

Environmental Impact Assessment and Environmental Management System Act¹

Passed 22 February 2005

(RT⁴ I 2005, 15, 87),

entered into force 3 April 2005.

Amended by the following Acts:

19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209

18.12.2008 entered into force 1.02.2009 - RT I 2009, 3, 15

21.02.2007 entered into force 1.04.2007 - RT I 2007, 25, 131

7.12.2006 entered into force 1.01.2007 - RT I 2006, 58, 439

Chapter 1

General Provisions

§ 1. Scope of application of Act

(1) This Act provides legal bases and procedure for assessment of likely environmental impact, organisation of eco-management and audit scheme and legal bases for awarding eco-label in order to prevent environmental damage and establishes liability upon violation of the requirements of this Act.

(2) The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375; 2003, 20, 117; 78, 527) apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act. Provisions concerning open proceedings apply to environmental impact assessment and strategic environmental assessment procedures, taking account of the specifications provided for in this Act.

(3) The following are excluded from the scope of this Act:

- 1) a strategic planning document the sole purpose of which is to serve national defence or civil emergency;
- 2) financial or budget plans, programmes and strategies;
- 3) a strategic planning document if activities proposed on the basis thereof are, during the years 2004-2006, co-financed from the Structural Funds of the European Union or the European Agricultural Guidance and Guarantee Fund.

§ 2. Objective of environmental impact assessment and strategic environmental assessment

(1) The objective of environmental impact assessment is:

- 1) to make, on the basis of the results of environmental impact assessment of proposed activities, a proposal regarding the choice of the most suitable solution for the proposed activities, which makes it possible to prevent or reduce damage to the state of the environment and to promote sustainable development;
 - 2) to provide information to the decision-maker on environmental impacts of the proposed activity and its reasonable alternatives, and the possibilities to prevent or minimise negative environmental impact;
 - 3) to allow the results of environmental impact assessment to be taken into account in proceedings for issue of a development consent.
- (2) The objective of strategic environmental assessment is:
- 1) to contribute to the integration of environmental considerations into the preparation and adoption of strategic planning documents;
 - 2) to provide for a high level of protection of the environment;
 - 3) to promote sustainable development.

Chapter 2

Environmental Impact Assessment

Division 1

Environmental Impact Assessment of Proposed Activity

§ 3. Mandatory environmental impact assessment

Environmental impact shall be assessed:

- 1) upon application for or application for amendment of a development consent if the proposed activity which is the basis for application for or amendment of the development consent potentially results in significant environmental impact;
- 2) if activities are proposed which alone or in conjunction with other activities may potentially significantly affect a Natura 2000 site.

§ 4. Environmental impact

For the purposes of this Act, environmental impact means any potential direct or indirect effect of activities on human health and well-being, the environment, cultural heritage or property.

§ 5. Significant environmental impact

Environmental impact is significant if it may potentially exceed the environmental capacity of a site, cause irreversible changes to the environment, endanger human health and well-being, the environment, cultural heritage or property.

§ 6. Activities with significant environmental impact

(1) Activities with significant environmental impact are:

- 1) oil processing, excluding the manufacture of only lubricants from oil;
- 2) gasification and liquefaction of coal or bituminous shale, if the amount of raw material used per day is 500 tonnes or more;
- 3) construction of a thermal power station or other combustion plant with a nominal thermal input equal to or greater than 300 MWth;
- 4) construction, dismantling or decommissioning of a nuclear power station or other nuclear reactors, except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load;
- 5) installation of wind farms in water bodies;
- 6) production or enrichment of nuclear fuel, processing of irradiated nuclear fuels or handling of irradiated nuclear fuels or radioactive waste;
- 7) construction of installations for temporary storage or final disposal of irradiated nuclear fuels or radioactive waste;
- 8) initial smelting of pig iron or steel;
- 9) production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical or chemical or electrolytic processes;
- 10) production of asbestos and processing or transformation of asbestos or products containing asbestos: for asbestos-cement, with annual production of more than 20 000 tonnes of finished products per year, for friction material, with annual production of more than 50 tonnes of finished products per year, and for other uses of asbestos, with annual production of more than 200 tonnes of finished products per year;
- 11) manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are for the production of basic organic chemicals, basic inorganic chemicals, phosphorous-, nitrogen- or potassium-based fertilizers (simple or compound fertilizers), plant health

products and biocides, basic pharmaceutical products using a chemical or biological process, or explosives;

12) manufacture of paper or board with a production capacity of at least 200 tonnes per one twenty four hour period, or production of pulp from timber or similar fibrous materials; (19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

13) construction of express roads, construction of lines for airports with a basic runway length of 2 100 m or more and construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road, or realigned and/or widened section of road would be 10 km or more in a continuous length;

14) construction of a new line for long-distance railway traffic or construction of a new railway station, if, in the case of a single-track railway line, there are at least four depot sidings and, in the case of a double-track railway line, there are at least five depot sidings, or extension of an existent railway station if, as a result of the extension, there are at least four depot sidings in the case of a single-track railway line and at least five depot sidings in the case of a double-track railway line, or extension of the tracks of the existent railway station to the length of 1000 m or more if, in the case of a single-track railway line, there are at least four depot sidings and, in the case of a double-track railway line, there are at least five depot sidings in the railway station;

15) construction of inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1 350 tonnes;

16) construction of trading ports, piers for loading and unloading connected to land and outside ports which can take vessels of over 1 350 tonnes;

17) marine dredging, starting from the soil volume of 10 000 cubic metres, sinking of solid substances into the seabed, starting from the soil volume of 10 000 cubic metres, dredging of another water body, starting from the soil volume of 500 cubic metres, or sinking of solid substances into another water body, starting from the substance mass of 500 cubic metres;

18) groundwater abstraction where the annual volume of water abstracted is at least 10 million cubic metres;

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

19) construction of works for the transfer of water resources where the average amount of water transferred exceeds 100 million cubic metres per year, or where the average flow of the basin of abstraction exceeds 2000 million cubic metres per year and where the amount of

water transferred through such works exceeds 5 per cent of the average annual flow of the basin of abstraction;

- 20) waste water treatment plants with a capacity exceeding 150 000 population equivalent;
- 21) installation or reconstruction of hydro-electric stations, barrages, dams or reservoirs in a sensitive receiving water body;
- 22) incineration, chemical treatment or landfill of hazardous waste;
- 23) incineration or chemical treatment of more than 100 tonnes of non-hazardous waste per day, or construction of non-hazardous waste landfills with a capacity of more than 25 000 tonnes of waste;
- 24) closure of a landfill with an area of at least 1.5 hectares;
- 25) construction of high-pressure pipelines for the transport of natural gas, or main pipelines for the transport of petroleum or chemical products or other liquids, with a diameter of more than 800 mm and a length of more than 40 km;
- 26) extraction of more than 500 tonnes of oil or more than 500 000 cubic metres of natural gas from the seabed or land per day;
- 27) construction of installations for the intensive rearing of poultry, pigs or bovine animals with more than 85 000 places for broilers, 60 000 places for hens, 3 000 places for production pigs (over 30 kg), 900 places for sows, 450 places for dairy cows, 600 places for beef animals or 900 places for young bovine animals of up to 24 months of age;
- 28) open-cast mining where the surface of the site exceeds 25 hectares, underground mining or mechanised peat extraction;
(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)
- 29) termination of open-cast mining where the surface of the site exceeds 25 hectares, underground mining or mechanised peat extraction;
(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)
- 30) construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km;
- 31) conversion of forest land or wetlands with a total area of more than 100 hectares by draining, deforestation, etc;
- 32) construction of petroleum product terminals with a total capacity of more than 100 000 cubic metres;

33) construction of chemical product terminals with a total capacity of more than 5000 cubic metres of category D or C chemicals, more than 500 cubic metres of category B chemicals, or more than 50 cubic metres of category A chemicals;

34) activities for which the obligation to carry out environmental impact assessment arises from a strategic planning document which is the basis for the activities.

