

Heritage Conservation Act

Passed 27 February 2002

(RT¹ I 2002, 27, 153),

entered into force 1 April 2002,

amended by the following Acts:

24.03.2004 entered into force 26.04.2004 - RT I 2004, 25, 171;

19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387;

05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336;

15.05.2002 entered into force 01.01.2003 - RT I 2002, 47, 297.

Chapter 1

General Provisions

§ 1. Scope of application of Act

(1) The Heritage Conservation Act regulates the rights and obligations of state and local government authorities and owners and possessors of cultural monuments (hereinafter monuments) in organising the protection of monuments and heritage conservation areas and in ensuring the preservation of monuments and heritage conservation areas.

(2) Administrative proceedings regulated by this Act shall be conducted pursuant to the procedure provided by the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375; 2003, 20, 117; 78, 527), unless otherwise provided by this Act.

§ 2. Definition of monument

A monument is a movable or immovable, a part thereof, a body of things or an integral group of structures under state protection which is of historical, archaeological, ethnographic, urban developmental, architectural, artistic or scientific value or of value in terms of religious history or of other cultural value and due to which it is designated as a monument pursuant to the procedure provided for in this Act.

§ 3. Classes of monuments

(1) Monuments are movable monuments or immovable monuments according to the classification of things as movables and immovables.

(2) The following things and bodies of things may be immovable monuments:

1) the sites of ancient, medieval and modern settlements, fortresses, refuges, places of worship, burial grounds, ancient fields, roads, bridges, harbour sites, underwater structures, and sites related to early industry;

2) civil, industrial and defence structures and sacred buildings, and their ensembles and complexes, which have artistic value or value in terms of cultural history;

3) structures reflecting the development of science, technology or production;

4) works of monumental art;

5) structures, memorials, cemeteries, sites (areas) and natural features of historical value.

(3) The following things and bodies of things may be movable monuments:

1) parts severed from immovable monuments;

2) archaeological findings, ethnographic and historical objects and collections thereof;

3) works of visual and applied art and collections thereof which have artistic value or value in terms of religious or cultural history;

4) machines and fixtures reflecting the development of science, technology or production.

(4) Monuments may be classified as archaeological, architectural, artistic, industrial or historical monuments.

§ 4. Heritage conservation areas

(1) Historical settlements, parts thereof and sites of cultural value which have developed under the joint influence of natural phenomena and human activities are eligible for designation as heritage conservation areas.

(2) For the purposes of this Act, a heritage conservation area may consist of immovable monuments, or immovable monuments and other things, which together with the site, natural features, the street network, blocks of houses and arrangement of plots (registered immovables) constitute a culturally valuable whole.

§ 5. Prohibition on destruction of or damage to monuments

It is prohibited to destroy or damage monuments.

Chapter 2

Organisation of Heritage Conservation

§ 6. Organisers of Heritage Conservation

(1) Heritage conservation is organised by the Ministry of Culture, the National Heritage Board and rural municipality and city governments.

(2) Rural municipality and city governments may delegate the competence to organise heritage conservation specified in § 9, subsection 24 (1), 34 (1) and § 44 of this Act to rural municipality and city authorities respectively.

(24.03.2004 entered into force 26.04.2004 - RT I 2004, 25, 171)

§ 7. National Heritage Board

The main function of the National Heritage Board is to organise heritage conservation work, to exercise state supervision over monuments and heritage conservation areas and to maintain the national register of cultural monuments.

§ 8. Heritage Conservation Advisory Panel

(1) The Heritage Conservation Advisory Panel is an advisory body which operates within the Ministry of Culture.

(2) The Heritage Conservation Advisory Panel consists of twelve members and its membership shall be approved for a term of four years by the Minister of Culture.

(3) The Heritage Conservation Advisory Panel is comprised of representatives of universities, research institutions, associations and alliances, and experts in the fields of history, archaeology, ethnography, architecture, restoration and the history of art and science.

(4) The Heritage Conservation Advisory Panel shall make proposals and express opinions concerning all issues arising from this Act. The opinions of the Advisory Panel constitute the recommended basis for the National Heritage Board and local governments in the planning of heritage conservation work and the elaboration of heritage conservation principles. The Advisory Panel shall submit its opinions and recorded decisions in writing to the Minister of Culture and the National Heritage Board.

(5) The statutes of the Heritage Conservation Advisory Panel shall be approved by a regulation of the Minister of Culture.

