within the meaning of the Electricity Market Act (RT I 2003, 25, 153; 2004, 18, 131), which is connected to a supply point which belongs to a water undertaking within the meaning of the Public Water Supply and Sewerage Act (RT I 1999, 25, 363; 2000, 39, 238; 102, 670; 2001, 102, 668; 2002, 41, 251; 61, 375; 63, 387; 2003, 13, 64), or which is connected to a line facility which belongs to a telecommunications service provider within the

meaning of the Telecommunications Act (RT I 2000, 18, 116; 78, 495; 2001, 23, 125; 53, 310; 2002, 47, 297; 61, 375; 63, 387; 99, 580; 2003, 23, 136; 88, 594; 2004, 30, 207).

(11.02.2003 entered into force 01.07.2003 - RT I 2003, 25, 153)

(2) Building design documentation is not required to build small construction works except in cases where a demand to submit the building design documentation precedes for the grant of the written consent specified in § 16 of this Act, and where a permit for use is applied for.

(3) A temporary construction works is a construction works built for a limited period of time but not for longer than five years. In the event of the building of a temporary construction works, the local government shall determine the period of use of the construction works and set it out in the written consent or the building permit and the permit for use.

§ 16. Written consent

(1) The written consent of a local government is required if:

- 1) a small construction works is being built and the area occupied is 20–60 m²;
- 2) the utility systems of the construction works are modified.

(2) The following information shall be included in the written consent:

- 1) the address and co-ordinates of the location of the construction works;
- 2) the name of the local government and the name, official title and signature of the relevant official;
- 3) the date of issue of the written consent;
- 4) the purpose of the use of the construction works;
- 5) essential technical data regarding the construction works;
- 6) the code from the state register of construction works given to the construction works;
- 7) in the case of a temporary construction works, the period of use thereof.

(3) In consideration of the safety of a construction works and based on the detailed plans, design criteria, and any supplementary architectural and structural criteria set for the construction works, a local government has the right, in justified cases, to request that the building design documentation concerning the construction works be submitted before granting written consent.

(4) The grant of written consent shall be refused if:

- 1) the building design documentation does not meet the requirements set therefor, or
- 2) the building design documentation is not in compliance with the valid detailed plan, or
- 3) the location of the construction works is not in compliance with the valid detailed plan, or
- 4) the building design documentation is not in compliance with the design criteria, or
- 5) the construction works does not comply with the supplementary architectural and structural criteria set therefor, or
- 6) after modification of the utility systems of a construction works, the works no longer complies with the requirements set therefor.

(5) A local government shall grant the written consent specified in subsection (1) of this section or refuse to grant such consent within ten days as of the date on which an application for the grant of written consent is received by the local government or, in the event that building design documentation is requested, within ten days as of the date on which such documentation is submitted to the local government.

(6) If a small construction works concerning which a permit for use is not applied for is erected within an area where detailed planning has been made mandatory, the owner of the construction works is required to notify the local government thereof within five working days as of the erection thereof.

(7) Notification regarding a construction works shall include information on the owner and location of the construction works and shall set out essential technical data regarding the work.

(8) The requirements for the format of notification regarding a construction works and the procedure for submission thereof shall be established by the Minister of Economic Affairs and Communications.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

(9) Written consent is granted without a specific term. A written consent becomes invalid if building is not commenced within two years as of the date of the grant of the written consent. A written consent shall be published on the web site of the state register of construction works.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

§ 17. Application for written consent

(1) The following information shall be included in an application for written consent:

- 1) the name, contact details, and commercial register or other register code or personal identification code or, in the absence of the latter, date of birth of the applicant;
- 2) the address of the location of the small construction works, the layout or co-ordinates thereof and the name thereof if it has a name;
- 3) the purpose of the use of the small construction works;
- 4) the proposed date for commencement of the use of the small construction works;
- 5) if building design documentation exists, the name of the person who prepared the documentation, and, if there is a person authorised to verify the building design documentation, the name, contact details, and commercial register or other register code or personal identification code or, in the absence of the latter, date of birth thereof;
- 6) if the identity of the person exercising owner supervision is known, the name, contact details, and commercial register or other register code or personal identification code or, in the absence of the latter, date of birth thereof;
- 7) if the identity of the person performing building is known, the name, contact details, and commercial register or other register code or personal identification code or, in the absence of the latter, date of birth thereof;
- 8) essential technical data regarding the small construction works;
- 9) in the event of the building of a temporary construction works, the period of use thereof which has been applied for.

(2) Consent to build more than one small construction works may be requested in a single application for written consent.

(3) If the documents submitted by an applicant for written consent are insufficient, the local government shall allow the applicant to eliminate the deficiencies within five working days as of the date on which the basis for refusal to grant written consent becomes evident.

(4) The requirements for the format of applications for written consent and the procedure for submission thereof shall be established by the Minister of Economic Affairs and Communications.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

§ 18. Building design documentation

(1) Building design documentation is a body of documents which are necessary for the building and use of a construction works or a part thereof, including technical drawings, specifications, instructions on maintenance and other relevant documents.

(2) Building design documentation shall be prepared such that a construction works built in compliance therewith will conform to the requirements provided in § 3 of this Act. Upon preparation of building design documentation, the requirements set for geodetic systems within the meaning of the Databases Act (RT I 1997, 28, 423; 1998, 36/37, 552; 1999, 10, 155; 2000, 50, 317; 57, 373; 92, 597; 2001, 7, 17; 17, 77; 2002, 61, 375; 63, 387; 2003, 18, 107; 26, 158; 2004, 30, 204) shall be taken into consideration.

(3) Building design documentation shall be such that it is possible:

- 1) to build on the basis thereof;
- 2) to use and maintain the construction works;
- 3) to inspect the conformity of building with the building design documentation;
- 4) to inspect the conformity of the construction works with the requirements established by legislation.

(4) Building design documentation used as the basis for building, except for building design documentation for small construction works, shall be:

- 1) prepared or verified by a specialist in charge specified in § 47 of this Act who is competent in design, or
- 2) verified by a specialist in charge specified in § 47 of this Act who is competent in the expert assessment of building design documentation.

§ 19. Primary data for preparation of building design documentation

(1) The following information constitutes the basis for building design documentation prepared for the erection of a construction works:

1) an adopted detailed plan where preparation of a detailed plan is mandatory and also any supplementary architectural and structural criteria for construction works established by the local government;

2) if the preparation of a detailed plan is not mandatory, the design criteria.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

(2) Arising from the characteristics of the land unit on which a planned construction works is located, the results of any geotechnical site investigations or geodetic surveys conducted on the land unit may be the basis for the building design documentation prepared for erection of the construction works in addition to the plans and criteria set out in subsection (1).

(3) Design criteria are the architectural and structural criteria for a construction works which are determined for the construction works by an order of the local government issued within fifteen days as of the date on which the relevant application is submitted. Design criteria shall be prepared on the basis of a comprehensive plan if there is such a plan.

(4) A local government shall determine the following in the building regulation for the city or rural municipality:

- 1) supplementary architectural and structural criteria for construction works;
- 2) the procedure for publication of design criteria;
- 3) the procedure and areas for building temporary construction works;
- 4) the principles of and requirements for the planning and building in parts of a city or rural municipality, including areas of scenic value occupied by construction works;
- 5) the division of the functions of the local government and the terms for organisation in the field of planning and building.

§ 20. Geotechnical site investigations and geodetic surveys

(1) The purpose of geotechnical site investigations and geodetic surveys (hereinafter site investigations) is to obtain primary data necessary for the planning of areas, for the preparation of building design documentation and for building.

(2) Undertakings engaged in conducting site investigations are required to submit the results of the site investigations to the local government within ten days as of the date on which the site investigations are completed. The results of site investigations may be submitted by electronic means. Upon the conduct of site investigations, the requirements for geodetic systems within the meaning of the Databases Act shall be taken into consideration.

(3) Local governments shall preserve the results of site investigations for at least ninety-nine years as of the date on which such results are received.

(4) The procedure for the conduct of site investigations shall be established by the Minister of Economic Affairs and Communications.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

§ 21. Expert assessment of building design documentation

(1) The expert assessment of building design documentation is assessment of the conformity of building design documentation with the requirements for such documentation, including the conformity of the construction works to be built on the basis of the building design documentation.

(2) The expert assessment of building design documentation is mandatory for building design documentation concerning construction works involving the gathering of large numbers of people.

(3) The expert assessment of building design documentation shall not be conducted by the same person who prepares or verifies such documentation.

(4) The procedure for the expert assessment of building design documentation shall be established by the Minister of Economic Affairs and Communications.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

§ 22. Building permit

(1) A building permit is consent granted by a local government for:

1) the erection of a construction works, and of civil engineering works necessary to service the construction works, on the land unit specified in the building permit;

2) the expansion of the construction works or a part thereof specified in the building permit;

3) the reconstruction of the construction works or a part thereof specified in the building permit;

4) the demolition of the construction works or a part thereof specified in the building permit.

(2) A building permit also grants the right to modify the utility systems of the construction works.

(3) A building permit issued for the expansion of a construction works also grants the right to reconstruct the construction works.

(4) The information contained in building permits shall be published on the web site of the state register of construction works.

(5) The requirements for the format of building permits shall be established by the Minister of Economic Affairs and Communications.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

§ 23. Issue of building permit

(1) Building permits are issued and revoked by local governments.

(2) In order to obtain a building permit, a person shall:

1) submit an application for a building permit;

2) submit building design documentation which conforms to the requirements established for the building design documentation to be submitted upon application for a building permit, which has been prepared or verified by a specialist in charge specified in § 47 of this Act who is competent in design or which has been verified by a specialist in charge specified in § 47 of this Act who is competent in the expert assessment of building design documentation, and which has been approved in cases prescribed by law;

3) pay the state fee.

(3) A building permit shall be issued to the applicant therefor, except in the cases specified in subsections (4), (5) and (5¹) of this section.

(11.02.2003 entered into force 01.07.2003 - RT I 2003, 25, 153)

(4) A building permit for the demolition of a construction works shall be issued to the owner of the construction works. If a construction works is in the shared ownership of several persons, the owners of the construction works shall submit a joint application for a building permit for the demolition of the construction works.

(5) A building permit for building at sea in the territorial sea or inland sea shall be issued to the person concerning whom the corresponding real right has been entered in the land register or who has entered into a corresponding real right contract or a notarised agreement confirming entry into such contract or who has the right arising from law to use land in the ownership of another person. A building permit for building a utility network or utility works on an immovable in the ownership of another person shall be issued to the owner of the utility network or utility works concerning whom the corresponding real right has been entered in the land register or who has entered into a corresponding real right contract or a notarised

agreement to build the utility network or utility works with a person who has the right arising from law to use land or who has the right arising from law to use land in the ownership of another person. Such agreements shall be presented to the local government.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

(5¹) A building permit for the construction of a network or line provided for in the Electricity Market Act shall be issued as follows:

1) a building permit for the construction of a distribution network shall be issued to the distribution network operator in whose service area the network for the construction of which the building permit is applied for is located. This provision does not apply to the construction of lines specified in clauses 2)-4) of this subsection;

2) a building permit for the construction of a transmission network and an alternating current line crossing the state border with a voltage exceeding 35 kV shall be issued to the transmission network operator who holds the activity licence for the provision of network services through the transmission network;

3) a building permit for the construction of a direct current line crossing the state border shall be issued to the line possessor who holds an activity licence for the transmission of electricity through the line;

4) a building permit for the construction of a direct line shall be issued to the line possessor who holds an activity licence for the transmission of electricity through the line.

(11.02.2003 entered into force 01.07.2003 - RT I 2003, 25, 153)

(6) In addition to the requirements specified in subsection 21 (2) of this Act, the local government has the right, in justified cases arising from the safety of the construction works, to request compliance with the following requirements before a building permit is granted:

1) submission of the results of the expert assessment of the building design documentation or a part thereof, or

2) a full or partial site investigation, except in the event of building a construction works related to state secrets or national defence.

(7) If expert assessment of building design documentation or a part thereof or full or partial site investigations are ordered additionally to establish conformity with the requirements, the local government shall cover the costs thereof, provided that it is established during the expert assessment or site investigation that the building design documentation or part thereof complies with the requirements established or if the repeated full or partial site investigation was unnecessary.

(8) The local government shall issue a building permit or refuse to issue a building permit within twenty days as of the date on which the application for the building permit, the building design documentation and, if expert assessment of the building design documentation is required, the results of such assessment are submitted.

(9) Local governments shall preserve the documents related to the issue of building permits until the corresponding construction works are demolished or until such documents are transferred to the archives within the meaning of the Archives Act (RT I 1998, 36/37, 552, 1999, 16, 271; 2000, 92, 597; 2001, 88, 531; 93, 565; 2002, 53, 336; 61, 375; 63, 387; 82, 480; 2004, 28, 188).