35) changes in activities specified in clauses 1)-34) of this subsection and subsection (2) of this section or to an installation, or expansion or reconstruction of a building if this is in compliance with the provisions of this subsection or if the activity or installation, as a result of the changes, or the building, as a result of expansion or reconstruction, is in compliance with the provisions of this subsection as a whole.

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

(2) If the proposed activities are not included among the activities specified in subsection (1), the decision-maker shall make a preliminary estimate whether the activities of the following areas have significant environmental impact:

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

1) agriculture, silviculture, aquaculture and land improvement;

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

2) mining of mineral resources or enrichment of ore, geological explorations, general geological surveys or termination of mining of mineral resources;

3) energy industry;

4) production, processing and storage of metals, including storage of end-of-life vehicles;

5) processing of mineral materials;

6) chemical industry;

7) food industry;

8) cellulose, paper, timber or textile industry, or tanning of skins or hides;

9) rubber industry;

10) construction or use of infrastructure;

11) waste management;

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

12) tourism;

13) surface treatment or finishing by using organic solvents;

14) production of plywood or fibreboard;

- 15) production of graphite (hard-burnt coal) or electrographite by way of incineration or graphitisation;
- 16) storage of hazardous chemicals, including fuel;
- 17) disposal and recovery of animal carcasses or animal waste;
- 18) special use of water;
- 19) construction of recreation areas, sports areas or leisure areas;
- 20) ceramics or glass industry;
- 21) handling of waste water and sediments;

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

- 22) other activities which may result in significant environmental impact.

(3) The decision-maker shall make a preliminary estimate specified in subsection (2) of this section on the basis of all the following criteria:

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

- 1) the environmental conditions of the site of the activity and its vicinity, e.g. the existing land use, the natural resources present in the site, the characteristics and regeneration capability of such resources and the absorption capacity of the natural environment.

Assessment of the absorption capacity of the natural environment shall, above all, be based on the absorption capacity of wetlands, shores, banks of water-bodies, relieves, forests, protected natural objects, including Natura 2000 sites, sites where the requirements established by legislation are already exceeded, densely populated areas within the meaning of the Land Reform Act and sites possessing historical, cultural or archaeological value;

(21.02.2007 entered into force 1.04.2007 - RT I 2007, 25, 131)

- 2) the nature of the activities, including their technological level, use of natural resources, volume of waste generation and volume of energy demand, and other activities in the vicinity;

- 3) the consequences associated with the activities, e.g. water, soil or air pollution, waste generation, noise, vibration, light, heat, radiation and smell;

- 4) the possibility that emergency situations resulting from the activities arise;

- 4¹) the presumed impact of the proposed activities on a Natura 2000 site or any other protected natural object;

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

- 5) the magnitude, spatial extent, duration, frequency and reversibility, effect and cumulativeness of the impact resulting from that specified in clauses 1)-4¹) of this subsection and the transboundary impact and the probability of the impact.

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

(4) A detailed list of areas of activity specified in subsection (2) of this section shall be established by a regulation of the Government of the Republic.

§ 7. Development consent

For the purposes of this Act, development consent is:

- 1) a building permit or a permit for the use of the building;
- 2) an integrated environmental permit, a permit for special use of water, an ambient air pollution permit, a waste permit, a hazardous waste handling licence or a radiation practice licence;
- 3) an extraction permit for mineral resources, a geological exploration permit or a permit for general geological survey;
- 4) other documents not specified in this section permitting proposed activities with potentially significant environmental impact.

§ 8. Developer

- (1) A person who proposes an activity and intends to carry it out shall organise environmental impact assessment (hereinafter developer).
- (2) The developer shall cover the expenses related to environmental impact assessment.

§ 9. Decision-maker

The decision-maker is the issuer of a development consent.

§ 10. Supervisor of environmental impact assessment

(1) The Ministry of the Environment is the supervisor over environmental impact assessment if the Ministry of the Environment issued a development consent or if potential environmental impact of the activities may become transboundary.

(18.12.2008 entered into force 1.02.2009 - RT I 2009, 3, 15)

(2) In the cases not specified in subsection (1) of this section, a supervisor over environmental impact assessment is the Environmental Board.

(18.12.2008 entered into force 1.02.2009 - RT I 2009, 3, 15)

(3) The functions of a supervisor over environmental impact assessment are:

- 1) to verify, if necessary, the lawfulness of a decision to initiate or refuse to initiate the environmental impact assessment of proposed activities;

- 2) to verify the compliance of the environmental impact assessment programme with the requirements provided for in § 13 of this Act and make a decision regarding approval of the environmental impact assessment programme;
 - 3) to inform the public of approval of the environmental impact assessment programme;
 - 4) to check whether an expert holds a licence for environmental impact assessment;
 - 5) to verify the compliance of proceedings regarding the environmental impact assessment with the requirements of legislation;
 - 6) to verify the compliance of the environmental impact assessment report with the approved environmental impact assessment programme and the requirements provided for in § 20 of this Act, make a decision on approval of the report and determination of environmental requirements;
 - 7) to inform the public of approval of the environmental impact assessment report and of determination of environmental requirements;
 - 8) to ex-post evaluate the environmental impact assessment.
- (4) A supervisor of environmental impact assessment who approved the environmental impact assessment programme shall perform the duties of the supervisor until the end of the ex-post evaluation.

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

§ 11. Initiation of and refusal to initiate environmental impact assessment

- (1) The developer shall submit to the decision-maker an application for a development consent in the case and pursuant to the procedure provided for in legislation.
- (2) The decision-maker shall review an application and shall make a decision to initiate or refuse to initiate environmental impact assessment of proposed activities within the period for the processing of applications provided for in legislation.
- (3) In the case of activities specified in subsection 6 (1) of this Act, environmental impact assessment of proposed activities shall be initiated without providing the reasons therefor.
- (4) If a decision to initiate or refuse to initiate environmental impact assessment of proposed activities is made on the basis of subsection 6 (2) of this Act, the results of the preliminary estimate concerning all the criteria listed in subsection 6 (3) of this Act shall be appended to the decision.

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

- (5) If the developer applies for a development consent, upon application for which, inter alia, the building design documentation must be submitted, and environmental impact of

proposed activities has been assessed in the course of preparation of the building design documentation, the decision-maker shall not initiate environmental impact assessment of proposed activities if the decision-maker has sufficient information for issue of the development consent.

(6) If proposed activities potentially result in a significant environmental impact, the decision-maker may refuse to initiate environmental impact assessment of proposed activities in the part in which the environmental impact has already been assessed in the course of strategic environmental assessment arising from implementation of the strategic planning document which is the basis for activities or in the course of proceedings regarding another development consent necessary for the proposed activities, if the decision-maker has sufficient information for issue of the development consent and not more than four year have passed after approval of the environmental impact assessment report regarding the proposed activities.

(6¹) An administrative authority may refuse to initiate environmental impact assessment if an application for a development consent is clearly without perspective and the administrative authority refuses to satisfy the application without conducting open proceedings on the basis of subsection 46 (3) of the Administrative Procedure Act.

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

(7) If an application for two or more development consents necessary for proposed activities is submitted to one decision-maker, the decision-maker may join the proceedings regarding environmental impact assessment of the proposed activities with the consent of the developer, unless this violates the rights of third parties.

(8) A decision to initiate or refuse to initiate environmental impact assessment of proposed activities shall set out:

- 1) the name and details of the decision-maker;
- 2) the name and purpose of the proposed activities,
- 3) the reasons for initiation of or refusal to initiate environmental impact assessment of the proposed activities;
- 4) upon initiation of environmental impact assessment in a transboundary context, information on initiation of environmental impact assessment in a transboundary context;
- 5) information on joining proceedings regarding environmental impact assessment of the proposed activities;
- 6) information on the necessary environmental research.

(9) The decision-maker may submit a decision to refuse initiation of environmental impact assessment of proposed activities as one part of the decision to refuse to issue a development consent.