§ 9. Duties of rural municipality and city governments

(1) Rural municipality and city governments shall:

1) maintain records on immovable monuments in their territory;

2) take into consideration the heritage conservation requirements arising from immovable monuments, heritage conservation areas and their protected zones when preparing and co-ordinating physical planning, land use and other documentation and when establishing traffic control;

3) make proposals to the National Heritage Board to place things of cultural value under temporary protection;

4) monitor whether persons who conduct work involving monuments hold research permits and activity licences issued pursuant to the established procedure;

- 5) monitor whether work involving monuments and structures located within heritage conservation areas and the relevant plans have been approved by the National Heritage Board;
 - 6) promptly inform the National Heritage Board of any violations of this Act, alterations resulting in damage to monuments, and findings of cultural value;
 - 7) suspend work and other activities which endanger monuments or findings of cultural value;
 - 8) perform other tasks arising from the statutes of heritage conservation areas;
 - 9) observe other requirements arising from this Act in the performance of their duties.
- (2) Pursuant to agreements entered into by the National Heritage Board and local government councils, rural municipality and city governments may perform duties of the state in heritage conservation.

§ 10. Heritage conservation monitors

Monitors whose rights and duties are determined by the Minister of Culture shall participate in heritage conservation on their own initiative.

Chapter 3

Designation of Monuments

§ 11. Temporary protection

- (1) The National Heritage Board shall place things of cultural value under temporary protection in order to determine the need to designate the things as monuments.
- (2) The procedure for temporary protection shall be established upon placement of a thing under temporary protection.
- (3) Requirements relating to monuments and restrictions on ownership of monuments provided for in this Act apply to things placed under temporary protection. The owner or possessor of a thing which is placed under temporary protection has the rights and obligations of an owner or possessor of a monument.
- (4) A thing may be placed under temporary protection for up to six months, except in the case specified in subsection 42 (1) of this Act.
(24.03.2004 entered into force 26.04.2004 - RT I 2004, 25, 171)
- (5) Things of cultural value shall be placed under temporary protection and the protection thereof shall be terminated pursuant to the procedure established by a regulation of the Government of the Republic.

§ 12. Designation as monument and revocation of designation

- (1) A thing is designated as a monument by a directive of the Minister of Culture based on the expert assessment of the National Heritage Board and a proposal from the Heritage Conservation Advisory Panel.
- (2) A thing designated as a monument is under state protection pursuant to this Act.
- (3) The designation of a thing as a monument shall be revoked by a directive of the Minister of Culture based on the expert assessment of the National Heritage Board and a proposal from the Heritage Conservation Advisory Panel.
- (4) The directives specified in subsections (1) and (3) of this section shall be made public in the *Riigi Teataja Lisa*².
- (5) The procedure for designation as a monument and revocation of such designation shall be established by a regulation of the Government of the Republic.

§ 13. Registration of monuments

- (1) Information relating to monuments shall be entered in the national register of cultural monuments. The national register of cultural monuments shall be established and the statutes for maintenance of the register shall be approved by the Government of the Republic pursuant to the procedure provided in 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; 24, 133; 2002, 61, 375; 63, 387; 2003, 18, 107; 26, 158).

(2) The location of immovable monuments and their protected zones shall be entered in the land cadastre.

§ 14. Marking of monuments with signs

(1) Monuments shall be marked with appropriate signs.

(2) The marking of monuments with signs shall be organised by the National Heritage Board. It is prohibited to destroy or damage monument signs.

§ 15. Designation as heritage conservation areas

(1) Heritage conservation areas shall be designated on the proposal of the Minister of Culture by a regulation of the Government of the Republic which provides the boundaries of the heritage conservation area and its protected zone and sets out the date on which the heritage conservation area was first designated as being protected under heritage conservation.

(2) The statutes of a heritage conservation area which are co-ordinated with the local government council shall be approved by the Government of the Republic. The statutes of a heritage conservation area shall establish the requirements and restrictions applicable in the heritage conservation area and its protected zone, and the division of tasks between bodies organising heritage conservation. If the heritage conservation area contains a protected natural feature, the statutes shall also provide for co-operation between bodies organising heritage conservation and the administrator of the protected natural feature.

Chapter 4

Ensuring Preservation of Monuments. Restrictions on Ownership

§ 16. Duties of owner or possessor of monument or structure located within heritage conservation area

(1) The owner or possessor of a monument is liable for its preservation. The owner or possessor of a monument is required to:

1) maintain the monument;

2) adhere to the restrictions determined by this Act so far as the protection obligation notice has not prescribed alleviations thereto.