(10) The requirements for the building design documentation submitted upon application for a building permit shall be established by the Minister of Economic Affairs and Communications.

(11) The requirements for building design documentation submitted upon application for building permits for construction works related to state secrets or national defence shall be established by the Government of the Republic.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

§ 24. Refusal to issue building permit

(1) The issue of a building permit shall be refused if:

1) the building design documentation does not meet the requirements for such documentation or does not correspond to the primary data used to prepare the documentation, including the detailed plan or design criteria established, or

- 2) the requirements for construction works have not been taken into consideration in the building design documentation, or
 - 3) the requirements for the preparation of building design documentation or the requirements for persons preparing or verifying building design documentation provided in § 47 of this Act have not been taken into consideration upon preparation of the building design documentation, or
 - 4) the building design documentation prepared for the erection of a construction works, with the exception of a detached house, summer-house, garden house, farm building or small construction works, is not based on the results of site investigations conducted at the location of the construction works to be built, or
 - 5) the application for a building permit does not meet the requirements, or
 - 6) false information is submitted upon application for a building permit, or
 - 7) in the event of an application for a building permit for a temporary construction works, the period of use requested for the construction works is not the same as the period of use determined for the construction works by the local government, or
 - 8) the state fee has not been paid, or
 - 9) assessment of the significant environmental impact has not been undertaken and such assessment is mandatory.
- (2) If the documents submitted upon application for a building permit are insufficient, the authority issuing building permits shall allow the applicant to eliminate the deficiencies within five working days as of the date on which the basis for refusal to grant a building permit becomes evident.

§ 25. Validity of building permit

- (1) A building permit is granted for an unspecified term except in the cases specified in subsection (2) of this section.
- (2) A building permit becomes invalid if building is not commenced within two years as of the date of issue of the building permit.
- (3) The first day on which work corresponding to the building design documentation is performed is deemed to be the date on which building commences.

§ 26. Application for building permit

- (1) An application for a building permit shall set out:
 - 1) the name, contact details, and commercial register or other register code or personal identification code or, in the absence of the latter, date of birth of the applicant;
 - 2) the address and co-ordinates of the location of the construction works, and the code from the state register of construction works and the name of the construction works if they exist;
 - 3) the purpose of the use of the construction works;
 - 4) the proposed date for commencement of the use of the construction works;
 - 5) the name, contact details and commercial register or other register code or personal identification code or, in the absence of the latter, date of birth of the person who prepared the building design documentation;
 - 6) if site investigations are conducted, the name, contact details, and commercial register or other register code or personal identification code or, in the absence of the latter, date of birth of the person who conducts such investigations;
 - 7) essential technical data regarding the construction works;
 - 8) in the event of the building of a temporary construction works, the requested period of use;
 - 9) information regarding payment of the state fee.
 - (2) The requirements for the format of an application for a building permit and procedure for submission thereof shall be established by the Minister of Economic Affairs and Communications.
- (13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

(3) An application for a building permit together with the accompanying building design documentation may be submitted by electronic means. An application for a building permit may be made for the building of a construction works or a part thereof, or for the building of a construction works and the civil engineering works necessary for servicing thereof.

(4) The list of technical data to be submitted concerning construction works shall be established by the Minister of Economic Affairs and Communications.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

(5) The list of purposes of use of construction works shall be established by the Minister of Economic Affairs and Communications.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

§ 27. Information entered in building permit

The following shall be entered in a building permit:

- 1) the address and co-ordinates of the location of the construction works;
- 2) the name of the issuer of the building permit and the name, official title and signature of the relevant official;
- 3) the date of issue of the building permit;
- 4) the number of the building permit;
- 5) essential technical data regarding the construction works;
- 6) the purpose of the use of the construction works;
- 7) the code from the state register of construction works issued to the construction works;
- 8) in the event of the building of a temporary construction works, the period of use thereof.

§ 28. Revocation of building permit

(1) A building permit shall be revoked if:

- 1) the construction works being built is dangerous to the life, health or property of persons or to the environment, or
- 2) the owner of the construction works or a person building a construction works without proper authorisation fails to comply with a precept specified in subsection 61 (1) or 64 (2) of this Act, or
- 3) false information was knowingly submitted upon application for the building permit, or
- 4) the owner of the construction works requests that the building permit be revoked;
- 5) essential technical data entered in the building permit are amended, or
- 6) the purpose of the use of the construction works is modified in the course of building, or
- 7) it is necessary in the course of building a temporary construction works to change the period of use thereof.

(2) A building permit shall be revoked within ten days as of the date of submission of the corresponding application or the date on which the circumstances specified in subsection (1) of this section become known to the local government.

§ 29. Obligations and rights of owner of construction works

(1) The owner of a construction works is required to guarantee:

- 1) the existence of a building permit before building is commenced if a building permit is required;
- 2) the existence of written consent from the local government before building is commenced if written consent is required;
- 3) building in compliance with the building design documentation if building design documentation is required;
- 4) the maintenance of and safety to the surroundings of the construction works and the land unit of its location during the building and use of the construction works;

- 5) access by the person performing construction supervision to the construction works and to the relevant technical construction documentation, except to construction works containing information classified as a state secret, construction works related to national defence and the relevant technical construction documentation therefor;
- 6) access by the state supervisory authority to the construction works and to the relevant technical construction documentation, and in cases where the state supervisory authority has the right to organise investigations to establish the causes of accidents, the owner is requested to guarantee access to construction works containing information classified as a state secret, construction works related to national defence and the relevant technical construction documentation therefor;
- 7) the preservation of the documents specified in subsection 31 (2) of this section and the as-built drawings of the construction works, if they exist, until the construction works are demolished or until the drawings are transferred to the archives pursuant to the procedure provided for in the Archives Act;
- 8) where necessary, the expert assessment of the building design documentation;
- 9) where necessary, the evaluation of the construction works;
- 10) that building will be performed by a person who has the corresponding competence and right;
- 11) the existence of a permit for use, if required;
- 12) that the construction works is used in accordance with the purpose of use;
- 13) in cases provided for by legislation, the technical inspection of the construction works, a part thereof and the utility systems of the construction works.

(2) In addition to the obligations specified in subsection (1) of this section, the owner of a construction works is required:

- 1) to organise continuous supervision of the building during the time of the building (hereinafter owner supervision);
- 2) to notify the local government of the commencement of building at least three working days before the building of a construction works, except a small construction works, commences;
- 3) upon the commencement of building, if the construction works to be built is not a small construction works, detached house, summer-house, garden house, farm building, construction works containing information classified as a state secret, construction works related to national defence, or civil engineering works necessary for servicing construction works, to put up a board with information concerning the construction works, the building permit, the date of commencement and term for completion of the building, the design contractor, the building contractor and the person exercising owner supervision and to ensure that the board is clearly visible and remains in place until the building is completed;
- 4) upon completion of building, to apply for a permit for use of the construction works, or upon liquidation of a construction works, to submit notification regarding the construction works.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

(3) The owner of a construction works has the right, before building is commenced, to demand that a contract be entered into with the building contractor in which the type and amount of security provided for compensation of any damages which may be caused to the owner of the construction works by the activities of the building contractor are agreed upon. Such security may be a guarantee document issued by a credit or financial institution or an insurance agency, or a sum of money deposited into the bank account of the owner of the construction works.

(4) If a construction works is in the shared ownership of several persons, the obligations specified in clauses (1) 1)–10) and 13) and subsection (2) of this section shall be performed by the owner of the construction works who wishes to build or who has applied for a building permit. All the joint owners of a construction works shall perform the obligations specified in clauses (1) 11) and 12) of this section.

(5) If a building contractor, a design contractor, a project management undertaking or an undertaking exercising owner supervision or conducting site investigations fails to perform its

duties, the owner of the construction works has the right to perform the duties of the contractor or undertaking specified in this subsection or to eliminate deficiencies, and the owner of the construction works has the right of recourse against such contractor or undertaking to the extent of the costs incurred upon the performance of such obligations or elimination of deficiencies by the owner.

(6) A notice concerning commencement of building shall include information concerning the construction works, the time at which building is to commence, the name and personal identification code or commercial or other register code or, in the absence of a personal identification code, date of birth of the person exercising owner supervision and the person performing the building, and the contact details of such persons.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

(7) The requirements for the format of a notice concerning the commencement of building and the procedure for submission thereof shall be established by the Minister of Economic Affairs and Communications.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

§ 30. Owner supervision

(1) Before building commences, the owner of the construction works shall authorise a person who holds the right to exercise owner supervision to act as the person exercising owner supervision, and this person shall not be the person building the construction works, except in the case specified in subsection (4) of this section.

(2) The objective of owner supervision is to ensure:

- 1) building according to the building design documentation;
- 2) preparation of the technical construction documentation;
- 3) the requisite quality of the construction work.

(3) Owner supervision shall be conducted from the time that building of the construction works commences until a permit for use of the construction works is obtained.

(4) Owner supervision may be exercised by the owner of the construction works if the construction works being built is:

- 1) a small construction works;
- 2) a detached house;
- 3) a summer-house;
- 4) a garden house;
- 5) a farm building;
- 6) a civil engineering works necessary for servicing a construction works;
- 7) a construction works related to state secrets;
- 8) a construction works related to national defence.

(5) The person exercising owner supervision has the right:

- 1) to inspect the conformity of the building design documentation with the requirements;
- 2) to verify that the construction products used conform to the requirements;
- 3) to inspect the maintenance of and safety to the surroundings of the construction works and the land unit of its location;
- 4) to verify that environmental safety is ensured.

(6) The person exercising owner supervision has the right to demand:

- 1) that the person who prepared the building design documentation bring the building design documentation into conformity with the requirements;
- 2) that the building contractor submit the originals or copies of declarations of conformity and/or certificates of conformity and other necessary documents, for example letters of guarantee, instructions on maintenance or user manuals concerning construction products used and equipment installed;
- 3) that a construction product used by the building contractor be replaced if it does not conform to the building design documentation or established requirements;
- 4) that construction work which does not conform to the requirements be reperformed by the building contractor;

- 5) that construction work which does not conform to the building design documentation be reperformed by the building contractor;
 - 6) that construction work be suspended in the event of an accident hazard arising, upon violation of the requirements provided for in construction legislation, upon failure to adhere to the conditions of the building permit or written consent and if building is not performed in conformity with the building design documentation;
 - 7) that the building contractor document the building in a proper and timely manner.
 - (7) In the exercise of owner supervision, the person exercising owner supervision shall adhere to the requirements established for the safety of the construction works and for building safety during the course of the building.
 - (8) The procedure for exercising owner supervision shall be established by the Minister of Economic Affairs and Communications.
- (13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

§ 31. Documentation of building

- (1) The work performed in the course of building shall be documented by the person performing the building.
 - (2) The following are technical construction documentation:
 - 1) the building design documentation and any amendments thereto;
 - 2) the record of construction work;
 - 3) reports on covered works;
 - 4) minutes of working parties;
 - 5) other documents which characterise the building such as as-built drawings and the certificates of conformity of construction products.
 - (3) The requirements for technical construction documentation concerning the building of different types of construction works shall be established by the Minister of Economic Affairs and Communications.
- (13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)
- (4) In the event of the building of a small construction works, documentation of the work performed in the course of building is not required.

§ 32. Permit for use of construction works

- (1) A permit for use of a construction works (hereinafter permit for use) is agreement on the part of a local government that a completed construction works or a part thereof conforms to the requirements prescribed for such construction works and that it may be used for the intended purpose.
 - (2) A permit for use is not required for construction works related to state secrets or national defence or for small construction works, except for small construction works used for habitation.
 - (3) A completed construction works or a part thereof may be used only for the purpose prescribed therefor.
 - (4) The information contained in permits for use shall be published on the web site of the state register of construction works.
 - (5) The requirements for the format of permits for use shall be established by the Minister of Economic Affairs and Communications.
- (13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

§ 33. Issue of permit for use

- (1) Permits for use are issued and revoked by local governments.
- (2) In order to obtain a permit for use, a person shall:
 - 1) submit an application for a permit for use;
 - 2) submit the building design documentation according to which the construction works is built;
 - 3) in addition to the building design documentation, submit the originals of the technical construction documentation or, if the applicant for the permit has the obligation to preserve

the technical construction documentation, copies of such documents approved by the issuer of the documents or by the supplier of the corresponding construction products within the meaning of the Product Conformity Attestation Act or by the owner of the construction works or by the local government;

4) in the cases provided for by legislation, submit a document certifying that a technical inspection has been performed of the construction works or a part thereof or of the utility systems of the construction works prior to the use of the construction works.

5) in the cases provided for by legislation, submit written consent for the use of the construction works or a part thereof;

6) pay the state fee.