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

(10) If proposed activities may potentially affect Natura 2000 sites, protected areas, special conservation areas, species protection sites, habitats of protected species or individual protected natural objects, the decision-maker shall obtain approval for the draft decision to refuse initiation of environmental impact assessment of the proposed activities with the administrator of the specified protected natural features.

(11) If environmental impact assessment of proposed activities is initiated, processing of an application for a development consent is suspended until the environmental impact assessment report is approved.

(12) Before submission of an application for development consent, the developer may address the decision-maker to obtain an opinion concerning the type of information the developer will be asked to present in the course of the environmental impact assessment. Before providing an opinion, the agency whom the developer addresses shall consult with the developer, the supervisor of environmental impact assessment and the agency who, due to its functions related to the protection and utilization of the environment, is likely to be connected with the proposed activity at a later time. Provision of an opinion does not prevent the supervisor of environmental impact assessment from demanding further additional information in the course of the environmental impact assessment.

(21.02.2007 entered into force 1.04.2007 - RT I 2007, 25, 131)

§ 12. Notification of initiation and refusal to initiate environmental impact assessment

(1) The decision-maker shall:

1) notify participants in proceedings of initiation of environmental impact assessment of proposed activities by sending an unregistered letter or a registered letter and at the expense of the developer in the official publication *Ametlikud Teadaanded*² within fourteen days after the decision to initiate environmental impact assessment is made;

2) give notification of refusal to initiate environmental impact assessment of proposed activities at the expense of the developer together with publication of issue of or refusal to issue a development consent;

3) notify participants in proceedings of refusal to initiate environmental impact assessment of proposed activities by sending an unregistered letter or a registered letter and at

the expense of the developer in the official publication *Ametlikud Teadaanded* within fourteen days after the decision to refuse initiation of environmental impact assessment is made, unless issue of or refusal to issue a development consent is publicly announced.

(2) Upon issue of a building permit or a permit for use of construction works, notification of refusal to initiate environmental impact assessment shall be given through the register of construction works.

(3) A notice of initiation of or refusal to initiate environmental impact assessment of proposed activities shall set out at least:

- 1) the name of the decision-maker and the name and details of the contact person of the decision-maker;
- 2) the short description and purpose of the proposed activities;
- 3) information on initiation of or refusal to initiate environmental impact assessment of the proposed activities;
- 4) information on the basis of clauses 11 (8) 4)-6) of this Act;
- 5) the time and place for accessing a decision to initiate or refuse to initiate environmental impact assessment of the proposed activities.

§ 13. Environmental impact assessment programme

After making a decision to initiate environmental impact assessment of proposed activities, an expert or, under the supervision of the expert and together with the developer, an expert group shall prepare an environmental impact assessment programme which sets out:

- 1) the purpose of the proposed activities;
- 2) a short description of the proposed activities and reasonable alternatives therefor;
- 3) information on the content of environmental impact assessment of the proposed activities and reasonable alternatives therefor, including information on the potential sources of impact, the size of the impact area and the affected environmental elements of the proposed activities and reasonable alternatives therefor;
- 4) a description of the methods of assessment used upon environmental impact assessment;
- 5) a schedule of environmental impact assessment of the proposed activities and reasonable alternatives therefor and the schedule for the publication of the results of the assessment;
- 6) information on the developer and the name of the expert or the composition of the expert group.

§ 14. Expert

- (1) Environmental impact shall be assessed or environmental impact assessment shall be directed by a natural person who holds a licence for environmental impact assessment, or a legal person through an employee holding a relevant licence (hereinafter expert).
- (2) If environmental impact is assessed or environmental impact assessment is directed by a legal person through an employee holding a relevant licence, the legal person is responsible for compliance with the requirements for environmental impact assessment and the results of environmental impact assessment.
- (3) An expert has the right to form an expert group for environmental impact assessment which may comprise competent persons without a relevant licence.
- (4) An expert shall involve specialists in environmental impact assessment if the qualification of the expert is not sufficient for environmental impact assessment.
- (5) An expert shall be impartial and independent upon environmental impact assessment of proposed activities.

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

§ 15. Licence for environmental impact assessment

- (1) The Minister of the Environment shall issue a licence for environmental impact assessment (hereinafter licence) to a natural person who:
 - 1) has acquired officially recognised higher education or a foreign qualification equal thereto according to a curriculum in the field of environmental protection, life sciences, physical natural science, agriculture, forestry, fisheries, health, technical field or construction;
 - 2) has at least two years' professional experience in fields related to natural science or environmental protection;
 - 3) has undergone training in environmental impact assessment to the extent of at least 40 hours and has passed a corresponding examination;
 - 4) has participated in the work of an expert group at least four times within the last five years;

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

- 5) has paid the state fee.
- (2) In order to receive a licence, an applicant for the licence shall submit the following to the Minister of the Environment:
 - 1) an application for the licence;

- 2) documents certifying education;
- 3) documents certifying previous work experience;
- 4) a confirmation that training related to environmental impact assessment is completed and an exam in environmental impact assessment is passed and a confirmation regarding participation in the work of an expert group.

(3) An application for a licence shall set out:

- 1) the given name, surname, personal identification code, address of permanent residence and details of the applicant;
- 2) the place of employment and the address and details of the place of employment;
- 3) information on the qualification specified in clauses (1) 1)-4) of this section;
- 4) the areas of activity and areas of impact the environmental impact of which the applicant wishes to assess;
- 5) a signature of the applicant proving that information provided in the application is correct;
- 6) the date.

(4) The Minister of the Environment shall issue a licence to the applicant for five years, shall determine the areas of activity and areas of impact which the holder of the licence may assess on the basis of the information indicated in the application and the qualification of the applicant. The period of validity of the licence begins on the date of issue of the licence.

(5) Before application for the licence or application for the extension of the licence, an applicant for the licence shall pay the state fee in the amount provided by the State Fees Act.

(7.12.2006 entered into force 1.01.2007 - RT I 2006, 58, 439)

(6) A licence shall set out:

- 1) the name of the document – “*Keskkonnamõju hindamise litsents*” [Licence for Environmental Impact Assessment];
- 2) the registration number, date of issue and period of validity of the licence;
- 3) the given name, surname, personal identification code, address of permanent residence and details of the holder of the licence;
- 4) the areas of activity and areas of impact which the holder of the licence has the right to assess;
- 5) the name and signature of the issuer of the licence;
- 6) the seal of the Ministry of the Environment bearing the small national coat of arms.

(7) Issue of a licence shall be refused if the applicant does not comply with the qualification requirements specified in clauses (1) 1)-4) of this section or has failed to pay the state fee.

(8) In order to extend the validity of a licence, a person shall submit a written application in free form. The validity of a licence shall be extended if the applicant has participated in environmental impact assessment as an expert at least four times during the term of the licence.

(9) The Minister of the Environment may suspend the validity of a licence or revoke a licence, giving prior written notice thereof to the holder of the licence if:

- 1) the applicant has submitted information which is inaccurate;
- 2) the holder of the licence fails to comply with the requirements for environmental impact assessment;
- 3) the holder of the licence has submitted false information in the environmental impact assessment report;
- 4) the holder of the licence has provided incorrect assessment in the environmental impact assessment report, and also if the results of the ex-post evaluation of environmental impact assessment significantly differ from the assessment provided in the environmental impact assessment report.

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

(10) Before making a decision concerning the suspension or revocation of a licence, the holder of the licence or a representative of the holder shall be heard. The holder of the licence or the representative of the holder shall be notified of the time and place determined therefor at least seven days in advance. If the holder of the licence or the representative of the holder fails to appear, the decision may be made on default.

(11) If the validity of a licence is suspended, the person shall undergo in-service training in environmental impact assessment to the extent of at least 40 hours and shall pass a corresponding examination. The person may continue activities on the basis of the licence if the Minister of the Environment has revoked its decision to suspend the validity of the licence. The Minister of the Environment shall revoke its decision to suspend the validity of the licence if the person has undergone in-service training in environmental impact assessment to the extent of at least 40 hours, passed a corresponding examination and presented a document which proves this.