3) promptly inform the National Heritage Board and the rural municipality or city government of any alterations resulting in damage to the monument or of loss of possession of the monument against the owner's or possessor's will;

4) provide officials of bodies organising heritage conservation or authorised persons of the National Heritage Board with access to the monument for inspection;

5) preserve and maintain the monument sign;

6) notify the National Heritage Board of succession to the monument, of encumbrance of the monument with a restricted real right, or of the deposit of the monument.

(2) The maintenance and preservation of a structure which is located within a heritage conservation area but is not a monument (hereinafter structure located within a heritage conservation area) shall be ensured by its owner or possessor who has the duties specified in clauses (1) 3) and 4) of this section.

(3) An owner of a structure located within a heritage conservation area is required to notify the National Heritage Board of the transfer of the structure, succession to the structure or encumbrance of the structure with a restricted real right.

§ 17. Restoration of damaged monuments and signs

Damaged monuments and signs shall be restored to their former condition pursuant to the procedure established by the Government of the Republic. If it is not possible to restore a monument or sign, the damage shall be compensated for pursuant to law.

§ 18. Protection obligation notice

- (1) On the basis of the legal instrument designating a monument, the National Heritage Board shall prepare a protection obligation notice for the owner or possessor.
- (2) The protection obligation notice concerning an immovable monument shall set out:
 - 1) the name, location and registry number of the monument, and the title, number and date of the legal instrument designating the monument;
 - 2) the features of the monument;
 - 3) the condition and a description of the monument;
 - 4) a list of work necessary to maintain the monument, if necessary;
 - 5) any reductions of restrictions on use of the monument;
 - 6) the extent of the protected zone and the reductions of restrictions applicable therein.
- (3) The protection obligation notice concerning a movable monument shall contain the information specified in clauses (2) 1)-5) of this section and, where necessary, the conditions for the preservation of the movable monument.
- (4) A protection obligation notice shall be prepared in three copies of which one shall be given to the owner or possessor, the second shall be given to the rural municipality or city government and the third shall be retained by the National Heritage Board.
- (5) If a protected zone extends into a neighbouring immovable, a protection obligation notice shall also be prepared for the owner or possessor of the neighbouring immovable.
- (6) Upon the transfer of a monument or transfer of the possession of a monument, the owner shall give the protection obligation notice to the new owner or possessor.

§ 19. Transfer of monument

A transfer deed for a monument or for an immovable or structure located within a heritage conservation area shall specify that the object of the contract is a monument or an immovable or structure located within a heritage conservation area.

§ 20. Deposit of movable monument

In the absence of conditions necessary for the preservation of a movable monument or if its owner or possessor does not apply measures prescribed in a protection obligation notice within the specified term, the National Heritage Board may arrange for the monument to be deposited without charge under conditions which ensure its preservation until the owner or possessor is able to ensure adequate preservation of the monument.

§ 21. Requirement to preserve body of things

Movable monuments which together constitute a body of things may be transferred or bequeathed separately or distributed upon the division of an estate only with the permission of the National Heritage Board.

§ 22. Prohibition on taking movable monument out of country

A movable monument may be taken out of the country only for a specified term and on the basis of a permit issued pursuant to the procedure established by the Government of the Republic on the basis of the Customs Act (RT I 1998, 3, 54; 1999, 86, 782; 90, correction notice; 97, 859; 102, 907; 2000, 95, 608; 2001, 56, 335; 64, 368; 88, 531; 93, 565).

§ 23. Restrictions on use of movable monuments

The following is prohibited with respect to a movable monument without the permission of the National Heritage Board:

- 1) severance of the monument from an immovable monument to which it belongs;
- 2) conservation, restoration, repair or alteration of the appearance of the monument in any other manner;
- 3) use of the monument for a purpose which endangers the preservation of the monument.

§ 24. Restrictions applicable on immovable monuments and in heritage conservation areas

(1) The following are prohibited on immovable monuments and in heritage conservation areas without the permission of the National Heritage Board and the rural municipality or city government:

- 1) conservation, restoration and repair;
- 2) construction, including the expansion of structures by way of building extensions or additional stories or building additions beneath the structures, and demolition;
- 3) the development of attics, and closing in and building inside archways and yards;
- 4) changes to the historical street networks, building lines and boundaries of plots of land (registered immovables), and division of land into plots;
- 5) changes to use of plots of land and immovables;
- 6) alterations to the roofscape and to the facades of structures, including doors, windows, stairways, gates, etc.;
- 7) the addition of objects to structures which damage or alter the appearance thereof, such as the placing of information or advertising material on structures or technical equipment on the roof, and alterations to the appearance of monuments or of structures located within heritage conservation areas in any other manner and the relocation of structural element details thereof;
- 8) the removal of open details, structural elements and design elements in interior spaces from their initial location, or the covering up or damage in any other manner of such details or elements;
- 9) the use of building materials which differ from or imitate the original building materials;
- 10) the construction and repair of roads, utility lines and networks;
- 11) the planting of vegetation, any cutting and excavation work, the cultivation of land and the transformation of yards;
- 12) the installation of business-oriented objects (kiosks, pavilions, outdoor cafeterias, etc.), lightning, utility networks and structures and advertisements.

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(2) Construction, conservation and restoration in a heritage conservation area shall be carried out and the building materials to be used shall be selected taking into consideration the architectural and historical value of the structures and the heritage conservation area.

(3) Reductions of restrictions on the use of immovable monuments provided for in this section shall be established by the National Heritage Board in protection obligation notices.

§ 25. Protected zones

(1) In order to protect immovable monuments, protected zones shall be established to which the restrictions provided in subsection (2) of this section apply and reductions of which shall be set out in protection obligation notices. A protected zone is land extending fifty metres from the exterior or boundary of the monument, unless the legal instrument designating a monument prescribes otherwise.

(2) The following are prohibited within a protected zone without the permission of the National Heritage Board:

- 1) the cultivation of land, erection of structures, construction of roads, ditches and utility lines, and other earthwork and construction work;
- 2) the planting, felling and uprooting of trees and bushes.

(3) In order to avoid the closure of long-distance views to the heritage conservation area and to prevent near the construction the boundaries of the area of the buildings incompatible with those located in the heritage conservation area, the protected zones shall be established around heritage conservation areas, within which the requirements and restrictions specified in the statutes of the heritage conservation area apply.

(24.03.2004 entered into force 26.04.2004 - RT I 2004, 25, 171)

(4) Protected zones shall not be established for immovable monuments which are located within a heritage conservation area unless the statutes of the heritage conservation area provide otherwise.

(5) Protected zones shall not be established for immovable monuments located in cemeteries.

§ 26. Public access to immovable monuments

(1) Everyone has unrestricted access to an immovable monument which is located on an immovable owned by a legal person in public law.

(2) A person in private law on whose immovable a monument is located or over whose immovable a customary access route to a monument passes shall ensure unrestricted passage to the monument for everyone from sunrise to sunset.

(3) Access to a structure designated as a monument or its yard shall be granted at the time and pursuant to the procedure permitted by the owner or possessor.

(4) The National Heritage Board may restrict access to an immovable monument if unrestricted access endangers the monument.

§ 27. Right of pre-emption

(1) The state has a right of pre-emption upon transfer of a movable monument. The provisions of the Law of Obligations Act concerning right of pre-emption apply to the right of pre-emption of a movable monument.

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

(2) The state and thereafter the local government have the right of pre-emption upon transfer of an immovable on which an immovable monument is located.

(3) The state and the local government do not have the right of pre-emption if the thing is transferred to a spouse, descendant or parent or to a brother or sister or a descendant thereof.

(4) On the basis of a unilateral unattested written application by the National Heritage Board, a notation shall be entered in the land register that the immovable is encumbered with the right of pre-emption specified in subsection (2) of this section. Reference shall be made in the application and the entry of the notation to this section and the legal instrument by which the immovable was designated as a monument.

(5) If it is evident on the basis of the entry in the land register that the immovable is encumbered with a right of pre-emption for the purposes of this section, a notary shall, at the expense of the parties and within five working days after attestation of the transfer deed, send a copy of the transfer deed to the National Heritage Board and the local government of the location of the immovable or structure to be transferred for exercise of the right of pre-emption.

§ 28. Expropriation of immovable monuments

If an owner or possessor does not ensure the preservation of an immovable monument, does not adhere to the restrictions on its use, prohibits the scientific study of a monument or unduly refuses to grant access to a monument and if the owner or possessor has been punished for the violation of this Act pursuant to administrative or criminal procedure, the Government of the Republic may, in the public interest, expropriate the immovable on which an immovable monument is located without the consent of the owner for fair and immediate compensation pursuant to the procedure provided by the Immovables Expropriation Act (RT I 1995, 30, 380; 59, 1006; 2002, 47, 297; 61, 375).