(3) A permit for use shall be issued if the construction works conforms to the requirements prescribed by legislation. In justified cases arising from the safety of a construction works, the issuer of the permit for use has the right, before the permit for use is issued, to demand that the results of the evaluation of the construction works or a part thereof be submitted. The costs of evaluation of a construction works or part thereof ordered for the additional inspection of the conformity of the construction works shall be covered by the local government, provided that the conformity of the construction works with the prescribed requirements is established.

(4) A permit for use shall be issued after the construction works has been reviewed and is declared to conform to the requirements. The local government has the right to involve persons and institutions which are competent to review construction works in the review thereof, and such persons and institutions shall present their opinion in writing.

(5) A permit for use may be granted to a part of a construction works if the part of the construction works can be used safely and according to its intended purpose.

(6) The local government shall issue or refuse to issue a permit for use within twenty days as of the date on which the last document necessary for the issue of the permit is submitted.

(7) The local government shall preserve the documents related to the issue of a permit for use until the corresponding construction works is demolished or until the documents are transferred to the archives pursuant to the procedure provided by the Archives Act.

(8) An application for a permit for use shall be submitted by the owner of the construction works. In the event that a construction works is in the joint ownership of several persons, the owners of the construction works shall submit a joint application for a permit for use. A permit for use of a utility network or utility works erected on an immovable in the ownership of another person shall be issued to the owner of the utility network or utility works concerning whom the corresponding real right has been entered in the land register or who has entered into a corresponding real right contract or who has entered into a notarised agreement to build or use the utility network or utility works with a person who has the right arising from law to use the land or who has the right arising from law to use land in the ownership of another person. Upon application for a permit for use of a utility network or utility works on the land of another, the owner of the utility networks or utility works shall present certification in proof of the right of ownership regarding the utility networks or utility works.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

(9) In the event of the building of a temporary construction works, the person who applies for the building permit may also submit an application for a permit for use.

(10) The procedure for review of construction works shall be established by the Minister of Economic Affairs and Communications.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

§ 34. Refusal to issue permit for use

(1) The issue of a permit for use shall be refused if:

1) the construction works does not meet the requirements established for construction works with the same purpose of use as that which is applied for, or

- 2) the owner of the construction works applies for a purpose of use of the construction works which is in conflict with public interests, or
- 3) the owner of the construction works applies for a purpose of use of the construction works which does not conform to the design criteria issued for the construction works or a part thereof during the building thereof, if such criteria exist, or
- 4) the application for a permit for use does not meet the requirements, or
- 5) the design documentation submitted upon application for a permit for use does not meet the requirements, or
- 6) the as-built drawings of the construction works submitted upon application for a permit for use do not meet the requirements, or
- 7) false information is submitted upon application for a permit for use, or
- 8) the construction works does not conform to the requirements provided for in legislation, or
- 9) in the event of the building of a temporary construction works, the period of use requested for the construction works is not the same as the period of use determined for the construction works by the local government, or
- 10) the state fee has not been paid, or
- 11) the technical construction documentation has not been submitted, or
- 12) the technical construction documentation does not conform to the requirements, or
- 13) the submission of a document certifying that a technical inspection for the building of the construction works, a part thereof or the utility systems of the construction works has been performed prior to the use thereof or written consent for the use of the construction works or a part thereof is mandatory but no such document or written consent is submitted, or
- 14) assessment of the significant environmental impact has not been undertaken and such assessment is mandatory.

(2) If the documents submitted upon application for a building permit are insufficient, the issuer of permits for use shall allow the applicant to eliminate the deficiencies within five working days as of the date on which the basis for refusal to grant the permit for use becomes evident.

§ 35. Validity of permit for use

- (1) A permit for use is granted for an unspecified term, except in the cases specified in subsection (2) of this section.
- (2) Permits for the use of temporary construction works shall be issued for a term of up to five years.

§ 36. Application for permit for use

- (1) An application for a permit for use shall set out:
 - 1) the name, contact details, and commercial or other register code or personal identification code or, in the absence of the latter, date of birth of the owner of the construction works;
 - 2) the address and co-ordinates of the location of the construction works, and the code from the state register of construction works, the name of the construction works and the number of the building permit if they exist;
 - 3) the name, contact details, and commercial or other register code or personal identification code or, in the absence of the latter, date of birth of the person who prepared the building design documentation or the as-built drawings of the construction works;
 - 4) the name, contact details, and commercial or other register code or personal identification code or, in the absence of the latter, date of birth of the person who performed the building;
 - 5) the name, contact details, and commercial or other register code or personal identification code or, in the absence of the latter, date of birth of the person exercising owner supervision;
 - 6) the purpose of the use of the construction works;
 - 7) essential technical data regarding the construction works;

8) in the event of the building of a temporary construction works, the requested period of use;

9) information regarding payment of the state fee.

(2) In application for a period for use, an application may be made for one construction works to have several purposes of use, all of which shall be entered on the same permit for use. An application may also be made in an application for a permit for use to use a construction works or a part thereof or to use a construction works and the civil engineering works necessary for servicing thereof. In the event that an application for a permit for use contains information on several construction works, the local government shall issue a separate permit for use concerning each construction works.

(3) The requirements for the format of applications for permits for use and the procedure for submission thereof shall be established by the Minister of Economic Affairs and Communications.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

§ 37. Information entered in permit for use

The following shall be entered in a permit for use:

- 1) the address and co-ordinates of the location of the construction works;
- 2) the name of the issuer of the permit for use and the name, official title and signature of the relevant official;
- 3) the date of issue of the permit for use;
- 4) the number of the permit for use;
- 5) the purpose of the use of the construction works;
- 6) essential technical data regarding the construction works;
- 7) the code from the state register of construction works issued to the construction works;
- 8) in the event of the building of a temporary construction works, the period of use thereof;
- 9) other information provided by law.

§ 38. Revocation of permit for use

(1) An permit for use shall be revoked if:

- 1) the construction works is dangerous to the life, health or property of persons or to the environment, or
- 2) the owner of the construction works fails to comply with a precept specified in subsection 61 (1) or 64 (2) of this Act, or
- 3) false information was knowingly submitted upon application for the permit for use, or
- 4) the construction works has been demolished.

(2) The owner of a construction works has the right to submit an application for revocation of the permit for use in the cases specified in subsection (1) of this section.

(3) In the event of the circumstances specified in subsection (1) of this section, the local government shall revoke the permit for use within ten days as of the date of submission of the corresponding application or the date on which the circumstances specified in subsection (1) of this section become known to the local government.

§ 39. Evaluation of construction works

(1) Evaluation of a construction works is the assessment of the compliance of the construction works with the requirements prescribed therefor.

(2) The procedure for the evaluation of construction works shall be established by the Minister of Economic Affairs and Communications.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

§ 40. Liquidation of dangerous or temporary construction works or construction works erected without building permit

(1) The owner of a construction works which is dangerous to the life, health or property of persons or to the environment shall bring the construction works into conformity with the requirements for such construction works or demolish the construction works by the date, in the manner and under the conditions prescribed by the corresponding precept.

(2) The owner of a construction works built without legal basis shall demolish the construction works by the date, in the manner and under the conditions prescribed by the corresponding precept.

(3) A temporary construction works shall be demolished or liquidated in another manner by the date determined by the local government.

(4) If a construction works specified in this section is not brought into conformity with the requirements for such construction works or is not demolished by the due date, the local government shall organise the bringing into conformity or demolition of the construction works pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act (RT I 2001, 50, 283; 94, 580).

Chapter 4

Requirements for Undertakings

§ 41. Operation of contractors in field of construction

(1) A person is permitted to build, design, conduct site investigations, exercise owner supervision, perform expert assessments of building design documentation, evaluate construction works and engage in project management if the person is an undertaking within the meaning of the Commercial Code (RT I 1995, 26–28, 355; 1998, 91–93, 1500; 1999, 10, 155; 23, 355; 24, 360; 57, 596; 102, 907; 2000, 29, 172; 49, 303; 55, 365; 57, 373; 2001, 34, 185; 56, 332 and 336; 89, 532; 93, 565; 2002, 3, 6; 35, 214; 53, 336; 61, 375; 63, 387; 388; 96, 564; 102, 600; 110, 657; 2003, 4, 19; 13, 64; 18, 100; 78, 523; 88, 591) and the person has:

1) a registration in the register of economic activities (hereinafter register), and (10.03.2004 entered into force 15.04.2004 - RT I 2004, 18, 131)

2) a corresponding legal relationship with a competent person specified in § 47 of this Act (hereinafter specialist in charge) or, if the person is a sole proprietor, he or she must have the competence to act as a specialist in charge.

(2) If a building contractor performs construction work only within the limits of a profession in which an employee thereof or, if the contractor is a sole proprietor, the contractor himself or herself holds a professional qualification within the meaning of the Professions Act (RT I 2001, 3, 7; 2002, 61, 375; 2003, 13, 68; 83, 559) which does not grant such person the right to organise the distribution of funds or the work of other persons and does not impose on him or her the obligation to be responsible for such work, the building contractor need not comply with the provisions of clause (1) 2) of this section.

§ 42. Registration application

(1) An undertaking which wishes to build, design, conduct site investigations, exercise owner supervision, perform expert assessments of building design documentation, evaluate construction works or engage in project management (hereinafter an undertaking) shall submit an application to the register.

(2) A registration application shall contain:

1) the name and registry code of the undertaking, the name of the corresponding register, and the address and other contact details of the undertaking;

2) the area of activity specified in subsection (1) of this section in which the applicant wishes to operate;

3) information concerning the specialist in charge in the undertaking who must meet the requirements prescribed for the desired area of activity if it is mandatory to have a specialist in charge;

4) information concerning the qualifications of the building contractor and the document certifying such qualifications, if they exist;

5) the name, official title and contact details of the authorised person of the undertaking who signs the registration application.

(3) Information concerning the specialist in charge as specified in clause (2) 3) of this section is comprised of the following:

- 1) name, and personal identification code or, in the absence thereof, date of birth;
- 2) contact details;
- 3) the profession and other essential information entered in his or her professional certificate if he or she has a professional certificate;
- 4) in the absence of a professional certificate, the date of issue and the name of the issuer of the document certifying the professional education of the person;
- 5) professional experience.

(4) The person who submits a registration application shall be responsible for the correctness of the information submitted to the register.

(5) (Repealed - 10.03.2004 entered into force 15.04.2004 - RT I 2004, 18, 131)

§ 43. Registration

(1) Based on information submitted in a registration application or an application for amendment of registry data, the registrar registers the information of an undertaking or amends the information pursuant to the procedure provided in the Register of Economic Activities Act (RT I 2004, 12, 79).

(2) In addition to the information prescribed by the Register of Economic Activities Act, the following data shall be entered in the register:

- 1) the area of activity of the undertaking as specified in the registration application;
- 2) information concerning the specialist in charge who meets the requirements prescribed for the desired area of activity;
- 3) information concerning the qualifications of the building contractor and the document certifying such qualifications if they exist.

(10.03.2004 entered into force 15.04.2004 - RT I 2004, 18, 131)

§ 44. Registration proceedings

(1) The provisions of the Register of Economic Activities Act apply to the registration procedure together with the specifications arising from this section.

(2) In addition to the cases to which the provisions of the Register of Economic Activities Act apply, the registrar shall refuse to register an undertaking if the registrar has deleted the registration information concerning the undertaking pursuant to subsection (3) of this section during the sixty days prior to application.

(3) In addition to the cases to which the provisions of the Register of Economic Activities Act apply, a registration shall be deleted based on a decision of the Technical Inspectorate provided for in subsection 64 (5) of this Act once the term for contestation of the decision has passed if the decision is not contested or, if the decision is contested, as of the date on which the court judgment to uphold the contested decision of the Technical Inspectorate enters into force.

(10.03.2004 entered into force 15.04.2004 - RT I 2004, 18, 131)

§ 45. (Repealed - 10.03.2004 entered into force 15.04.2004 - RT I 2004, 18, 131)

§ 46. (Repealed - 10.03.2004 entered into force 15.04.2004 - RT I 2004, 18, 131)

§ 47. Specialist in charge

(1) A specialist in charge is a person who:

- 1) is competent to manage and inspect building, design, site investigations, owner supervision, expert assessments of building design documentation, evaluation of construction works or project management activities, and
- 2) advises an undertaking in order to guarantee compliance with the requirements provided for in this Act and legislation established on the basis thereof.

(2) In order to build, design, conduct site investigations, exercise owner supervision, perform expert assessments of building design documentation, evaluate construction works or engage in project management activities, a specialist in charge shall:

- 1) hold professional qualifications within the meaning of the Professions Act which grants the person the right to organise the distribution of funds or the work of other persons and imposes on him or her the obligation to be responsible for such work, or
- 2) have completed higher education in an appropriate field and have three years' experience in work related to his or her profession.