(12) If a person has failed to undergo in-service training in environmental impact assessment or to pass a corresponding examination during the period when the validity of the

licence is suspended or if the circumstances which were the bases for suspension of the validity of the licence appear within three years after revocation of the decision to suspend the validity of the licence or for the third time, the Minister of the Environment shall revoke the licence.

(13) Upon revocation of a licence, the Minister of the Environment shall designate a term for termination of the activity permitted by the licence.

(14) The format of licences and the format of applications for a licence shall be established by a regulation of the Minister of the Environment.

§ 16. Publication of environmental impact assessment programme

(1) The decision-maker shall organise the public display of an environmental impact assessment programme with the duration of not less than fourteen days. After that developer shall organise a public consultation in order to inform the public of the programme.

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

(2) The decision-maker shall give notification of the public display of and public consultation regarding an environmental impact assessment programme at the expense of the developer within fourteen days after receipt of the programme at least:

- 1) in the official publication *Ametlikud Teadaanded*;
- 2) in one national newspaper or one local or county newspaper.
- 3) in at least one public building or place of the location of the proposed activities (e.g. shop, library, school, bus stop).

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

(3) The decision-maker shall give notification of the public display of and public consultation regarding an environmental impact assessment programme within fourteen days after receipt of the programme by sending an unregistered letter or a registered letter:

- 1) to the county governments and local governments into the territory of which environmental impact of the proposed activities may extend;
- 2) supervisor of environmental impact assessment;
- 3) to the Environmental Inspectorate;
- 4) to the administrator of the protected natural feature which is potentially significantly affected by the proposed activities;
- 5) to non-governmental environmental organisations through organisations uniting them;
- 6) to the owner of the area of the proposed activities and the neighbouring immovables;
- 7) other participants in proceedings.

(4) A notice regarding publication of an environmental impact assessment programme shall set out at least the following:

- 1) the names of the developer and decision-maker and the names and details of their contact persons;
- 2) the short description and purpose of the proposed activities;
- 3) the time and place for accessing the programme and other relevant documents;
- 4) the time and manner for the submission of proposals, objections and questions regarding the programme;
- 5) the time and place for the public consultation regarding the programme.

(5) Everyone has the right to access an environmental impact assessment programme and other relevant documents at the time of the public display of and the public consultation regarding the programme, submit proposals, objections and questions regarding the programme and obtain responses thereto.

(6) The decision-maker shall publish an environmental impact assessment programme, inter alia, on its webpage and shall ensure to the public the possibility to examine the programme at least until the end of the term for submission of proposals, objections and questions.

§ 17. Taking account of results of public display of and public consultation regarding environmental impact assessment programme

(1) An agency to whom, during the public display of an environmental impact assessment programme, proposals, objections and questions were submitted regarding the programme shall forward the specified proposals, objections and questions to the developer.

(2) An expert or, under the supervision of the expert, an expert group shall, together with the developer, make, on the basis of the proposals and objections submitted regarding the programme, the necessary amendments to the programme made during the public display of the environmental impact assessment programme, explain why proposals and objections are taken account of and justify why they are not taken account of and respond to the questions.

(3) The developer shall send to a person who submitted proposals, objections and questions regarding an environmental impact assessment programme an explanation why the submitted proposals and objections are taken account of and justify why they are not taken account of and respond to the questions by sending an unregistered letter or a registered letter.

§ 18. Approval of and refusal to approve environmental impact assessment programme

(1) The developer shall submit an environmental impact assessment programme together with the proposals, objections and questions submitted regarding the programme, copies of letters specified in subsection 17 (3) of this Act and report of the public consultation after the public consultation regarding the programme to the supervisor of environmental impact assessment for approval.

(2) A supervisor of environmental impact assessment shall decide to approve or refuse approval of an environmental impact assessment programme within thirty days after receipt of the documents specified in subsection (1) of this section and shall inform the developer and the decision-maker thereof.

(3) A supervisor of environmental impact assessment shall refuse to approve a programme if:

- 1) established requirements are violated upon publication of the programme and the violation may affect the results of environmental impact assessment;
- 2) the programme does not comply with the requirements provided for in § 13 of this Act;
- 3) the developer fails to submit the documents specified in subsection (1) of this section;
- 4) refusal to take account of proposals and objections submitted regarding the programme is not sufficiently justified and questions have not received a thorough response;
- 5) the programme is not appropriate and sufficient to assess environmental impact of proposed activities.

(4) If an environmental impact assessment programme is not approved, it is required to:

- 1) publish the programme again pursuant to the procedure provided for in §§ 16 and 17 of this Act;
- 2) submit the documents specified in subsection (1) of this section to the supervisor of environmental impact assessment;
- 3) provide supplementary responses to the proposals, objections and questions submitted regarding the programme if responses to them were not considered sufficient by the supervisor of environmental impact assessment;
- 4) amend the programme.

(5) The developer shall submit an environmental impact assessment programme to the supervisor of environmental impact assessment for approval after the supplementary publication or amendment of the programme or after supplementary responses are sent to the person who submitted proposals, objections or questions regarding the programme.

(6) With the consent of the supervisor of environmental impact assessment, reasoned amendments may be made to an approved environmental impact assessment programme. The provisions concerning open proceedings do not apply to amendment of the approved programme.

(7) If the developer fails to submit an environmental impact assessment report to the decision-maker for public display within two years after approval of the environmental impact assessment programme, the programme expires and a new programme shall be prepared in order to assess the environmental impact.

§ 19. Notification of approval of environmental impact assessment programme

(1) A supervisor of environmental impact assessment shall notify participants in proceedings of approval of an environmental impact assessment programme by sending an unregistered letter or a registered letter and at the expense of the developer in the official publication *Ametlikud Teadaanded* within fourteen days after the decision to approve the programme is made.

(2) A notice regarding approval of an environmental impact assessment programme shall set out at least the following:

- 1) the name and details of the supervisor of environmental impact assessment;
- 2) a short description and the purpose of the proposed activities;
- 3) the time and place for accessing the environmental impact assessment programme and a decision to approve it.

§ 20. Environmental impact assessment report

(1) An expert or, under the supervision of the expert, an expert group shall prepare, on the basis of the approved environmental impact assessment programme, the environmental impact assessment report in which the expert or expert group:

- 1) describes the purpose of and the need for the proposed activities;
- 2) sets out a description of the proposed activities and reasonable alternatives therefor;
- 3) sets out a description of the environment potentially affected by the proposed activities and reasonable alternatives therefor and assesses the state of the environment of the region;
- 4) evaluates the potential consequences associated with the proposed activities and reasonable alternatives therefor, e.g. water, soil or air pollution, waste generation, noise, vibration, light, heat, radiation and smell;

5) sets out a description of the methods to predict potential environmental impact of the proposed activities and reasonable alternatives therefor;

6) analyses the potential environmental impact of the proposed activity and its actual alternatives, including the indirect impact and combined impact with other types of activity to the state of the environment, including impact to the health, well-being and property of persons, to plants, animals, soil, landscape, mineral resources, quality of air and water, climate, to protected natural objects, including Natura 2000 sites, their purposes of protection and integrity, and to cultural heritage, and the interaction of the factors specified in this subsection;

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

7) assesses potential effect of environmental impact and describes the measures to prevent or minimise the negative environmental impact involved and assesses the likely efficacy of the measures;

7¹) present, if necessary, an overview of the actual compensatory measures within the meaning of § 70¹ of the Nature Conservation Act to compensate for the potential damage caused by the significant environmental impact potentially resulting from the proposed activities, and an assessment of the efficiency and the necessary volume of application of the measures;

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

7²) on the basis of the results of environmental impact assessment of the proposed activities and reasonable alternatives therefor makes a reasoned proposal for the establishment of the conditions of environmental monitoring;

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

8) assesses the purposefulness of the use of natural resources and the compliance of the proposed activities and reasonable alternatives therefor with the principles of sustainable development;