§ 29. Rights of owners and possessors

(1) An owner or possessor is entitled to obtain the following without charge from or through the National Heritage Board:

- 1) scientific or other information concerning a monument;
- 2) consultation for the maintenance and use of a monument.

(2) At the request of an owner or possessor, the National Heritage Board is required to deposit a movable monument without charge under conditions which ensure its preservation.

(3) An owner or possessor of a monument may apply for a support from the state budget through the National Heritage Board or from a rural municipality or city budget to maintain the monument, including installation of a security and alarm system, conserve or restore the

monument or create the optimum conditions for its preservation. The owner or possessor of a monument shall submit the application for a support from the state budget to the National Heritage Board in the written form.

(24.03.2004 entered into force 26.04.2004 - RT I 2004, 25, 171)

(3¹) The procedure for applying for a support from the state budget, the procedure for the review of applications and the bases and procedure for the grant of such support shall be established by a regulation of the Government of the Republic. The procedure shall set out a list of data and documents to be submitted to obtain support, the due date for the submission of application, the procedure for reviewing an application, the reasons for the acceptance of or refusal to accept applications and the procedures for notifying the applicants.

(24.03.2004 entered into force 26.04.2004 - RT I 2004, 25, 171)

(4) The Government of the Republic may establish other incentives for owners and possessors of monuments or immovables located within the protected zones of immovable monuments and for owners of structures located within heritage conservation areas and their protected zones.

Chapter 5

Findings of Cultural Value

§ 30. Definition of finding of cultural value

(1) A finding of cultural value is a movable found in the ground or on the surface of the ground, inside a construction, under water or in the sediment of a body of water, which is either a natural feature or has historical, archaeological, scientific, artistic or other cultural value and which has no owner or the owner of which cannot be ascertained.

(2) Findings of cultural value belong to the state.

(3) Section 105 of the Law of Property Act applies to findings of cultural value.

§ 31. Temporary protection of findings of cultural value

Findings of cultural value are under temporary protection from the moment they are found.

§ 32. Duties of finder

(1) A finder of a thing specified in subsection 30 (1) of this Act is required to preserve the place of the finding in an unaltered condition and to notify the National Heritage Board and the rural municipality or city government promptly of the finding. A finder has the right to remain anonymous.

(2) A found thing shall be left in the place it is found until it is delivered to the National Heritage Board. A found thing may be removed from the place it is found only if its preservation is endangered. It shall not be damaged by cleaning, refurbishing, breaking or in any other manner, or by severing parts from the whole.

§ 33. Entitlement to fee

(1) The finder of a thing specified in subsection 30 (1) of this Act is entitled to receive a fee equal to one-half of the value of the thing. The value of a thing shall be determined by the National Heritage Board. The procedure for the payment of fees shall be established by the Government of the Republic.

(2) Persons whose duties include searching for and excavating things specified in subsection 30 (1) of this Act or studying monuments or supervising compliance with requirements concerning heritage conservation shall not be paid fees.

Chapter 6

Ensuring Protection of Monuments and of Structures Located Within Heritage Conservation Areas when Conducting and Planning Work Involving Monuments and Structures

§ 34. Study of monuments

(1) Study of a monument which results in its alteration may be undertaken only with the permission of the National Heritage Board and with the knowledge of the rural municipality or city government. The activity licence specified in § 36 of this Act and a schedule for the studies approved by the National Heritage Board are necessary to obtain permission. The Director General of the National Heritage Board shall decide to issue a corresponding permit or to refuse to issue a permit within one month as of submission of the application. A permit shall be issued for the conduct of a specific study.

(2) The owner of a monument is required to permit study of the monument if damage caused by study is compensated for. Damage shall not be compensated for in the case provided for in subsection 35 (4) of this Act.

§ 35. Conservation, restoration and repair of monuments or of structures located within heritage conservation areas

(1) Monuments or structures located within heritage conservation areas may only be conserved, restored or repaired on the basis of a plan which adheres to the special conditions for heritage conservation, and subject to heritage conservation supervision exercised by a corresponding specialist. With the approval of the National Heritage Board the basic plan for the construction of the interior space of the building located within heritage conservation areas may be compiled without the special conditions for heritage conservation. The procedure for heritage conservation supervision shall be established by a regulation of the Minister of Culture.

(24.03.2004 entered into force 26.04.2004 - RT I 2004, 25, 171)

(2) The special conditions for heritage conservation shall prescribe the requirements for the study, preservation, conservation, restoration and repair of monuments. The special conditions for heritage conservation shall include a historic review and a description of the monument, dates concerning the monument, an assessment of the technical condition of the monument, a valuation of the parts, constructions and details of the monument, and an evaluation of the planned function of and alterations to the monument or parts thereof. The procedure for the preparation of special conditions for heritage conservation shall be established by a regulation of the Minister of Culture.