§ 48. Duties of building contractor

A building contractor is required to:

- 1) ensure that building is performed in compliance with the building design documentation;
- 2) ensure that the work performed in the course of building is documented;
- 3) preserve in its entirety the technical construction documentation prepared by the building contractor or copies thereof for at least seven years or until the documents are transferred to the archives pursuant to the procedure provided by the Archives Act;
- 4) install construction products which conform to the requirements in the construction works;
- 5) ensure the requisite quality of building;
- 6) guarantee building safety and the maintenance of the construction works and the building site;
- 7) avoid polluting the environment;
- 8) inform the owner of the construction works and the person exercising owner supervision of any actual or possible cases of the construction works not conforming to the requirements which become evident in the course of building;
- 9) perform the obligations related to the guarantee of the construction works.

§ 49. Duties of design contractor

A design contractor is required to:

- 1) prepare building design documentation which conforms to the requirements;
- 2) ensure that the building design documentation corresponds to the primary data;
- 3) prepare as-built drawings of the construction works which conform to the requirements;
- 4) preserve in its entirety the building design documentation and as-built drawings prepared by the design contractor and the primary data used for preparation thereof for at least seven years or until the documents are transferred to the archives pursuant to the procedure provided by the Archives Act.

§ 50. Duties of undertaking exercising owner supervision

(1) An undertaking exercising owner supervision is required:

- 1) to inspect the conformity of the building design documentation to the requirements;
- 2) to inspect the conformity of building with the building design documentation to the requirements;
- 3) to verify that construction products which conform to the requirements are used the event of building;
- 4) to verify the existence of the technical construction documentation;
- 5) to inspect the conformity of the technical construction documentation to the requirements;
- 6) to inspect the quality of the construction work;
- 7) to verify that the construction work is safe for third parties, that the construction works and the building site are maintained and that any pollution of the environment is avoided.

(2) An undertaking exercising owner supervision is required to inform the owner of the construction works of:

- 1) any actual or possible cases of construction products, building design documentation or the construction works not conforming to the requirements;
- 2) the quality and safety of construction work, the maintenance of the construction works and the building site, and pollution of the environment.

§ 51. Duties of undertaking conducting site investigations

An undertaking conducting site investigations is required to:

- 1) conduct the site investigations pursuant to the established procedure;
- 2) ensure that the site investigations are conducted in conformity with the requirements;
- 3) preserve the information concerning the site investigations conducted by the undertaking for at least seven years or until the information is transferred to the archives pursuant to the procedure provided by the Archives Act;
- 4) submit the results of site investigations to the local government.

§ 52. Duties of undertaking performing expert assessment of building design documentation

An undertaking performing expert assessment of building design documentation is required to:

- 1) inspect the conformity of the building design documentation to the requirements;
- 2) verify that the building design documentation corresponds to the primary data;
- 3) ensure that the expert assessment of the building design documentation conforms to the requirements;
- 4) inspect the conformity of the as-built drawings of the construction works to the requirements;
- 5) preserve in its entirety all information on the expert assessments concerning building design documentation performed by the undertaking for at least seven years or until the information is transferred to the archives pursuant to the procedure provided by the Archives Act.

§ 53. Duties of undertaking evaluating construction works

An undertaking evaluating construction works is required to:

- 1) inspect the conformity of the construction works or a part thereof to the requirements;
- 2) inspect the conformity of the construction works or a part thereof with the building design documentation;
- 3) ensure that the evaluation of the construction works conforms to the requirements;
- 4) preserve in its entirety all the information on the evaluation of construction works performed by the undertaking for at least seven years or until the information is transferred to the archives pursuant to the procedure provided by the Archives Act.

§ 54. Duties of project management undertaking

(1) A project management undertaking is required to ensure:

- 1) that building is performed in compliance with building design documentation;
- 2) that the technical construction documentation is prepared;
- 3) that construction products which conform to the requirements are used in the event of building;
- 4) the requisite quality of construction work;
- 5) the maintenance and safety of the construction works and the building site in the event of building;
- 6) that pollution of the environment is avoided.

(2) In addition to the duties specified in subsection (1) of this section, a project management undertaking is required to inform the owner of the construction works of any actual or possible cases of the construction works not conforming to the requirements which become evident in the course of building.

Chapter 5

State Register of Construction Works

§ 55. State register of construction works

(1) The main function of the state register of construction works (hereinafter register of construction works) is to maintain records of construction works under construction or in use. The subject matter of the register of construction works is construction works under construction or in use.

(2) The register of construction works and the statutes for the maintenance of the register shall be established by the Government of the Republic.

(3) The chief processor of the register of construction works is the Ministry of Economic Affairs and Communications.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

(4) The register of construction works is maintained as a single-level electronic database.

§ 56. Information in register of construction works

(1) The following is the information to be entered in the register of construction works (hereinafter information in register of construction works):

1) information concerning a construction works, including essential technical data regarding the construction works and information concerning the physical share of the construction works within the meaning of the Apartment Ownership Act (RT I 2000, 92, 601; 2001, 93, 565; 2002, 47, 297);

2) information concerning the location of a construction works;

3) information contained in a building permit;

4) information contained in written consent issued by a local government;

5) information contained in a permit for use;

6) information concerning the persons connected with a construction works;

7) information concerning the owner of a construction works;

8) information concerning the persons connected with building;

9) building information;

10) information concerning site investigations and evaluations of a construction works and concerning the persons conducting such investigations or performing evaluations;

11) information concerning pledges connected with a construction works which is a movable;

12) information concerning prohibitions and seizures connected with a construction works which is a movable;

13) information connected with cultural monuments;

14) information contained in a precept issued by an official exercising construction supervision;

15) information contained in a precept issued by an official exercising state supervision.

(2) Information in the register of construction works is informative and statistical.

§ 57. Persons who submit information to register of construction works

(1) Information shall be submitted to the register of construction works by:

1) local governments in the case if information specified in clauses 56 (1) 1)–10) and 14) of this Act;

2) the Technical Inspectorate in the case of information specified in clause 56 (1) 15) of this Act;

3) the Heritage Conservation Inspectorate in the case of information specified in clause 56 (1) 13) of this Act;

4) notaries in the case of information specified in clauses 56 (1) 1), 7) and 11) of this Act;

5) the Ministry of Economic Affairs and Communications in the case of information specified in clause 56 (1) 12) of this Act;

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

6) the Railway Administration in the case of information specified in clauses 56 (1) 1)–3) and 5)–10) of this Act.

(2) A person who submits information to the register of construction works shall be responsible for the correctness thereof.

(3) The requirements for the format of a notice for submission of information to the register of construction works and the procedure for submission thereof shall be established by the Minister of Economic Affairs and Communications.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

§ 58. Publication of information in register of construction works

(1) The information entered in the register of construction works is public and shall be published on the website of the register of construction works.

(2) Certified extracts of the information in the register of construction works are issued by local governments.

Chapter 6

Construction Supervision

§ 59. Construction supervision

(1) For the purposes of this Act, construction supervision is:

- 1) inspection of the conformity to the requirements of building design documentation and as-built drawings of construction works;
- 2) the issue of building permits;
- 3) the issue of permits for use;
- 4) inspection of the conformity of construction works to the requirements;
- 5) organisation of the evaluation of construction works for the conformity thereof to the requirements to be inspected;
- 6) inspection of the conformity of undertakings specified in § 41 of this Act to the requirements;
- 7) organisation of investigations into the reasons for accidents involving construction works;
- 8) the issue of precepts according to competence.

(2) The exercise of construction supervision on the territory of a local government is within the competence of the local government.

(3) Heritage conservation, health protection, environmental protection and other supervisory authorities shall notify the relevant local government of the results of state supervision carried out concerning a construction works.

§ 60. Competence and obligations of officials exercising construction supervision

(1) An official of city and rural municipality who exercises construction supervision is competent to:

- 1) inspect compliance with this Act, including in construction works under construction and parts thereof;
- 2) inspect, without hindrance, compliance with this Act in construction works in use by giving at least twenty-four hours notice thereof to the owner of the construction works;
- 3) obtain information necessary for construction supervision, proceeding from the safety or purpose of use of construction works, concerning the building, design, site investigations or owner supervision of the construction works, the expert assessment of building design documentation, the evaluation of the construction works and the use of the construction works from state agencies, local governments, owners of construction works, applicants for building permits or undertakings;
- 4) examine the originals or copies of documents concerning the building, design, site investigations or owner supervision of construction works, the expert assessment of building design documentation, the evaluation of construction works, the safe use of construction works and the purpose of use thereof and to obtain transcripts of such documents, except for the documents concerning the cost of the work specified in this clause;

- 5) monitor construction work, inspect the conformity of the building design documentation to the requirements, the detailed plan or the design criteria, and inspect the maintenance and use of construction works, proceeding from the safety and purpose of use of the construction works;
 - 6) request, in justified cases, the expert assessment of building design documentation or the evaluation of construction works and parts thereof;
 - 7) issue precepts according to his or her competence;
 - 8) prepare for the issue of building permits and permits for use;
 - 9) submit information to the state register of construction works;
 - 10) order expert assessment of building design documentation to verify the conformity thereof to the requirements, and to order evaluation of construction works and parts thereof to verify the conformity thereof to the requirements;
 - 11) verify the existence of building permits and the correctness of the information entered in the building permits;
 - 12) verify the existence of permits for use and the correctness of the information entered in the permits for use.
- (2) The costs of expert assessment or evaluation ordered to verify the conformity to the requirements of building design documentation or construction works and parts thereof respectively shall be borne by the authority exercising construction supervision. If it is established that building design documentation, a construction works or a part thereof does not conform to the requirements established therefor, the owner of the construction works shall compensate the authority exercising construction supervision for the costs of the expert assessment or evaluation ordered to verify conformity to the requirements.
- (3) An official exercising construction supervision is required to:
- 1) present identification when performing his or her duties;
 - 2) ensure the confidentiality of business and technical information obtained in the course of construction supervision activities, unless the disclosure of such information is prescribed by law.

§ 61. Precept issued by official exercising construction supervision

- (1) An official of a city or rural municipality government exercising construction supervision shall issue a precept to the owner of a construction works or to a person building a construction works without proper authorisation if:
- 1) the detailed plan is not adhered to in the course of building, or
 - 2) the design criteria are not adhered to in the course of building, or
 - 3) the building design documentation is not adhered to in the course of building, or
 - 4) the written consent of the local government is not adhered to in the course of building, or
 - 5) building is undertaken without a building permit, or
 - 6) building is undertaken without written consent granted by the local government, or
 - 7) the construction works is not used for the purpose prescribed therefor, or
 - 8) a permit for use has not been issued concerning the construction works, or
 - 9) the construction works is dangerous to the life, health or property of persons or to the environment, or
 - 10) the construction works does not conform to the requirements prescribed therefor.
- (2) An official of a city or rural municipality government exercising construction supervision shall issue a precept to a building contractor if:
- 1) the building contractor does not adhere to the building design documentation in the course of building, or
 - 2) the building contractor does not adhere to the written consent of the local government in the course of building, or
 - 3) the building contractor is building a construction works for which a corresponding building permit has not been issued, or
 - 4) the building contractor is building a construction works without corresponding written consent from the local government, or

5) the construction works being built by the building contractor does not conform to the requirements prescribed therefor.

(3) An official of a city or rural municipality government exercising construction supervision shall issue a precept to an undertaking if:

1) the undertaking is a building contractor, a design contractor or an undertaking engaged in site investigations, owner supervision, expert assessment of building design documentation, evaluation of construction works or project management and is operating without a specialist in charge, or

2) the undertaking is a building contractor, a design contractor or an undertaking engaged in site investigations, owner supervision, expert assessment of building design documentation, evaluation of construction works or project management and is operating without registration.

(4) In a precept specified in subsections (1)–(3) of this section, the official exercising construction supervision shall:

1) call attention to the offence;

2) demand the suspension, in part or in full, of the building, design, site investigations, owner supervision, expert assessment of building design documentation, evaluation of construction works, project management activities or use of construction works;

3) render mandatory the performance of acts necessary for the lawful continuation of the building, design, site investigations, owner supervision, expert assessment of building design documentation, evaluation of construction works, project management activities, the bringing of construction works into conformity with the requirements or the use of construction works.

(5) Officials of local governments who are authorised by the city or rural municipality mayor have the right to issue precepts specified in subsections (1)–(3) of this section.

(6) Upon failure to comply with a precept specified in subsections (1)–(3) of this section, an official exercising construction supervision may impose a coercive measure pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act. The upper limit for the penalty payment is 10 000 kroons.