9) compares the proposed activities with different reasonable alternatives and prepares a ranking list on the basis of environmental impact and benefits of the proposed activities and reasonable alternatives therefor;

10) sets out an overview of the results of consultations upon assessment of environmental impact, involvement of the public and environmental impact assessment in a transboundary context;

11) discusses, if necessary, the difficulties which became evident upon environmental impact assessment and preparation of the report;

- 12) submits a summary of information specified in clauses 1)-11) of this subsection;
 - 13) submits information on sources used upon environmental impact assessment;
 - 14) discusses the proposals, objections and questions submitted regarding the report the copies of which are appended to the report and submits copies of the letters sent to person who submitted the proposals, objections and questions, which explain why the proposals and objections submitted regarding the report are taken account of and justify why they are not taken account of and respond to the questions;
 - 15) discusses minutes of the public consultation regarding the report and appends the copy of the minutes to the report;
 - 16) discusses the sketch maps and maps of the area of the proposed activities and reasonable alternatives therefor and appends the sketch maps and maps to the report;
 - 17) discusses other appendices if necessary.
- (2) If necessary, detailed requirements for an environmental impact assessment report may be established by a regulation of the Minister of the Environment.
 - (3) Upon assessment of environmental impact, the recognised knowledge in environmental impact assessment and methods of assessment shall be taken account of.

§ 21. Publication of environmental impact assessment report and taking account of results of publication of report

An environmental impact assessment report shall be published and the results of publication shall be taken into account pursuant to the procedure provided for in §§ 16 and 17 of this Act.

§ 22. Approval of environmental impact assessment report, determination of environmental requirements and refusal to approve report

- (1) The developer shall submit an environmental impact assessment report in two original copies to the supervisor of environmental impact assessment for approval and determination of environmental requirements after the public consultation regarding the report.
- (2) The supervisor of environmental impact assessment shall inform the developer and the decision-maker of a decision to approve the environmental impact assessment report and determination of environmental requirements or refusal to approve the report and, upon approval of the report, shall forward one original copy of the report within thirty days as of receipt of the report to the decision-maker.
- (3) A supervisor of environmental impact assessment shall not approve an environmental impact assessment report or determine environmental requirements if:

- 1) established requirements are violated upon publication of the report and the violation may affect the results of environmental impact assessment;
 - 2) the report does not comply with the requirements provided for in clauses 13 1)-4) and 6) of this Act;
 - 3) the report does not comply with the requirements provided for in § 20 or legislation issued on the basis thereof;
 - 4) false information has been submitted in the report;
 - 5) the report is not relevant or sufficient for issue of a development consent;
 - 6) refusal to take account of proposals and objections submitted regarding the report is not sufficiently justified.
- (4) The procedure for inspection of the quality of environmental impact assessment report and the proceedings regarding environmental impact assessment shall be established by a regulation of the Minister of the Environment.
- (5) If environmental impact assessment report is not approved, it is required to:
- 1) return one original copy of the environmental impact assessment report to the developer;
 - 2) publish the report again pursuant to the procedure provided for in §§ 16 and 17 of this Act;
 - 3) provide supplementary responses to the proposals, objections and questions submitted regarding the report if responses to them were not considered sufficient by the supervisor of environmental impact assessment;
 - 4) amend the report.
- (6) The developer shall submit an environmental impact assessment report to the supervisor of environmental impact assessment for approval after the supplementary publication or amendment of the report or after supplementary responses are sent to the person who submitted proposals, objections or questions regarding the report.
- (7) Environmental requirements are measures the purpose of determination of which is to prevent or minimise potential negative environmental impact arising from proposed activities.
- (8) Upon determination of environmental requirements, the following shall be taken account of:
- 1) the requirements arising from law or legislation issued pursuant to law;
 - 2) the state of the environment likely to be affected by the proposed activities;
 - 3) the results of the environmental research conducted;

- 4) the results of environmental impact assessment;
- 5) other important facts.
- (9) A supervisor of environmental impact assessment shall preserve the approved environmental impact assessment report for at least five years after receipt of the report.

§ 23. Notification of approval of environmental impact assessment report and of determination of environmental requirements

A supervisor of environmental impact assessment shall give notification of approval of an environmental impact assessment report and of determination of environmental requirements pursuant to the procedure provided for in § 19 of this Act.

§ 24. Issue of development consent and refusal to issue development consent

- (1) Upon making a decision to issue or refuse issue of a development consent, the decision-maker shall take account of the results of environmental impact assessment and the environmental requirements appended to the report.
- (2) If, upon making a decision to issue or refuse issue of a development consent, the decision-maker fails to take account of the results of environmental impact assessment and the environmental requirements appended to the report, the decision-maker shall set out a reasoned justification in the decision to issue or refuse issue of the development consent.
- (3) A development consent shall not be issued if the developer is not able to comply with the determined environmental requirements.

§ 25. Ex-post evaluation of environmental impact assessment

- (1) A supervisor of environmental impact assessment shall carry out the ex-post evaluation of environmental impact assessment on the basis of the results of environmental monitoring.
- (2) The decision-maker is required to forward the results of environmental monitoring within thirty days after receipt of the results to the supervisor of environmental impact assessment for ex-post evaluation.
- (3) If it becomes evident in the course of ex-post evaluation that the results of environmental monitoring do not comply with the requirements provided for in legislation or the development consent, the decision-maker shall amend the conditions of the development consent on the basis of a proposal of the supervisor of environmental impact assessment.

§ 26. Specifications for environmental impact assessment related to preparation of building design documentation

- (1) In addition to the provisions of § 3 of this Act, environmental impact of proposed activities may be assessed in the course of preparation of building design documentation pursuant to the procedure provided for in this Act, taking account of the specifications arising from this section.
- (2) For the purposes of this Act, the decision-maker is the issuer of a development consent upon application for which building design documentation specified in subsection (1) of this section must, inter alia, be submitted.
- (3) The developer shall notify the decision-maker of the intention to assess environmental impact of the proposed activities in the course of preparation of building design documentation, after which the decision-maker initiates environmental impact assessment of the proposed activities.
- (4) An environmental impact assessment report is a separate part of building design documentation.

§ 27. Specifications for assessment of environmental impact of termination of mining of mineral resources

- (1) In addition to the provisions of § 3 of this Act, environmental impact of termination of mining of mineral resources may be assessed in the course of preparation of the project to terminate the mining of mineral resources pursuant to the procedure provided for in this Act, taking account of the specifications arising from this section.
- (2) For the purposes of this section, the developer is the holder of an extraction permit for mineral resources.
- (3) For the purposes of this section, the decision-maker is the issuer of an extraction permit for mineral resources.
- (4) The developer shall notify the decision-maker of the intention to terminate mining of mineral resources after which the decision-maker makes a decision to initiate or refuse to initiate environmental impact assessment of proposed activities pursuant to the procedure provided for in § 11 of this Act.
- (5) An environmental impact assessment report is a separate part of a project to terminate mining of mineral resources.
- (6) A supervisor of environmental impact assessment shall notify the developer and decision-maker of a decision to approve or refuse to approve the environmental impact

assessment report by sending an unregistered letter or a registered letter within thirty days after receipt of the report and shall send one original copy of the report to the decision-maker.

(7) The decision-maker determines the environmental requirements to prevent or minimise negative environmental impact involved in termination of mining of mineral resources.

§ 28. Specifications for assessment of environmental impact of closure of landfill

(1) In addition to the provisions of subsection (3) of this section, environmental impact of closure of a landfill may be assessed in the course of preparation of the project to close the landfill pursuant to the procedure provided for in this Act, taking account of the specifications arising from this section.

(2) For the purposes of this section, the developer is the operator of a landfill to be closed.

(3) For the purposes of this section, the decision-maker is the Environmental Board.

(18.12.2008 entered into force 1.02.2009 - RT I 2009, 3, 15)

(4) The developer shall forward an application for closure of a landfill to the decision-maker on the basis of which the decision-maker decides to initiate or refuse to initiate environmental impact assessment of closure of the landfill pursuant to the procedure provided for in § 11 of this Act.