(3) Special conditions for heritage conservation regarding monuments and structures located within heritage conservation areas, plans for their conservation, restoration or repair and plans for earthwork and construction work involving monuments or structures located within heritage conservation areas shall be approved by the National Heritage Board.

(3¹) After the approval of the plan for the works referred to in subsection (3) of this section, the National Heritage Board shall issue a permit for the commencement of work. If pursuant to the Planning and Building Act (RT I 2002, 47, 297; 99, 579; 2003, 25, 153; 2004, 18, 131) a written consent is required for the performance of work referred to in subsection (3), the local government shall grant such written consent after the National Heritage Board has issued a permit for the commencement of work.

(24.03.2004 entered into force 26.04.2004 - RT I 2004, 25, 171)

(4) Before the commencement of work specified in subsection (3) of this section involving monuments or structures located within heritage conservation areas, studies shall be conducted at the expense of the person who orders the work specified in subsection (3) of this section.

(5) The conditions and procedure for the preparation of plans for the conservation, restoration, repair or construction of monuments or of structures located within heritage conservation areas and for the conduct of prior studies therein shall be established by a regulation of the Minister of Culture.

(6) In order for work specified in subsection (1) of this section to be conducted, a permit for the commencement of work obtained from the National Heritage Board and a plan approved by the National Heritage Board shall be kept at the site of the work for presentation on site.

(7) The National Heritage Board shall approve the requirements set by state supervisory authorities concerning monuments and concerning structures located within heritage conservation areas.

§ 36. Activity licences

(1) Plans for the conservation, restoration and repair of monuments and special conditions for heritage conservation may be prepared, the studies specified in subsection 34 (1) of this Act may be conducted and monuments may be conserved, restored and repaired only on the basis of an activity licence issued to the undertaking or the specialist responsible, except in the case provided for in subsection 37 (2¹) of this Act. A specialist in charge operating as a sole proprietor may perform the works specified in this subsection on the basis of the activity licence issued by the specialist in charge. State and local government bodies and legal persons in public law who conduct such work on the basis of law or their statutes, do not need an activity licence to conduct the work specified in subsection 34 (1).

(24.03.2004 entered into force 26.04.2004 - RT I 2004, 25, 171))

(2) Activity licences shall be issued by the National Heritage Board.

(3) Budgets, calculations, historical reviews and certificates may be prepared, monuments and parts thereof may be photographed, archival and bibliographical research may be conducted and monuments and their details and elements may be entered in inventories without an activity licence.

§ 37. Application for activity licence

(1) In order to obtain an activity licence, an applicant shall submit an application to the National Heritage Board which sets out the name, address and telecommunications numbers of the applicant and the work regarding which the licence is applied for.

(2) If the applicant for the licence is an undertaking, the following shall be annexed to the application:

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. The company to be founded shall notify the registration number after the entry of the company in the commercial register.

(24.03.2004 entered into force 26.04.2004 - RT I 2004, 25, 171))

2) a work management contract entered into with a responsible specialist holding an activity licence;

3) the list of work carried out and the corresponding reports.

(2¹) In order to obtain an activity licence, the getting of which does not presume the higher education referred to in subsection (4) of this section, a self-employed person who applies for the activity licence in order to maintain, conserve or restore a monument, shall have worked uninterrupted in the abovementioned areas of activity for at least the last four years, and shall present a list of work approved by the National Heritage Board. An applicant for the activity licence who does not have such practical experience shall hold a certificate in proof of the completion of vocational in-service training in a field corresponding to the area of activity applied for. In such case the submission of the information specified in subsection (2) of this section is not required.

(24.03.2004 entered into force 26.04.2004 - RT I 2004, 25, 171))

(3) If the applicant for a licence is a responsible specialist, the following shall be annexed to the application:

1) a copy of a document certifying the education specified in subsection (4) of this section;

2) documents concerning operation in areas of activity specified in subsection 36 (1) of this Act or the completion of corresponding in-service training;

3) the list of work carried out and the corresponding reports.

(4) In order to obtain an activity licence, a responsible specialist shall, depending on the type of work, have higher education in history, archaeology, architecture, art, restoration or a

technical field, he or she shall have worked uninterrupted in one of the areas of activity specified in subsection 36 (1) of this Act for at least the last four years, and he or she shall present a list of work approved by the National Heritage Board. A specialist with higher education who does not have such practical experience shall hold a certificate in proof of the completion of vocational in-service training in a field corresponding to the area of activity applied for.