(7) The local government shall forward information concerning a precept specified in subsection (1) of this section to the register of construction works within two working days as of the issue of the precept.

(8) The local government shall forward information concerning a precept specified in subsections (2) and (3) of this section to the Technical Inspectorate within two working days as of the issue of the precept.

Chapter 7

State Supervision

§ 62. State supervisory authority

(1) State supervision over the requirements provided for in this Act and legislation established on the basis thereof shall be exercised by the Technical Inspectorate.

(1¹) The Technical Inspectorate verifies the correctness of registry data.

(10.03.2004 entered into force 15.04.2004 - RT I 2004, 18, 131)

(2) The Technical Inspectorate has the right to:

1) exercise supervision without hindrance and without giving prior notice;

2) obtain information necessary for state supervision, examine originals of documents and obtain transcripts thereof;

3) inspect the conformity of construction works, building design documentation, and construction products and of undertakings specified in § 41 of this Act to the requirements;

4) order evaluation services and expert assessment to verify conformity to the requirements;

5) conduct investigations into the reasons for accidents relating to construction works;

6) issue precepts and make decisions according to its competence;

7) render mandatory the disclosure of information concerning any dangers related to construction works or construction products, or to disclose such information itself.

(3) The Technical Inspectorate shall inform the local government of the results of state supervision.

§ 63. Competence and obligations of officials of Technical Inspectorate

(1) An official of the Technical Inspectorate is competent to:

1) supervise compliance with this Act in respect of the conformity of construction products to the requirements by conducting inspection activities without hindrance and without giving prior notice in works under construction or parts thereof or in the places of storage, installation or sale of construction products after they are placed on the market within the meaning of the Product Conformity Attestation Act, and by conducting inspection activities without hindrance in construction works in use or in the places of use of construction products, giving the owner of the construction works at least twenty four hours notice thereof, although no notice need be given in the event of investigations into the reasons for accidents relating to construction works;

2) supervise compliance with this Act in respect of the conformity of construction works to the requirements by conducting inspection activities without hindrance and without giving prior notice in works under construction or parts thereof, and by conducting inspection activities without hindrance in construction works in use, giving the owner of the construction works at least twenty four hours notice thereof, although no notice need be given in the event of investigations into the reasons for accidents relating to construction works;

3) obtain information necessary for state supervision, proceeding from the safety or purpose of use of construction works, concerning the building, design, site investigations or owner supervision of the construction works, the expert assessment of building design documentation, the evaluation of the construction works and the use of the construction works from state agencies, local governments, persons marketing construction products, persons selling construction products, owners of construction works, applicants for building permits or undertakings;

4) examine the originals or copies of documents concerning construction products, the building, design, site investigations or owner supervision of construction works, the assessment of building design documentation, the evaluation of construction works, the safety in use of construction works or the purpose of use thereof and to obtain transcripts of such documents, except for documents concerning the cost of the work specified in this clause;

5) inspect the conformity of construction works and the building design documentation to the requirements and the use of construction works proceeding from the safety and purpose of use of the construction works;

6) request, in justified cases, the expert assessment of building design documentation and the evaluation of construction works, and to organise investigations into the reasons for accidents relating to construction works;

7) issue precepts according to his or her competence;

8) oblige the owner of a construction works to inform the public of any dangers related to the construction works, or to inform the public of dangers related to the construction works himself or herself at the expense of the owner of the construction works;

9) oblige the manufacturer or supplier of a construction product within the meaning of the Product Conformity Attestation Act to inform the public of any dangers related to the construction product, or to inform the public of dangers related to the construction product himself or herself at the expense of the manufacturer or supplier of the product;

10) take a construction product of a value not exceeding 20 000 kroons or a sample thereof free of charge and a construction product of a value exceeding 20 000 kroons or a sample thereof for a reasonable fee from the manufacturer or supplier, within the meaning of the Product Conformity Attestation Act, or from the seller of the construction product in order to inspect the conformity of the construction product to the requirements, whereupon the construction product or sample thereof shall be obtained for inspection on the basis of a corresponding decision made by the supervisory official which, if payment for the product or sample is prescribed, also sets out the sum immediately payable to the manufacturer or

supplier, within the meaning of the Product Conformity Attestation Act, or to the seller of the construction product.

(2) The costs of the evaluation services, of the expert assessment of building design documentation and of the evaluation of construction works ordered to verify conformity to the requirements shall be borne by the Technical Inspectorate. If it is established that a construction product, a construction works or building design documentation does not conform to the requirements established therefor, the manufacturer or supplier, within the meaning of the Product Conformity Attestation Act, or the seller of the construction product or the owner of the construction works shall compensate the Technical Inspectorate for the costs of the evaluation services ordered to verify conformity to the requirements, including the costs of expert assessment or evaluation.

(3) If a construction product or a sample thereof taken to inspect conformity to the requirements is found to conform to the requirements, it shall be returned or compensation for the cost thereof shall be paid within a reasonable period of time.

(4) Officials of the Technical Inspectorate exercising state supervision are required to:

- 1) present identification when performing their duties;
- 2) ensure the confidentiality of business and technical information obtained in the course of state supervision activities, unless the disclosure of such information is prescribed by law.

§ 64. Precept issued by official of Technical Inspectorate

(1) An official of the Technical Inspectorate exercising state supervision shall issue a precept to an undertaking if:

- 1) the undertaking is a building contractor, a design contractor or an undertaking engaged in site investigations, owner supervision, expert assessment of building design documentation, evaluation of construction works or project management and is operating without a specialist in charge, or
- 2) the undertaking is a building contractor, a design contractor or an undertaking engaged in site investigations, owner supervision, expert assessment of building design documentation, evaluation of construction works or project management and is operating without registration, or
- 3) the undertaking is a design contractor and the building design documentation or as-built drawings of a construction works prepared thereby do not meet the requirements, or
- 4) the undertaking is a design contractor and building design documentation or as-built drawings of a construction works verified thereby do not meet the requirements, or
- 5) the undertaking is engaged in the expert assessment of building design documentation and the building design documentation or as-built drawings of a construction works verified thereby do not meet the requirements, or
- 6) the undertaking is engaged in site investigations and the site investigations conducted thereby are inadequate, or
- 7) the undertaking is engaged in site investigations and the site investigations are conducted thereby in a manner which does not conform to the requirements, or
- 8) the undertaking is engaged in owner supervision and the owner supervision exercised thereby is inadequate, as a result of which a construction works does not conform to the requirements prescribed therefor, or
- 9) the undertaking is a building contractor and has built in a manner which does not correspond to the building design documentation, or
- 10) the undertaking is a building contractor which is building a construction works for which a building permit has not been issued, or
- 11) the undertaking is a building contractor which has used a construction product which does not conform to the requirements in the process of building, or
- 12) the undertaking is a manufacturer or supplier, within the meaning of the Product Conformity Attestation Act, or a seller of a construction product which has marketed a construction product which does not conform to the requirements.

(2) An official of the Technical Inspectorate exercising state supervision shall issue a precept to the owner of a construction works if the construction works:

- 1) is dangerous to the life, health or property or persons or to the environment, or
- 2) does not conform to the requirements prescribed for construction works.
- (3) In a precept specified in subsections (1) and (2) of this section, an official of the Technical Inspectorate exercising state supervision shall:
 - 1) call attention to the offence;
 - 2) demand the suspension, in part or in full, of the building, design, site investigations, owner supervision, expert assessment of building design documentation, evaluation of construction works, project management activities, use of construction works, marketing of a construction product or incorporation of a construction product in a construction works in a permanent manner;
 - 3) render mandatory the performance of acts necessary for the lawful continuation of the building, design, site investigations, owner supervision, expert assessment of building design documentation, evaluation of construction works, project management activities, the bringing of construction works into conformity with the requirements, the use of construction works, the marketing of a construction product or the incorporation of a construction product in a construction works in permanent manner.
- (4) The Technical Inspectorate shall forward information concerning a precept issued in the event of building which does not conform to the building design documentation or the use of a construction product which does not conform to the requirements to the register of construction works within two working days as of the date on which the precept is issued.
- (5) If an undertaking repeatedly fails to comply with a precept, the Director General of the Technical Inspectorate or an official of the Technical Inspectorate authorised by the Director General has the right to make a decision in which the failure to comply with the precept is documented and which is the basis for the deletion of the undertaking from the register.
- (6) A decision specified in subsection (5) of this section shall set out:
 - 1) the date and place of the decision;
 - 2) the content of the decision;
 - 3) the grounds for the decision;
 - 4) the given name, surname and official title of the official making the decision;
 - 5) a notation concerning the term and procedure for the possible contestation of the precept.
- (7) The Technical Inspectorate shall forward a notice to the register within two working days:
 - 1) concerning the precept specified in subsection (1) of this section together with a copy of the precept;
 - 2) concerning the decision specified in subsection (5) of this section together with a copy of the decision.
- (8) Upon failure to comply with a precept specified in subsections (1) and (2) of this section, an official exercising state supervision may impose a coercive measure pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act. The upper limit for the penalty payment is 10 000 kroons.

Chapter 8 Liability

§ 65. Submission of false information

- (1) The submission by a natural person of false information to the register of construction works is punishable by a fine of up to 300 fine units.
(10.03.2004 entered into force 15.04.2004 - RT I 2004, 18, 131)
- (2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 66. Failure to inform of change to information

(1) The failure by a natural person to inform a local government of the results of site investigations is punishable by a fine of up to 150 fine units.

(10.03.2004 entered into force 15.04.2004 - RT I 2004, 18, 131)

(2) The same act, if committed by a legal person, is punishable by a fine of up to 25 000 kroons.

§ 67. Marketing or incorporation in construction works of construction product not in conformity with requirements

(1) The marketing by a natural person of a construction product which does not conform to the requirements or the incorporation by a natural person of a construction product which does not conform to the requirements in a construction works in a permanent manner is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 68. Failure to perform duties of owner of construction works

(1) The failure by a natural person to perform the duties of the owner of a construction works as specified in § 29 of this Act is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 500 000 kroons.

§ 69. Unauthorised building of construction works

(1) The unauthorised building of a construction works by a natural person is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 500 000 kroons.

§ 70. Proceedings

(1) The provisions of the General Part of the Penal Code (RT I 2001, 61, 364; 2002, 86, 504; 105, 612; 2003, 4, 22; 83, 557; 90, 601; 2004, 7, 40) and the Code of Misdemeanour Procedure apply to the misdemeanours provided for in §§ 65–69 of this Act.

(2) Until the entry into force of the Penal Code, proceedings in the matters of the misdemeanours provided for in §§ 65–69 of this Act shall be conducted pursuant to the provisions of the Code of Administrative Offences (RT 1992, 29, 396; RT I 2001, 74, 453; 87, 524 and 526; 97, 605; 102, 677; 2002, 18, 98; 21, 117; 29, 174 and 175; 30, 176; 32, 189).

(3) Extra-judicial proceedings in the matters of the misdemeanours provided for in §§ 65–69 of this Act shall be conducted by city or rural municipality governments or by Technical Inspectorate, pursuant to their competence.

§ 71. Payment of fines

(1) Fines imposed pursuant to §§ 65–69 of this Act shall be paid to the state budget, except in the cases specified in subsection (2) of this section.

(2) Fines imposed pursuant to §§ 65–69 of this Act shall be paid to the budget of the local government of the location of the misdemeanour if:

1) in the case of any misdemeanour, the misdemeanour report is prepared or the decision is made, pursuant to expedited procedure, by a city or rural municipality government official;

2) a fine is imposed for a violation of legislation issued by the city or rural municipality council on the basis of this Act, regardless of whether the misdemeanour report is prepared or the decision is made, pursuant to expedited procedure, by a city or rural municipality government official or an official of an agency of executive power.

Chapter 9

Implementing Provisions

§ 72. Requirements for existing construction works

(1) A construction works built prior to the entry into force of this Act need not conform to the requirements provided for in § 3 of this Act, except for the requirements provided for the safety of construction works.

(2) A construction works built on a legal basis within the meaning of the Law of Property Act Implementation Act (RT I 1993, 72/73, 1021; 1999, 44, 510; 2000, 51, 325; 88, 576; 2001, 31, 171; 42, 234; 94, 582; 2002, 47, 297; 53, 336; 99, 579; 2003, 13, 64; 51, 355; 78, 523; 81, 546; RT III 2004, 13, 160; RT I 2004, 14, 91) prior to the entry into force of the Planning and Building Act (RT I 1995, 59, 1006; 1996, 36, 738; 49, 953; 1999, 27, 380; 29, 398 and 399; 95, 843; 2000, 54, 348; 2001, 42, 234; 50, 283; 65, 377) may be used according to the purpose of use prescribed for the construction works.