(5) Upon preparation of a project to close a landfill, the results of environmental impact assessment and the environmental requirements determined shall be taken into account.

§ 29. Specifications for environmental impact assessment of activities affecting Natura 2000 site

(1) If the proposed activities are likely to significantly affect the Natura 2000 site:

1) the purpose of protection of the site must be particularly taken account of upon environmental impact assessment;

2) the supervisor of environmental impact assessment shall send the environmental impact assessment report and the draft decision to approve the report and determine environmental requirements to the administrator of the specified protected natural features for approval.

(2) A development consent may be issued if permitted by the protection procedure of Natura 2000 sites and the decision-maker is convinced that the proposed activities do not have a negative impact on the integrity of the Natura 2000 site or on the purpose of protection thereof.

(3) If, regardless of the potential significant negative effect of the proposed activities on a Natura 2000 site, the activity is still necessary for the public due to vital and especially urgent reasons, including social or economic reasons, and due to lack of alternative solutions, a development consent may be issued with the consent of the Government of the Republic. If a development consent is issued, an obligation to apply compensatory measures shall be imposed. The Ministry of the Environment shall inform the European Commission of the adopted compensatory measures immediately after the development consent has been issued. The activities specified in the development consent shall not be commenced before the application of compensatory measures.

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

(4) If the proposed activity potentially impacts a priority natural habitat type or priority species present within a Natura 2000 site within the meaning of Council Directive 92/43/EEC (OJ L 206, 22.07.1992, pp. 7–50) on the conservation of natural habitats and of wild fauna and flora, the Government of the Republic shall issue a development consent only if the proposed activity is related to the health of persons, environmental safety or a significant positive effect to the state of the environment. In the case of other public priority reasons, a development consent shall be issued only after obtaining the opinion of the European Commission.

(21.02.2007 entered into force 1.04.2007 - RT I 2007, 25, 131)

§ 30. Specifications for environmental impact assessment in transboundary context

(1) The Republic of Estonia shall participate in environmental impact assessment in transboundary context originating in the territory of other states and environmental impact assessment in transboundary context originating in the territory of the Republic of Estonia shall be organised pursuant to the procedure provided for in international agreements, Convention on Environmental Impact Assessment in Transboundary Context (RT II 2000, 28, 169) and this Act, taking account of the specifications arising from this section.

(2) If proposed activities potentially result in significant environmental impact which may be transboundary and the decision-maker initiates environmental impact assessment, the decision-maker shall immediately notify the Ministry of the Environment thereof.

(3) If the potentially significant environmental impact of a proposed activity is likely to be transboundary or if the affected state so requests, the Ministry of the Environment shall send the affected state, as soon as possible but no later than when the decision-maker gives notification of the initiation of the environmental impact assessment in Estonia, a notice

concerning the initiation of environmental impact assessment together with the description of the proposed activity and information concerning the transboundary effect potentially accompanying the proposed activity. The affected state shall be given at least thirty days as of the date of receipt of the notice concerning the initiation of environmental impact assessment to respond to the notice.

(4) If, after receipt of the notice specified in subsection (3) of this section, the affected state notifies of its wish to participate in the environmental impact assessment, the affected state shall be sent the following materials, unless such materials were sent before:

- 1) an application for development consent;
- 2) data concerning the decision-maker and the supervisor of environmental impact assessment, specifying the person who may be addressed with questions and comments;
- 3) information concerning the assessment of the environmental impact of the proposed activity and the processing of the application for development consent.

(21.02.2007 entered into force 1.04.2007 - RT I 2007, 25, 131)

(4¹) Subsections (5)-(8) of this section do not apply upon assessment of environmental impact if the affected state fails to respond to the notice concerning the initiation of the environmental impact assessment during the term specified in subsection (3) of this section, or does not wish to participate in the procedure for assessing the environmental impact.

(21.02.2007 entered into force 1.04.2007 - RT I 2007, 25, 131)

(5) If the affected state so requests, the Ministry of the Environment shall forward the draft environmental impact assessment programme and report to the affected state as soon as possible but no later than when the public display of the programme or report commences in the Republic of Estonia. The notice on the making public of the programme or report shall contain at least the information specified in subsection 16 (4) of this Act.

(21.02.2007 entered into force 1.04.2007 - RT I 2007, 25, 131)

(6) At the request of the affected state, its representative is permitted to participate in environmental impact assessment proceedings and consultations are commenced concerning environmental impact resulting from proposed activities and the measures for the mitigation or prevention of such impact.

(7) The Ministry of the Environment and the affected state shall agree on:

- 1) the procedure and actual schedule of the consultations;
- 2) provision of information to the public and agencies of the affected state and allowing them sufficient time for the submission of opinions on the environmental impact assessment programme and report;

3) the time when the proposals, objections and questions received in the course of the environmental impact assessment shall be submitted to the affected state for obtaining an opinion;

4) the drafts of the decisions which must be submitted to the affected state for obtaining an opinion.

(21.02.2007 entered into force 1.04.2007 - RT I 2007, 25, 131)

(7¹) If the Ministry of the Environment and the affected state agree that also the drafts for the decisions to grant or refuse to grant development consent and the draft of the development consent must be submitted to the affected state for obtaining an opinion, the decision-maker shall send the drafts of such documents after preparation thereof to the Ministry of the Environment who shall forward them to the affected state for obtaining an opinion. The affected state shall be given at least thirty days to provide an opinion. In making the decision, the decision-maker shall consider the opinion of the affected state.

(21.02.2007 entered into force 1.04.2007 - RT I 2007, 25, 131)

(8) The decision-maker shall promptly inform the Ministry of the Environment of issue of or refusal to issue a development consent necessary for the activities with transboundary environmental impact. The Ministry of the Environment shall notify the state which participated in environmental impact assessment in a transboundary context of issue of or refusal to issue a development consent necessary for the activities with significant transboundary environmental impact and shall forward the decision to issue or refusal to issue the development consent to the state.

(9) The Ministry of the Environment shall notify the state in which the transboundary environmental impact originates of its intention to participate in environmental impact assessment in a transboundary context and of the need for consultations within thirty days after the receipt of the notice. The Ministry of the Environment shall give notification of publication of the documents on environmental impact assessment through the publications specified in subsection 16 (2) of this Act and by sending an unregistered letter or a registered letter to persons whose rights the proposed activity may concern in the Republic of Estonia. The Ministry of the Environment shall send the proposals and objections submitted regarding the documents on environmental impact assessment to the state in which the transboundary environmental impact originates.

Division 2

Strategic Environmental Assessment of Strategic Planning Document

§ 31. Strategic planning document

For the purposes of this Act, a strategic planning document is a national plan, county and comprehensive or detailed plan within the meaning of the Planning Act (RT I 2002, 99, 579; 2004, 22, 148; 38, 258; 84, 572), a strategic development plan within the meaning of the State Budget Act (RT I 1999, 55, 584; 2002, 67, 405; 2003, 13, 69; 24, 148; 88, 588; 2004, 22, 148), except a plan, programme or strategy specified in clause 1 (3) 2) of this Act or another plan, programme or strategy established by the legal act of the Riigikogu³, the Government of the Republic, a governmental authority, a county governor or local government body.

§ 32. Strategic environmental assessment

For the purposes of this Act, a strategic environmental assessment means:

- 1) establishment of the need to initiate the strategic environmental assessment and, if necessary, initiation of the assessment upon initiation of preparation of a strategic planning document;
- 2) upon establishment of the need to carry out the strategic environmental assessment, asking an opinion from authorities and persons specified in subsection 35 (4) of this Act, publication of the decision to initiate or decision and reasons for not requiring a strategic environmental assessment;
- 3) preparation of the strategic environmental assessment programme and asking an opinion on the content of the programme from authorities and persons specified in subsection 36 (3) of this Act;
- 4) carrying out the strategic environmental assessment, the prognosis and assessment of the impacts, identifying, describing, assessing and comparing alternative options, and preparation of a strategic environmental assessment report;
- 5) publication of draft strategic planning document and strategic environmental assessment programme and report;
- 6) taking account of the results of strategic environmental assessment and its publication upon preparation of the strategic planning document;
- 7) publication of the decision to adopt the strategic planning document.