(5) An undertaking or responsible specialist applying for a licence is required to pay a state fee before submitting an application.

§ 38. Review of applications, issue of activity licences and refusal to issue activity licences

(1) The National Heritage Board has the right to verify the correctness of information and the authenticity of documents submitted by an applicant for a licence.

(2) The Director General of the National Heritage Board shall decide on the grant of or refusal to grant a licence within one month as of submission of an application. The decision on the grant of or refusal to grant a licence shall be communicated to the applicant in the manner provided for in § 26 of the Administrative Procedure Act within five working days as of the corresponding decision being made.

(3) An activity licence shall be issued for the conduct of specific work or for the conduct of work involving a specific monument over a period of one year. On the basis of a corresponding application, the National Heritage Board may extend an activity licence to up to three years. Applications submitted for extension of an activity licence shall be processed pursuant to the procedure provided in subsection (2) of this section and § 37 of this Act.

§ 39. Expiry and revocation of activity licences

(1) An activity licence expires upon expiry of its term, upon termination of the activities of the undertaking or upon expiry of the contract entered into with the single responsible specialist of an area of activity.

(2) The National Heritage Board may revoke an activity licence if inaccurate information was submitted upon application for the activity licence, if work conducted by the undertaking proves to be sub-standard or if the activities of the undertaking are contrary to law.

§ 40. Requirements for conduct of construction and other work

(1) Construction, land improvement, road construction and other work which may endanger a monument shall be conducted with the permission of the National Heritage Board under conditions which ensure the preservation of the monument.

(2) In the case of work specified in subsection (1) of this section, an applicant for a corresponding permit is required to:

1) order work which prevents damage to the monument, finance such work and adhere to the requirements established for the conduct thereof;

2) notify the persons conducting the work of the existence of the monument and restrictions relating thereto.

(3) Persons conducting work which endangers a monument are responsible for the preservation of the monument when conducting such work and the applicant for the permit is responsible for the performance of the obligation specified in clause (2) 2) of this section.

(4) Construction and other work shall be documented pursuant to the procedure established by the Minister of Culture.

(5) An immovable which, according to information held by the National Heritage Board, may yield a hitherto unknown finding of cultural value shall be studied before the commencement of work. The study shall be conducted at the expense of the applicant for the permit.

§ 41. Halting of construction and other work

If an archaeological cultural layer, including human bones, which has sedimented as a result of human activity, or a finding of cultural value is discovered in the course of work at a monument, in a heritage conservation area or at any other place, the person who conducts the

work is required to halt the work, preserve the place of the finding in an unaltered condition and inform the National Heritage Board and the rural municipality or city government promptly thereof.

(24.03.2004 entered into force 26.04.2004 - RT I 2004, 25, 171))

§ 42. Suspension of construction and other work

(1) If things specified in § 41 of this Act are discovered, the National Heritage Board has the right to suspend work for up to two weeks in order to ascertain whether the things qualify as monuments.

(2) Damage caused by suspension of work shall be compensated for on the conditions and pursuant to the procedure provided by law.

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

§ 43. Ensuring visibility and observability of monument and heritage conservation area skyline

In order to ensure the visibility and observability of a heritage conservation area or monument skyline, special conditions approved by the National Heritage Board shall be taken into account in preparing general plans and local plans.

§ 44. Suspension of activities contrary to heritage conservation requirements

The National Heritage Board and rural municipality or city government are required promptly to suspend all work and any activities which may endanger a monument or finding of cultural value or which are otherwise contrary to this Act.

Chapter 6¹

(24.03.2004 entered into force 26.04.2004 - RT I 2004, 25, 171))

Supervision

(24.03.2004 entered into force 26.04.2004 - RT I 2004, 25, 171)

§ 44¹. Supervisory agency

State supervision over compliance with this Act and legislation established on the basis thereof shall be exercised by the National heritage Board.