(3) The owner of a construction works specified in subsection (2) of this section may apply for a permit for use, including to change the purpose of the use of the construction works, the owner shall submit an application for a permit for use and the as-built drawings of the construction works to the local government and shall pay the corresponding state fee. An application for a permit for use shall contain the information specified in clauses 36 (1) 1)–3), 6), 7), and 9) of this Act. If a permit for use is issued for a construction works specified in subsection (2) of this section, the local government need not inspect the conformity of the construction works with the prescribed requirements.

(4) The owners of small construction works, pipelines, power lines, telecommunication lines, reservoirs, dams or sluices erected without a building permit after the entry into force of the Planning and Building Act and prior to the entry into force of this Act may apply for a building permit or a permit for use until 31 December 2003. If a building permit is applied for, the local government shall evaluate the construction works on the basis of the building design documentation and decide to issue or to refuse to issue a building permit for the construction works, taking into account the provisions of § 23 or § 24 of this Act. If a permit for use is applied for, an application for a permit for use and the as-built drawings of the construction works shall be submitted to the local government and the state fee shall be paid. An application for a permit for use shall contain the information specified in clauses 36 (1) 1)–3), 6), 7), and 9) of this Act. If a permit for use is issued for a construction works specified in this subsection, the local government need not inspect the conformity of the construction works with prescribed requirements.

(5) The as-built drawings of a construction works specified in subsections 3) and 4) of this section are a set of documents containing architectural and engineering drawings which are prepared by measuring the existing construction works. Upon the preparation of the as-built drawings of construction works, the requirements for geodetic systems within the meaning of the Databases Act shall be taken into consideration.

(6) The requirements for the as-built drawings of construction works specified in subsections (3) and (4) of this section shall be established by the Minister of Economic Affairs and Communications.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

§ 73. Requirements for authorised bodies in field of construction

A person or agency which, before 1 January 2003, was granted the right to act as an authorised assessment or attestation body in the field of construction may act as a notified body until the date on which its authority to act as an authorised assessment or attestation body terminates, but not for longer than until 1 July 2003 or until the entry into force of the Protocol on Conformity Assessment and Acceptance of Industrial Products of the Association Agreement between the Council of the European Communities and their Member States and the Republic of Estonia (Europe Agreement) (RT II 1995, 22-27, 120) in respect of the products specified in the Annexes to the Protocol or until the entry into force of any other corresponding international agreement, whichever is first.

§ 74. State building register

(1) The main function of the state building register is to maintain records on buildings in use.

(2) The state building register shall be established and the statutes for the maintenance thereof shall be approved by the Government of the Republic pursuant to the procedure provided for in the Databases Act.

(3) The chief processor of the state building register is the Ministry of Economic Affairs and Communications.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

(4) The following is the information in the state building register:

1) information concerning a construction works, including essential technical data regarding the construction works and information concerning the physical share of the construction works within the meaning of the Apartment Ownership Act;

2) information concerning the location of a construction works;

3) information concerning the persons connected with a construction works;

4) information concerning the owner of a construction works;

5) information concerning pledges connected with a construction works which is a movable;

6) information concerning prohibitions and seizures connected with a construction works which is a movable;

7) information connected with cultural monuments.

(5) Information shall be submitted to the state building register by the owners of construction works which are movables and, in cases provided by law, other persons.

(6) The persons specified in subsection (5) of this section shall submit information within ten working days as of the date on which the information changes.

§ 75. Termination of activities of state building register and state construction register

(1) The activities of the state construction register shall terminate on 1 January 2003.

(2) The activities of the state building register shall terminate on 31 December 2003.

§ 76. Submission of information to register of construction works

(1) The authorised processor of the state construction register shall submit the information in the state construction register to the register of construction works not later than by 1 February 2003.

(2) The authorised processor of the state building register shall, pursuant to the procedure established by the Government of the Republic, submit the information entered in the state building register before 31 December 2002 to the register of construction works not later than by 1 February 2003.

(3) Network operators within the meaning of the Electricity Market Act, water undertakings within the meaning of the Public Water Supply and Sewerage Act and telecommunications service providers within the meaning of the Telecommunications Act shall submit the digital information specified in § 26 of this Act concerning power lines and construction works connected thereto, public water supply and sewerage systems within the meaning of the Public Water Supply and Sewerage Act and line facilities within the meaning of the Telecommunications Act built on a legal basis but not entered in the state building register or state construction register before the entry into force of this Act to the Ministry of Economic Affairs and Communications together with the as-built drawings of the construction works, unless the network operators, water undertakings or telecommunications service providers do not apply for a permit for use of the specified construction works. The Ministry of Economic Affairs and Communications shall enter the specified information in the register of construction works.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579; 11.02.2003 entered into force 01.07.2003 - RT I 2003, 25, 153)

§ 77. Amendment of Telecommunications Act

Subsection 90 (1) of the Telecommunications Act (RT I 2000, 18, 116; 78, 495; 2001, 23, 125; 53, 310; 2002, 47, 297; 61, 375; 63, 387; 99, 580; 2003, 23, 136; 88, 594; 2004, 30, 207; 208) is amended and worded as follows:

“(1) Line facilities are planned under the conditions and pursuant to the procedure provided for in the Planning Act. Line facilities are built under the conditions and pursuant to the procedure provided for in the Building Act.”

§ 78. Amendment of Income Tax Act

The Income Tax Act (RT I 1999, 101, 903; 2001, 11, 49; 16, 69; 50, 283; 59, 359; 79, 480; 91, 544; 2002, 23, 131; 41, 253; 44, 284; 47, 297; 62, 377; 111, 662; 2003, 18, 105) is amended as follows:

1) subsection 25 (2) is amended and worded as follows:

“(2) The erection, expansion and reconstruction of construction works within the meaning of the Building Act, the replacement and modification of utility systems of construction works, changing the division of space in construction works and the building and installation work related to the technical refitting of construction works is also deemed to be acquisition.”;

2) in § 57, the words “the registrar of the state building register” are omitted.

§ 79. Amendment of Product Safety Act

Subsection 1 (5) of the Product Safety Act (RT I 1998, 40, 613; 1999, 82, 753; 2000, 86, 546; 2002, 47, 297; 61, 375; 63, 387; 2003, 20, 120) is amended and worded as follows:

“(5) In this Act, product means a movable produced or manufactured for a consumer or a movable which is likely to be used by a consumer.”

§ 80. Amendment of Forensic Examination Act

Subsection 4 (1) of the Forensic Examination Act (RT I 2001, 53, 309; 2002, 47, 297; 61, 375) is amended and worded as follows:

“(1) For the purposes of this Act, “expert” means a person who uses specific non-legal expertise in forensic examination (hereinafter examination).”

§ 81. Amendment of Privatisation of Dwellings Act

The Privatisation of Dwellings Act (RT I 1993, 23, 411; 2000, 99, 638; 2001, 93, 565; 2002, 47, 297; 53, 336; 2003, 88, 594) is amended as follows:

1) clause 6 (1) 3) is amended and worded as follows:

“(3) in the case of residential buildings in shared ownership where the state or a local government is one of the owners, the undertaking, agency or organisation managing the residential building. The privatisation of such residential buildings or dwellings located within such residential buildings shall be carried out with the consent of the Ministry, the state agency or the executive body of the corresponding local government and the other owners.”;

2) subsection 21⁴ (1) is amended and worded as follows:

“(1) In order to register apartment ownerships, an obligated subject of privatisation of the dwellings shall submit a notarised unilateral registration application, the document (plan) concerning the size and location of the construction works, the dwellings and non-residential premises, and the physical and legal shares therein, and other documents necessary for registration pursuant to law to the land registry. If an obligated subject of privatisation of dwellings has terminated its activities pursuant to the procedure provided by law, the documents specified in this section shall be submitted by the agency designated by the Government of the Republic. The expenses relating to the establishment of an apartment ownership shall be paid by the entitled subject pursuant to the procedure established by the Government of the Republic. Apartment ownership is registered after the payment of expenses relating to the establishment of an apartment ownership. Expenses relating to the establishment of an apartment ownership may be covered out of the repair funds of the corresponding residential building.”;

3) subsection 21⁴ (3) is amended and worded as follows:

“(3) The notary who authenticates a registration application shall submit the information concerning the physical shares in the construction works and concerning the owners of the

construction works to the state register of construction works within one day as of certification of the application.”;

4) subsection 21⁴ (5) is amended and worded as follows:

“(5) The person who owns a dwelling as a movable shall be entered in the land register as the owner of the apartment ownership. The entry shall be based on the documents provided in specified in subsection (1) of this section.”;

5) subsection 21⁵ (5) is amended and worded as follows:

“(5) In order to enter a real encumbrance in public law in the land register, an obligated subject of privatisation of a dwelling shall submit a notarised unilateral petition together with the other documents specified in subsection 21⁴ (1) of this Act and a document which specifies the duration, monetary value and size of the annual payment of the real encumbrance.”;

6) subsection 21⁶ is amended and worded as follows:

“§ 21⁶. Establishment of apartment ownership of construction works in common ownership
The provisions of this Act apply upon the establishment of apartment ownership of construction works in common ownership in the cases where the co-owners have entered into a notarised division agreement for the division of the construction works into physical shares.”;

7) subsection 22 (8) is amended and worded as follows:

“(8) If, in the case of residential buildings with non-residential premises, the determination of the size of the parts thereof corresponding to apartments and non-residential premises has not been carried out pursuant to subsection 3 (2) of this Act, a re-calculation shall be made at the expense of the person who wishes to privatise the non-residential premises.”;

8) subsection 22 (10) is repealed;

9) subsection 22 (11) is amended and worded as follows:

“(11) If, pursuant to legislation, the size of the parts of a residential building which correspond to apartments and non-residential premises has not been determined proceeding from the proportion of the total area of apartments and non-residential premises in the total area of apartments and non-residential premises in the entire residential building, or if the sum total of the legal shares determined upon the privatisation of residential premises is other than one, the obligated subject is required to correct the mistake unilaterally pursuant to the procedure established by the Government of the Republic. The obligated subject shall register the change in the size of the legal share arising from correction of the mistake at the local government but not before two months have passed since the apartment owners are informed of such change. The size of a legal share is expressed in the form of a common fraction. The local government shall submit information concerning the size of the legal share to the state register of construction works.”

§ 82. Amendment of Law of Property Act Implementation Act

The Law of Property Act Implementation Act (RT I 1993, 72/73, 1021; 1999, 44, 510; 2000, 51, 325; 88, 576; 2001, 31, 171; 42, 234; 94, 582; 2002, 47, 297; 53, 336; 99, 579; 2003, 13, 64; 51, 355; 78, 523; 81, 546; RT III 2004, 13, 160; RT I 2004, 14, 91) is amended as follows:

1) in subsections 10 (4), 11 (4), 11¹ (2), and 11² (2), the word “notify” is substituted by the words “notify by electronic means”;

2) subsection 13 (7) is amended and worded as follows:

“(7) An acquisition or a bequest of a construction works or a share thereof shall, within fifteen days after transfer of the right of ownership, be registered on the application of the acquirer in the state register of construction works, whereupon the acquirer shall submit the information necessary for making the notation to a notary. The notary to whom the acquirer turns shall submit the information necessary for making the notation to the state register of the construction works.”;

3) subsections 13² (3) and (4) are amended and worded as follows:

“(3) A pledge contract entered into pursuant to subsection (2) of this section shall be notarised. The notary attesting the contract shall submit, by electronic means, the information concerning the pledged construction works or a share thereof and the pledge contract to the

state register of construction works within five days as of the date of attestation of the transaction. A right of security is created as of the moment of notarisation of the pledge contract. Information concerning pledge contracts for construction works and shares thereof entered into before the entry into force of the Act on Amendment of Legislation Relating to Implementation of the Law of Property Act (RT I 1994, 94, 1609; 1995, 9, correction notice) and information concerning the pledged construction works and shares thereof shall be submitted by a notary to the state register of construction works on the proposal of a party who entered into the transaction. If information concerning a pledge contract and information concerning a pledged construction works or part thereof is not entered in the state register of construction works, the pledge extinguishes upon the transfer of ownership of the object of pledge unless the acquirer knew or should have known of the pledge.