§ 33. Mandatory nature of strategic environmental assessment

(1) A strategic environmental assessment shall be carried out during the preparation of a strategic planning document before its adoption by a legal act, if the document:

1) is prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications or tourism and on the basis thereof activities specified in subsection 6 (1) of this Act are proposed or proposed activities are likely to have a significant environmental impact, on the basis of the provisions of subsections 6 (2)-(4) of this Act;

2) is a national, county or comprehensive plan;

3) is a detailed plan on the basis of which activities specified in subsection 6 (1) of this Act are proposed or the proposed activities are likely to have a significant environmental impact, on the basis of the provisions of subsections 6 (2)-(4) of this Act;

4) is the basis for activities which are likely to significantly affect a Natura 2000 site.

(2) In addition to the provisions of subsection (1), the environmental impact resulting from implementation of a strategic planning document must be assessed, if necessary, also if:

1) amendments are made to the strategic planning document specified in subsection (1) of this section;

2) activities for which a development consent is required are proposed in the strategic planning document not specified in subsection (1) of this section.

(3) The need to carry out the strategic environmental impact assessment of a strategic planning document specified in subsection (2) of this section shall be decided on the basis of:

1) the characteristics and content of the strategic planning document;

2) the environmental impact resulting from implementation of the strategic planning document and the likely affected area;

3) the opinion of the authorities and persons specified in subsection 35 (4) of this Act.

(4) In the case specified in clause (3) 1) of this section, the characteristics and content of a strategic planning document shall be taken into account on the basis of the following criteria:

1) the degree to which the strategic planning document sets a framework for proposed activities, either with regard to the location, nature and operating conditions or by allocating resources;

2) the degree to which the strategic planning document influences other strategic planning documents including those in a hierarchy;

3) the relevance of the strategic planning document for the integration of environmental considerations into other sectors;

4) environmental problems relevant to the implementation of the strategic planning document;

5) the relevance of the strategic planning document, including a strategic planning document relating to waste management and water protection, for the implementation of Community legislation on the environment.

(5) In the case specified in clause (3) 1) of this section, the environmental impact resulting from implementation of a strategic planning document and the area likely to be affected shall be taken into account on the basis of the following criteria:

1) the probability, duration, frequency and reversibility of the impacts, including cumulative and transboundary nature of the impacts;

2) the risks to human health or the environment, including the probability of accidents;

3) the magnitude and spatial extent of the impacts, including the geographical area and size of the population likely to be affected;

4) the value and vulnerability of the area likely to be affected due to special natural characteristics, cultural heritage and intensive land-use;

5) the impacts on areas or landscapes which have a protection status.

§ 34. Right to carry out strategic environmental assessment

(1) An authority responsible for the preparation of a strategic planning document shall initiate and be responsible for carrying out the strategic environmental assessment, and cover the expenses related thereto.

(2) The public display of and public consultation regarding a strategic environmental assessment programme and report shall be organised and the report shall be submitted for approval by the person who prepared the strategic planning document.

(3) The environmental impacts may be assessed or the assessment may be directed by an expert who:

1) has acquired officially recognised higher education or a foreign qualification equal thereto in the sector the environmental impact of which the expert wishes to assess;

2) has at least two years' professional experience in the sector the environmental impact of which the expert wishes to assess;

3) has undergone training in strategic planning to the extent of at least 40 hours and has passed the examination;

4) knows the principles of and procedure for strategic environmental assessment and the legislation concerning the assessment.

(4) An expert shall prepare a strategic environmental assessment programme and report in cooperation with a person preparing the strategic planning document.

(5) A person who prepares a strategic planning document may perform the functions of expert if the person complies with the qualification requirements for experts.

§ 35. Initiation of and not requiring strategic environmental assessment

(1) An authority responsible for the preparation of a strategic planning document shall initiate a strategic environmental assessment at the same time with initiation of preparation of the strategic planning document.

(2) A strategic environmental assessment shall be initiated without providing justification therefor upon initiation of preparation of a strategic planning document specified in subsection 33 (1) of this Act.

(3) If a strategic environmental assessment is initiated upon initiation of preparation of a strategic planning document specified in subsection 33 (2) of this Act, a relevant justification shall be appended to the decision to initiate.

(4) Upon making a decision on the need to initiate a strategic environmental assessment of a strategic planning document specified in subsection 33 (2) of this Act, before making the decision and depending on the characteristics of the strategic planning document, an opinion must be asked at least from the Ministry of Social Affairs, the Ministry of Culture, the Ministry of the Environment, the Environmental Board or a local government body. If necessary, additional opinion may be asked also from other relevant authorities and persons.

(18.12.2008 entered into force 1.02.2009 - RT I 2009, 3, 15)

(5) A decision to initiate or not require a strategic environmental assessment shall set out at least:

- 1) the name and objective of the strategic planning document;
- 2) the name and details of the person who initiated the preparation of, the person responsible for the preparation of, the person who prepares and the person who adopts the strategic planning document;
- 3) the date and number of the decision to initiate preparation of the strategic planning document and the decision to initiate or not require the strategic environmental assessment;
- 4) the opinion of authorities and persons specified in subsection (4) of this section on the need for initiation of the strategic environmental assessment;
- 5) the reasons for initiation of or not require the strategic environmental assessment;

6) the date and place for accessing the decision to initiate preparation of the strategic planning document and the decision to initiate or not require the strategic environmental assessment.

(6) A decision to initiate or not require the strategic environmental assessment shall be given notification of in the official publication *Ametlikud Teadaanded* and in at least one national newspaper or one local newspaper and by sending an unregistered letter or a registered letter to authorities and persons specified in subsection (4) of this section within fourteen days after the decision is made.

(7) A notice of initiation of or not requiring the strategic environmental assessment shall set out at least the information specified in subsection (5) of this section.

§ 36. Strategic environmental assessment programme

(1) After a strategic environmental assessment is initiated, an expert on strategic environmental assessment shall, in cooperation with the person preparing a strategic planning document, prepare a strategic environmental assessment programme.

(2) A strategic environmental assessment programme shall:

1) determine the extent of the strategic environmental assessment on the basis of the characteristics and content of the strategic planning document;

2) explain and specify environmental impacts, including effects on human health, the likely transboundary environmental impact and the likely impact on Natura 2000 sites;

3) specify the persons and authorities which may be affected or which may have reasoned interest in the strategic planning document;

4) contain a schedule of the strategic environmental assessment and a schedule for the publication of the results of the assessment, arising from the schedule for preparation of the strategic planning document;

5) include information on the expert who prepared the programme and the person who prepares the strategic planning document;

6) describe the opinions submitted by authorities and persons specified in subsection (3) of this section.

(3) Upon preparation of a strategic environmental assessment programme, opinion on the content of the programme shall, depending on the characteristics of the strategic planning document, be asked at least from the Ministry of Social Affairs, the Ministry of Culture, the Ministry of the Environment, the Environmental Board or a local government body.

(18.12.2008 entered into force 1.02.2009 - RT I 2009, 3, 15)

§ 37. Publication of strategic environmental assessment programme

(1) A person who prepares a strategic planning document shall give notification of the public display of and public consultations regarding the strategic environmental assessment programme in the official publication *Ametlikud Teadaanded*, in a newspaper and on the webpage and electronically or by sending an unregistered letter or a registered letter to authorities and persons specified in clause 36 (2) 3) of this Act, the organisation uniting non-governmental environmental organisations and agencies and persons specified in subsection 36 (3) of this Act.