(24.03.2004 entered into force 26.04.2004 - RT I 2004, 25, 171)

§ 44². Precept of official of inspection authority

(1) Upon non-compliance with the requirements provided for in §§ 16 and 17, subsection 18 (6), §§ 21–23, subsections 24 (1), 25 (2), 26 (1) and (2), §§ 32, 34 and 35, subsection 36 (1), §§ 40 and 41 of this Act, the supervisory official has the right issue precepts which set out:

- 1) the time and place of the issue of the precept;
- 2) the given name, surname and position of the person who prepares the precept and the name and address of the agency;
- 3) the given name and surname of the natural person or the name of the legal person to whom the precept is issued;
- 4) the circumstances which are the basis for the issue of the precept and a reference to the legal basis therefor;
- 5) the conclusion of the precept in which the obligations of the obligated subject arising from the precept and the terms for the performance thereof are set out;
- 6) a reference to the possibility of coercive measures being applied upon failure to perform the obligations set out in the precept;
- 7) the procedure and term for contesting the precept;
- 8) the signature of the person who prepares the precept.

(2) The supervisory official shall send the precept to the person or the representative thereof by post with advice of delivery or shall serve it on them against signature.

(3) If the recipient of a precept of a supervisory official does not agree with the precept, the recipient may file a protest with the head of the supervisory agency within ten working days as of being informed of the precept.

(4) Upon failure to comply with a precept specified in subsection (1) of this section, the National Heritage Board may impose penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act (RT I 2001, 50, 283; 94, 580).

(5) The upper limit of penalty payment specified in subsection (4) of this section is 10 000 kroons.

(24.03.2004 entered into force 26.04.2004 - RT I 2004, 25, 171))

Chapter 7

Liability

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 45. Damage to or destruction of monument signs

(1) Damage to or destruction of a monument sign is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 10 000 kroons.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 46. Damage to findings of cultural value

(1) Knowingly removing a finding of cultural value from the place it is found and for damage thereto is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 20 000 kroons.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 47. Violation of requirements for supervision of monuments

(1) Study of a monument without permission, without a plan approved by the National Heritage Board and without heritage conservation supervision exercised by a corresponding specialist, and the conservation, restoration or repair of a monument without an activity licence are punishable by a fine of up to 200 fine units.

(24.03.2004 entered into force 26.04.2004 - RT I 2004, 25, 171)

(2) The same act, if committed by a legal person, is punishable by a fine of up to 20 000 kroons.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 48. Damage to or destruction of monuments

(1) Damage to or destruction of a monument 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.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 49. 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 of the Code of Misdemeanour Procedure (RT I 2002, 50, 313; 110, 654; 2003, 26, 156; 83, 557; 88, 590; 593) apply to the misdemeanours provided for in §§ 45–48 of this Act.

(2) Extra-judicial proceedings concerning the misdemeanours provided for in §§ 45–48 of this Act shall be conducted by:

1) National Heritage Board

2) rural municipality or city governments.

(24.03.2004 entered into force 26.04.2004 - RT I 2004, 25, 171)

Chapter 8 Implementing Provisions

§ 50. Revocation of Heritage Conservation Act

The Heritage Conservation Act (RT I 1994, 24, 391; 1996, 49, 953; 86, 1538; 1997, 93, 1559) is repealed.

§ 51. Validity of state activity licences for preparation of plans for conservation, restoration or repair of cultural monuments and for conduct of corresponding work

State activity licences for the preparation of plans for the conservation, restoration or repair of cultural monuments and for the conduct of corresponding work which were issued before the entry into force of this Act shall remain valid for the term specified in the licences.

§ 52. Amendment of State Fees Act

Clause 19 (2) 4) of the State Fees Act (RT I 1997, 80, 1344; 2001, 55, 331; 56, 332; 64, 367; 65, 377; 85, 512; 88, 531; 91, 543; 93, 565; 2002, 1, 1; 9, 45; 13, 78; 79; 81; 18, 97; 23, 131; 24, 135; 27, 151; 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; 26, 156; 160; 51, 352; 66, 449; 68, 461; 71, 471; 78, 527; 79, 530; 81, 545; 88, 589; 591; 2004, 2, 7; 6, 31; 9, 52; 53; 14, 91; 92; 18, 131; 132; 20, 141; 24, 165; 25, 170) is amended and worded as follows:

“4) the National Heritage Board, upon the submission of an application for an entry to be made in the land register concerning encumbrance of an immovable monument with a right of pre-emption;”.

§ 53. Amendment of Museums Act

In subsection 21 (2) of the Museums Act (RT I 1996, 83, 1487; 1997, 93, 1559; 2000, 47, 286; 2001, 88, 531; 2002, 27, 153; 53, 336), the words “Heritage Conservation Inspectorate” are replaced by the words “National Heritage Board”.

§ 54. Entry into force of Act

This Act enters into force on 1 April 2002.

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

² RTL = *Riigi Teatja Lisa* = *Appendix to the State Gazette*