(4) At the request of an interested person, a notation concerning extinguishment of a right of security in a construction works or a share thereof, or its re-registration as a mortgage shall be made in the state register of construction works, whereupon the interested person shall submit the information necessary for the notation to be made to the notary who attested the contract. The notary who attested the contract shall submit the information necessary for the notation to be made to the register of the state register of construction works.”;

4) subsection 13² (6) is amended and worded as follows:

“(6) A prohibition of transfer of a residential building established pursuant to § 44 of the Estonian SSR State Notaries Act (*ENSV Teataja*² 1973, 53, 473) shall be deleted from the state register of construction works on the basis of the petition of an interested person by the notary to whom the interested person submits the corresponding petition. The payment of a loan or termination of a pledge contract shall be proved.”;

5) in subsection 13³ (3¹), the words “A certified copy of the certificate issued from the building register for the first registration of the land shall be appended to the notice” are omitted;

6) subsection 13³ (3²) is repealed;

7) subsection 13³ (3³) is amended and worded as follows:

“(3³) A pledgee as indicated in the state register of construction works and an entitled person according to a prohibition or seizure entered in the state register of construction works on the basis of a court decision have the right to apply unilaterally for a preliminary notation or a notation concerning a prohibition to be entered in the register part of the land register to be opened as of the publication of the notice concerning the opening of the land register part in the official publication *Ametlikud Teadaanded*³. Consent of the person who, upon the first registration, will be entered in the land register as the owner of the registered immovable is not necessary for a notation to be entered in the land register. The entry shall be based on a petition of the person specified in the first sentence of this subsection in which the sum of mortgage applied for and a reference to the pledge contract or a reference to the court decision which is the basis for the prohibition or seizure to be entered in the state register of construction works shall be set out accordingly. A preliminary notation securing the establishment of a mortgage shall set out the sum of the mortgage, the interest rate and the sum of collateral claims in the amount stated by the pledgee and a reference to the pledge contract. A notation concerning a prohibition shall contain a reference to the court decision which is the basis for entry of the prohibition or seizure in the state register of construction works.”;

8) in subsection 14 (1), the words “section 70 of the Planning and Building Act (RT I 1995, 59, 1006; 1996, 36, 738; 49, 953)” are substituted by the words “the Building Act”;

9) (Repealed - 13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

10) (Repealed - 13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

§ 83. Amendment of Non-Residential Premises Privatisation Act

Subsection 2 (2) of the Non-Residential Premises Privatisation Act (RT I 1995, 57, 979; 1996, 2, 27; 1997, 13, 210; 1999, 27, 386; 82, 754; 2000, 88, 576; 2002, 47, 297; 2003, 88, 594) is amended and worded as follows:

“(2) For the purposes of this Act, non-residential premises are deemed to be office premises, premises intended for cultural activities, studios (workrooms of persons engaged in creative activities), commercial premises, household premises, storage premises, industrial premises and other premises located in residential buildings which, pursuant to the building design documentation, the permit for use or the permission of the rural municipality or city government, are prescribed for permanent use as non-residential premises. Prior to the privatisation of non-residential premises, the information concerning such premises shall be entered in the state register of construction works.”

§ 84. Amendment of Apartment Associations Act

The Apartment Associations Act (RT I 1995, 61, 1025; 1999, 42, 498; 2000, 88, 576; 2001, 93, 565; 2002, 47, 297) is amended as follows:

1) clause 3 (2) 4) is amended and worded as follows:

“(4) a copy of the land register entry concerning the ownership of the apartment ownerships or, in the case specified in subsection 17 (4) of this section, a document certifying movable property ownership;”;

2) subsection 17 (4) is amended and worded as follows:

“(4) In order to register an apartment association founded for management of the legal shares of a residential building privatised as a movable, a document certifying movable property ownership which sets out information concerning the owner of an apartment and any other corresponding legal share of the residential building shall be submitted instead of a copy of the land register entry.”

§ 85. Amendment of Notary Fees Act

Subsection 3 (3) of the Notary Fees Act (RT I 1996, 23, 456; 1998, 95, 1512; 1999, 27, 380; 29, 400; 2001, 56, 336; 93, 565; 2002, 3, 6; 47, 297; 53, 336; 2003, 13, 64; 18, 100) is amended and worded as follows:

“(3) If the declared value of a thing or right of a person requesting a notarial act is less than the usual value of the thing or right, the transaction value shall be determined based on the assessed value of the land, the size of the mortgage entered in the land register, the amount of insurance coverage for the thing or right, or other reliable information.”

§ 86. Amendment of State Fees Act

The State Fees Act (RT I 1997, 80, 1344; 2001, 55, 331; 53, 310; 56, 332; 64, 367; 65, 377; 85, 512; 88, 531; 91, 543; 93, 565; 2002, 1, 1; 18, 97; 23, 131; 24, 135; 27, 151 and 153; 30, 178; 35, 214; 44, 281; 47, 297; 51, 316; 57, 358; 58, 361; 61, 375; 62, 377; 82, 477; 90, 519; 102, 599; 105, 610; 2003, 4, 20; 13, 68; 15, 84; 85; 20, 118; 21, 128; 23, 146; 25, 153; 154) is amended as follows:

1) clause 3 (2) 8²) is repealed;

2) clause 8³) is added to subsection 3 (2) worded as follows:

“8³) information in the state register of construction works;”;

3) subsection (4) is added to section 6 worded as follows:

“(4) State fees charged for the issue of building permits, permits for use and certified extracts of information in the state register of construction works shall be paid into the budget of the corresponding rural municipality or city.”;

4) clause 13) is added to subsection 15 (1) worded as follows:

“13) it is not possible to use a certificate from the state building register issued to the owner of a construction works as evidence in the event of a transaction concerning a construction works which is a movable on the grounds that the construction works forms a part of an immovable.”;

5) Division 1³ of Chapter 7 of the Act is repealed;

6) Division 1⁴ is added to Chapter 7 of the Act worded as follows:

“Division 1⁴

Information in State Register of Construction Works

§ 68¹². Issue of certified extracts of information from state register of construction works
A state fee of 20 kroons per page shall be paid for certified extracts from the state register of construction works.”;

7) sections 197⁹ and 197¹⁰ are added to the Act worded as follows:

“§ 197⁹. Issue of building permit

(1) A state fee of 2000 kroons shall be paid for a building permit issued for the erection, reconstruction or expansion of a construction works, plus 5 kroons per square metre to be built as calculated from the covered net surface of the construction works set in the building design documentation.

(2) A state fee of 1000 kroons shall be paid for the issue of a building permit if the building permit is issued for the erection of a detached house, summer-house, garden house or farm building.

(3) A state fee of 500 kroons shall be paid for the issue of a building permit if the permit is issued for:

- 1) the reconstruction of a detached house, summer-house, garden house or farm building;
- 2) the demolition of a construction works.

§ 197¹⁰. Issue of permit for use

(1) A state fee of 1000 kroons shall be paid for the issue of a permit for use if one of the following permits has previously been issued:

- 1) a building permit for the erection of a construction works;
- 2) a building permit for the expansion of a construction works;
- 3) a building permit for the reconstruction of a construction works.

(2) A state fee of 500 kroons shall be paid for the issue of a permit for use if one of the following permits has previously been issued:

- 1) a building permit for the erection of a detached house, summer-house, garden house or farm building;
- 2) a building permit for the reconstruction of a detached house, summer-house, garden house or farm building.

(3) A state fee of 140 kroons shall be paid for the issue of a permit for use if a building permit for the partial demolition of a construction works has previously been issued.

(4) A state fee of 120 kroons shall be paid for the issue of a permit for use of a civil engineering works necessary for servicing a construction works or a permit for use of a small construction works.

(5) A state fee of 1000 kroons shall be paid for the issue of a permit for use of a construction works not specified in subsections (1)-(4) of this section.”

§ 87. Amendment of Land Reform Act

The Land Reform Act (RT 1991, 34, 426; RT I 2001, 52, 304; 93, 565; 2002, 11, 59; 47, 297; 298; 99, 579; 100, 586; 2003, 26, 155; 2004, 38, 258) is amended as follows:

1) in subsection 6 (3) the words “as defined in § 38 of the Planning and Building Act” are substituted by the words “within the meaning of the Building Act”;

2) subsection 6 (3²) is amended and worded as follows:

“(3²) For the purposes of this Act, a residential building is a building where at least 20 per cent of the total area of the building is prescribed for permanent residence and the rest for agricultural production or other specific purposes relating to the residential building. The provisions concerning residential buildings also apply to unfinished residential buildings which conform to the characteristics provided for buildings in the Building Act. The conformity of an unfinished construction works to the characteristics of residential buildings provided for in this subsection shall be assessed on the basis of the building design documentation. Unfinished residential buildings which do not conform to the characteristics provided for buildings in the Building Act and building permits issued before 1 January 2003 pursuant to lawful procedure for erection of residential buildings are considered to be other construction works in this Act.”

§ 88. Amendment of Public Procurement Act

The Public Procurement Act (RT I 2000, 84, 534; 2001, 40, 224; 50, 284; 2002, 23, 131; 47, 297; 61, 375; 63, 387; 87, 505; 99, 577; 2003, 25, 153; 78, 521; 88, 591) is amended as follows:

- 1) in subsection 2 (4) the word “construction supervision” is substituted by the word “owner supervision”;
- 2) in clause 4 (1) 7) the word “structures” is substituted by the word “construction works”;
- 3) clause 4 (1) 13) is amended and worded as follows:
“13) contracting for the performance of audits where the auditor is appointed by the Riigikogu⁴, and contracting for the performance of special audits for the purposes of exercising state supervision if the right of the state supervision authority to order such special audits has been provided by law.”;
- 4) in the preambular paragraph of subsection 18 (1) the words “at the beginning of the financial year” are omitted;
- 5) subsection 38 (7) is amended by adding a sentence worded as follows:
“The duration of the security for the warranty period of construction work shall be the same as the duration of the guarantee period of construction work.”
- 6) subsection 42 (5) is repealed;
- 7) subsection (3¹) is added to § 45 worded as follows:
“(3¹) The duration of the guarantee period of construction work shall not be used as an evaluation criterion upon the public procurement of construction work.”

§ 89. Amendment of Immovables Expropriation Act

The Immovables Expropriation Act (RT I 1995, 30, 380; 59, 1006) is amended as follows:

- 1) clause 3 (1) 14) is amended and worded as follows:
“14) for construction of gaseous fuel installations.”;
- 2) clauses 15) and 16) are added to subsection 3 (1) worded as follows:
“15) for construction of pressure equipment and assemblies;
16) in other cases provided by law.”;
- 3) subsection 6 (3) is amended and worded as follows:
“(3) A compulsory possessor may use an immovable only for the purpose prescribed in the resolution establishing compulsory possession.”;
- 4) section 16 is amended and worded as follows:
“§ 16. Calculation of value of immovable under expropriation and of limited real right
(1) The value of an immovable designated for expropriation which is ascertained by a special valuation or the value of a limited real right shall be the basis for determination of an expropriation payment unless the parties agree otherwise. An expropriation payment for an immovable shall not be lower than the usual value of the immovable.
(2) Illegal construction works shall not be valued.
(3) A possible change in the value of an immovable or the value of a limited real right in the future shall not be taken into consideration in the determination of an expropriation payment.”;
- 5) subsection 17 (1) is amended and worded as follows:
“(1) An expropriation payment shall cover the damage that the subject of expropriation must incur due to the expropriation, whereupon the expropriation payment for an immovable shall cover the value of the immovable and the accessories and fruits expropriated therewith, unless otherwise provided by law.”

§ 90. Amendment of Explosive Substances Act

Section 7 of the Explosive Substances Act (RT I 1997, 86, 1461; 2001, 65, 377; 85, 510; 88, 531; 2002, 47, 297; 53, 336; 61, 375; 63, 387; 2003, 20, 116) is amended as follows:

- 1) subsection (3) is amended and worded as follows:
“(3) Building permits for explosive substances plants shall be applied for from the local government in accordance with the Building Act.”;

2) in subsection 6, the words “Planning and Building Act” are substituted by the words “Building Act”.

§ 91. Amendment of Railways Act

The Railways Act (RT I 1999, 29, 405; 2001, 31, 170; 93, 565; 2002, 47, 297; 63, 387) is amended as follows:

1) the heading of § 20 and subsection 20 (1) are amended and worded as follows:

“§ 20. Railway construction works and state supervision

(1) The detailed plan or design criteria which constitute the basis for the building design documentation of railway infrastructure civil engineering works shall be approved by the Railway Administration.”;

2) subsection 20 (2) is repealed;

3) subsections 20 (4) and (5) are amended and worded as follows:

“(4) The Railway Administration shall exercise state supervision over adherence to the requirements in the building and use of railway infrastructure civil engineering works established in the Building Act and this Act. The Railway Administration shall issue building permits and permits for use of railway infrastructure civil engineering works and, in the case provided in the Building Act, also the written consent for building of railway infrastructure civil engineering works. The Railway Administration shall co-ordinate building design documentation, building permits, written consent and permits for use with the local government.

(5) The procedure for the issue and revocation of permits to build and use railway infrastructure civil engineering works and the procedure for refusal to issue such permits shall be established by the Government of the Republic. The procedure for the exercise of state supervision shall be established by the Minister of Transport and Communications.”;

4) clause 34 (1) 5) is amended and worded as follows:

“5) issue and revoke permits to build and use railway infrastructure civil engineering works, decide on the refusal to issue such permits and exercise state supervision over the building and use of railway infrastructure civil engineering works;”.

§ 92. Amendment of Aviation Act

The Aviation Act (RT I 1999, 26, 376; 2001, 87, 525; 2002, 47, 297; 61, 375; 63, 387; 2003, 23, 138; 143; 88, 594; 2004, 25, 169; 30, 208) is amended as follows:

1) subsection 35 is amended and worded as follows:

“§ 35. Planning, building and commencement of use of airports, airfields, and construction works whose height exceeds 45 m

(1) A detailed plan is required in order to build an airport or airfield.

(2) Local governments are required to obtain approval from the Civil Aviation Administration for detailed plans which include an airport, an airfield or a construction works whose height above ground level exceeds 45 m. Before granting approval, the Civil Aviation Administration has the right to perform expert assessment of the detailed plan regarding air-navigation, air traffic and air safety.

(3) If the existence of a construction works whose height above ground level exceeds 45 m is prescribed in design criteria, the local government is required to obtain approval from the Civil Aviation Administration concerning the design criteria. In the course of co-ordinating the design criteria, the Civil Aviation Administration has the right to perform expert assessment of the design criteria regarding air-navigation, air traffic and air safety, and also to propose amendments to the design criteria based on air-navigation, air traffic and air safety. Upon the issue of design criteria, the local government shall take into account any proposals of the Civil Aviation Administration.

(4) The building design documentation of an airport, an airfield or a construction works whose height above ground level exceeds 45 m shall be approved by the Civil Aviation Administration. The Civil Aviation Administration has the right to perform expert assessment of detailed plans presented for approval regarding air-navigation, air traffic and air safety. Upon approval of the building design documentation, the Civil Aviation Administration shall

determine the aviation activities permitted at the airport or airfield which shall be entered in the building permit and the permit for use of the construction works.

(5) Permits for the use of airports, airfields and construction works whose height above ground level exceeds 100 m may be issued only with the written consent of the Civil Aviation Administration. Before the grant of written consent, the Civil Aviation Administration has the right to perform expert assessment of the construction works regarding air safety.

(6) The building design documentation of construction works which emit gas, smoke or steam in significant quantities or which reduce visibility in the immediate vicinity of an airport in any other manner and the building design documentation of refuse disposal sites, livestock production facilities and fish and meat plants located in the immediate vicinity of an airport shall be approved by the Civil Aviation Administration.

(7) The Government of the Republic shall establish the procedure for the determination and use of the immediate vicinity of airports in order to ensure air safety.

(8) In order to conduct an expert assessment specified in subsections (2)-(5) of this Act, the Civil Aviation Administration has the right to involve persons competent to conduct expert assessment or evaluation of detailed plans, building design documentation or construction works (experts). An expert shall provide his or her opinion in writing.

(9) The expenses relating to the conduct of an expert assessment specified in subsections (2)-(5) of this Act, including expert's fees, shall be covered by the person who wishes to build an airport, an airfield or a construction works whose height above ground level exceeds 45 m or by the owner of such a construction works. The size of the expenses relating to expert assessment shall be determined by a decision of the Civil Aviation Administration. The expert's fees specified in this section shall be determined on the basis of the amount equalling three times the hourly wage corresponding to the salary rate at the highest level of the salary scale for state public servants.”;

2) the Act is amended by adding Chapter 9¹ worded as follows:

“Chapter 9¹

State Supervision

§ 60¹. State supervisory authority

(1) The Civil Aviation Administration shall exercise state supervision over adherence to the air safety requirements established for construction works by this Act.

(2) The Civil Aviation Administration has the right to:

- 1) exercise supervision without hindrance and without giving prior notice;
- 2) obtain information needed for state supervision, examine originals of documents and obtain transcripts thereof;
- 3) inspect the conformity of construction works and building design documentation with the air safety requirements;
- 4) order evaluation and expert assessment to verify conformity with the requirements;
- 5) conduct investigations into the reasons for accidents relating to failure to adhere to air safety requirements;
- 6) issue precepts according to its competence.

(3) The Civil Aviation Administration shall inform the local government of the results of state supervision.

§ 60². Competence and obligations of officials of Civil Aviation Administration

(1) An official of the Civil Aviation Administration is competent to:

- 1) inspect compliance with this Act, including in construction works under construction and parts thereof without hindrance and without giving prior notice;
- 2) inspect, without hindrance, compliance with this Act in construction works in use by giving at least twenty-four hours notice thereof to the owner of the construction works, although no notice need be given in the event of investigations into the reasons for accidents relating to construction works;
- 3) obtain information necessary for state supervision, proceeding from the safety or purpose of use of construction works, concerning the building or design, the expert

assessment of building design documentation, the evaluation of the construction works and the use of the construction works from state agencies, local governments, owners of construction works, applicants for building permits or undertakings;

4) examine the originals or copies of documents concerning the building and design of construction works, the expert assessment of building design documentation, the evaluation of construction works, the safe use of construction works and the purpose of use thereof and to obtain transcripts of such documents, except for the documents concerning the cost of the work specified in this clause;

5) inspect the conformity of construction works and the building design documentation with the requirements, proceeding from the safety and purpose of use of the construction works;

6) request, in justified cases, the expert assessment of building design documentation and evaluation of construction works, and organise investigations into the reasons for accidents relating to construction works;

7) issue precepts according to his or her competence.

(2) An official of the Civil Aviation Administration exercising state supervision is required to:

1) present identification when performing his or her duties;

2) ensure the confidentiality of business and technical information obtained in the course of state supervision activities, unless the disclosure of such information is prescribed by law.

§ 60³. Precept issued by official of Civil Aviation Administration

(1) An official of the Civil Aviation Administration exercising state supervision shall issue a precept to the owner of a construction works if the construction works does not conform to the prescribed air safety requirements.

(2) In a precept specified in subsection (1) of this section, an official of the Civil Aviation Administration exercising construction supervision shall:

1) call attention to the offence;

2) demand the suspension, in part or in full, of the building or use of a construction works, and

3) render mandatory the performance of acts necessary for bringing building or the construction works into conformity with the requirements or for the lawful continuation of the use of the construction works.”

§ 93. Amendment of Apartment Ownership Act

The Apartment Ownership Act (RT I 2000, 92, 601; 2001, 93, 656; 2002, 47, 297) is amended as follows:

1) clause 5 (3) 1) is amended by adding the words “or permit for use” after the words “building permit”;

2) section 28¹ is added to the Act worded as follows:

“§ 28¹. Separated space

Upon establishment of apartment ownership of privatised dwellings or privatised non-residential premises, separate space, meaning space separate from the dwelling, located in the same building and necessary for servicing the dwelling, or space separate from the non-residential premises, located in the same building and necessary for servicing the non-residential premises within the meaning of the Non-Residential Premises Privatisation Act (RT I 1995, 57, 979; 1996, 2, 27; 1997, 13, 210; 1999, 27, 386; 82, 754; 2000, 88, 576), or part of a construction works which is separate from the delimited part of the construction works and necessary for servicing part of the construction works, is also included in the physical share of the apartment ownership.”

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

§ 94. Amendment of Land Cadastre Act

Subsection 9 (3) of the Land Cadastre Act (RT I 1994, 74, 1324; 2001, 9, 41; 93, 565; 2002, 47, 297; 61, 375; 63, 387; 99, 579; 2003, 51, 355) is amended and worded as follows:

“(3) The cadastral registrar may enter other information concerning a cadastral unit, including information concerning construction works located on the cadastral unit, in the cadastre and create databases if necessary.”

§ 95. Amendment of Occupational Health and Safety Act

Clause 13 (1) 16) of the Occupational Health and Safety Act (RT I 1999, 60, 616; 2000, 55, 362; 2001, 17, 78; 2002, 47, 297; 63, 387; 2003, 20, 120) is repealed.

§ 96. Amendment of Roads Act

The Roads Act (RT I 1999, 26, 377; 93, 831; 2001, 43, 241; 50, 283; 93, 565; 41, 249; 47, 297; 53, 336; 61, 375; 63, 387; 2003, 79, 530; 88, 594) is amended as follows:

1) subsection 17 (1) is amended and worded as follows:

“(1) Plans of areas prescribed for the construction of roads shall be prepared pursuant to the Planning Act.”;

2) subsection 17 (4) is amended by dividing it into subsections (4) and (5) and worded as follows:

“(4) The requirements for road construction materials and products shall be established by the Minister of Transport and Communications.

(5) The procedure for attestation of the conformity of road construction materials and products and the conformity assessment procedures required for the attestation of conformity shall be established pursuant to the procedure provided for in the Building Act.”;

3) the heading of § 20 and subsection 20 (1) are amended and worded as follows:

“§ 20. Construction supervision over road management work

(1) Construction supervision of road management work (hereinafter construction supervision) shall be organised by the Road Administration.”;

4) subsection 21 (2) is amended and worded as follows:

“(2) Road construction permits for national roads situated outside city boundaries shall be issued by the Road Administration. Road construction permits for other public roads and for national roads situated within city boundaries shall be issued by the relevant rural municipality or city government. A road construction permit shall be issued to the owner of the road.”

§ 97. Amendment of Law of Property Act

Section 158 of the Law of Property Act (RT I 1993, 39, 590; 1999, 44, 509; 2001, 34, 185; 93, 565; 2002, 47, 297; 53, 336; 93, 565; 2002, 53, 336; 2003, 13, 64; 17, 95; 78, 523; 2004, 20, 141; 37, 255) is amended and worded as follows:

“§ 158. Utility networks and utility works

Utility networks or utility works (heating, water supply or sewerage systems, telecommunications or power networks, weak current installations, gaseous fuel installations, electrical installations, or pressure assemblies and construction works necessary for servicing thereof) located on an immovable belonging to another person are not essential parts of the immovable.”

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

§ 98. Amendment of Heritage Conservation Act

Clause 37 (2) 1) of the Heritage Conservation Act (RT I 2002, 27, 153; 47, 297; 53, 336; 63, 387; 2004, 25, 171) is amended and worded as follows:

“(1) the registration number in the state register of undertakings operating in areas of activity subject to special requirements, if such registration is required, and a copy of the activity licence valid in the field of construction, if such activity licence is required;”.

§ 99. Amendment of Planning and Building Act

The Planning and Building Act (RT I 1995, 59, 1006; 1996, 36, 738; 49, 953; 1999, 27, 380; 29, 398 and 399; 95, 843; 2000, 54, 348; 2001, 42, 234; 50, 283; 65, 377) is amended by adding § 70¹ worded as follows:

“§ 70¹. Validity of activity licences

An undertaking to which the Minister of Economic Affairs has issued an activity licence for business in the field of construction with a period of validity which expires after 1 October 2002 but before 31 December 2002 may operate on the basis of the activity licence until 31 December 2002.”

§ 100. Repeal of Planning and Building Act

The Planning and Building Act (RT I 1995, 59, 1006; 1996, 36, 738; 49, 953; 1999, 27, 380; 29, 398 and 399; 95, 843; 2000, 54, 348; 2001, 42, 234; 50, 283; 65, 377) is repealed as of the entry into force of this Act.

§ 101. Activity licence

An undertaking to which the Minister of Economic Affairs or the Minister of Economic Affairs and Communications has, prior to the entry into force of this Act, issued an activity licence for business in the field of construction with a period of validity which expires after 1 January 2003 may operate in the area of activity entered in the activity licence until the due date indicated in the activity licence but not longer than until 31 March 2003.

(13.11.2002 entered into force 01.01.2003 - RT I 2002, 99, 579)

§ 102. Entry into force of Act

(1) This Act enters into force on 1 January 2003.

(2) Clause 6 (1) 4) and subsection (7) 2) of this Act enter into force upon the entry into force of the Protocol to the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Estonia, of the other part, on Conformity Assessment and Acceptance of Industrial Products in respect of the products specified in the Annexes to the Protocol, or upon the entry into force of any other corresponding international agreement, or upon the accession of Estonia to the European Union, whichever is first.

(3) Clauses 57 (1) 4) and 5), clause 78 2), § 81, clauses 82 2)–4), 6) and 7), §§ 83 and 84 and clauses 86 1) and 5) of this Act enter into force on 1 January 2004.

(4) Subsections 65 (1), 66 (1), 67 (1), 68 (1) and 69 (1) of this Act enter into force upon the entry into force of the Penal Code, but not earlier than on 1 January 2003.

(5) Sections 74, 88 and 99 of this Act enter into force on 1 July 2002.

¹ RT = *Riigi Teataja* = *State Gazette*

² ENSV *Teataja* = *ESSR Gazette*

³ *Ametlikud Teadaanded* = *Official Notices*

⁴ Riigikogu = the parliament of Estonia