(2) A notice regarding publication of a strategic environmental assessment programme shall set out at least the following:

- 1) the name and objective of the strategic planning document;
- 2) information on the person who is responsible for the preparation of, the person who prepares and the person who adopts the strategic planning document;
- 3) the time and manner of accessing the terms of references or draft strategic planning document;
- 4) the time and place for accessing the strategic environmental assessment programme;
- 5) the term and manner for the submission of proposals, objections and questions regarding the strategic environmental assessment programme;
- 6) the time and place for the public consultation regarding the strategic environmental assessment programme;
- 7) the prognosis whether transboundary environmental impacts could exist.

(3) The public display of a strategic environmental assessment programme and the public consultation regarding the programme thereafter shall be organised by the person who prepared the strategic planning document. The programme shall be displayed publicly for not less than fourteen days.

(4) Everyone has the right to access a strategic environmental assessment programme and other documents on the environmental impact resulting from implementation of the strategic planning document at the time of the public display of and the public consultation regarding the programme, to submit proposals, objections and questions regarding the programme and obtain responses thereto.

(5) A person who prepared a strategic planning document shall, in cooperation with the expert, make the necessary amendments to the strategic environmental assessment programme on the basis of the proposals and objections submitted at the time of the public

display and the public consultation. Taking account of the proposals and objections shall be described and refusal to take account of the proposals and objections shall be justified in the amended programme or an annex thereto. Written questions shall be responded to by sending an unregistered letter or a registered letter.

§ 38. Supervisor of strategic environmental assessment

(1) If the potential environmental impact resulting from implementation of a strategic planning document may be transboundary, supervision over a strategic environmental assessment arising from implementation of the strategic planning document shall be exercised by the Ministry of the Environment and, in other cases, by the Environmental Board.

(18.12.2008 entered into force 1.02.2009 - RT I 2009, 3, 15)

(2) The functions of a supervisor of strategic environmental assessment are:

- 1) to verify compliance of the strategic environmental assessment programme with the requirements of legislation and to approve the programme;
- 2) to verify compliance of strategic environmental assessment procedures with the requirements of legislation;
- 3) to verify compliance of the strategic environmental assessment report with the programme and the requirements of legislation;
- 4) to approve the strategic environmental assessment report and to approve the monitoring measures;
- 5) to verify compliance of an expert with the requirements provided for in subsection 34 (3) of this Act.

§ 39. Approval of and refusal to approve strategic environmental assessment programme

(1) A person who prepared a strategic planning document shall, after the public consultations regarding the strategic environmental assessment programme, submit the programme together with proposals, objections and questions submitted regarding the programme, explanations for taking account of the proposals, objections and questions, reasons for refusal to take account of the proposals, objections and questions and the minutes of the public consultation regarding the programme to the supervisor of strategic environmental assessment for approval.

(2) A supervisor of strategic environmental assessment shall decide to approve or refuse approval of a strategic environmental assessment programme and shall inform the person

who prepared the strategic planning document of the decision by sending an unregistered letter or a registered letter within fourteen days after receipt of the documents specified in subsection (1) of this section.

(3) A supervisor of strategic environmental assessment shall refuse to approve a strategic environmental assessment programme if:

- 1) the programme does not comply with the requirements provided for in subsection 36 (2) of this Act;
- 2) the person who prepares the strategic planning document has not submitted the documents specified in subsection (1) of this section;
- 3) the person who prepares the strategic planning document has not provided justification for refusal to take account of proposals and objections submitted regarding the programme;
- 4) the programme has been prepared by an expert who does not comply with the requirements provided for in subsection 34 (3) of this Act.

§ 40. Strategic environmental assessment report

(1) A strategic environmental assessment report is a part of a planning document which contains information specified in subsections (2)-(4) of this section.

(2) Upon a strategic environmental assessment, it is required to explain, describe and assess the significant environmental impact resulting from implementation of the strategic planning document and the main alternative measures, activities and tasks, having regard to the objectives and territory of the strategic planning document.

(3) Upon preparation of a strategic environmental assessment report, the following shall be taken into account:

- 1) current knowledge and recognised methods of assessment;
- 2) the content and level of establishment of the strategic planning document;
- 3) the extent to which certain matters are more appropriately assessed at different levels of strategic planning in order to avoid duplication of the assessment.

(4) A strategic environmental assessment report shall set out the following:

- 1) an outline of the contents and the main objectives of the strategic planning document;
- 2) the relationship of the strategic planning document with other relevant strategic planning documents;
- 3) a description of the potentially affected environment during preparation of the strategic planning document and in the case of alternative development scenarios, including

the comparison of alternatives and the probable development if the strategic planning document is not implemented;

- 4) environmental problems resulting from implementation of the strategic planning document, particularly those relating to protected areas, individual protected natural objects and protected species;
- 5) the environmental protection objectives, established at international, Community or Member State level, which are relevant to the strategic planning document and a description of the way those objectives and any environmental considerations have been taken into account during preparation of the strategic planning document;
- 6) an assessment of the potential significant direct, indirect, cumulative, synergistic, short and long-term, positive and negative environmental impacts, including impacts on human health and social needs and property, biological diversity, populations, flora, fauna, soil, water and air quality, climate changes, cultural heritage and the landscape, an assessment of the possibilities of waste generation and a description of the methods for impact prognosis;
- 7) the interconnection between different impacts and the transboundary environmental impact;
- 8) the measures proposed for the prevention and mitigation of significant environmental impact resulting from implementation of the strategic planning document;
- 9) an outline of the reasons for selecting the alternative development scenarios dealt with;
- 10) an overview of how the best alternative development scenario was achieved;
- 11) an overview of carrying out the strategic environmental assessment, the results of public involvement and transboundary consultations;
- 12) an overview of the difficulties which became evident upon preparation of the strategic environmental assessment report;
- 13) a description of the measures proposed for the monitoring of significant environmental impact resulting from implementation of the strategic planning document and of the measurable indicators;
- 14) a summary of information specified in clauses 1)-13) of this subsection;
- 15) the strategic environmental assessment programme and the minutes of the public consultation regarding the programme;
- 16) the minutes of the public consultation regarding the strategic environmental assessment report;

17) the proposals, objections and questions of authorities and persons, and an overview of the justifications for taking account of or refusal to take account of the proposals, objections and questions.

§ 41. Publication of strategic environmental assessment report

A strategic environmental assessment report shall be published pursuant to § 37 of this Act, except a term for the public display of the report which is at least 21 days.

§ 42. Approval of strategic environmental assessment report and adoption of monitoring measures and refusal to approve report

(1) A person who prepares a strategic planning document shall, after the public consultation regarding the strategic environmental assessment report, submit the report together with proposals and objections submitted regarding the report, explanations for taking account of the proposals and objections, reasons for refusal to take account of the proposals or objections and the minutes of the public consultation regarding the report to supervisor of the strategic environmental assessment for approval.

(2) A supervisor of strategic environmental assessment shall decide to approve the strategic environmental assessment programme and adopts the monitoring measures of environmental impact resulting from implementation of the strategic planning document, or refuse approval of the strategic environmental assessment report and shall inform the person who prepares the strategic planning document of the decision by sending an unregistered letter or a registered letter within thirty days after receipt of the documents specified in subsection (1) of this section.

(3) A supervisor of strategic environmental assessment shall refuse to approve a report if:

- 1) the report does not comply with the approved strategic environmental assessment programme;
- 2) the report does not contain information specified in subsection 40 (4) of this Act;
- 3) the person who prepares the strategic planning document has not submitted the documents specified in subsection (1) of this section;
- 4) false information has been presented in the report;
- 5) mistakes have been made during the strategic environmental assessment which influence the objectivity of assessment results;

6) the person who prepared the strategic planning document has not provided sufficient justification for refusal to take account of proposals and objections submitted regarding the report.

(4) The objective of approval of the monitoring measures is to identify at an early stage the significant negative environmental impact resulting from the implementation of a strategic planning document, and to be able to apply measures for the prevention and mitigation of such effect.

(5) The approved monitoring measures are mandatory to the person implementing a strategic planning document. Upon carrying out the monitoring, the existing environmental monitoring system or monitoring proposed for monitoring the environmental impact resulting from implementation of the strategic planning document may be used. Monitoring may be carried out in the course of the activities proposed on the basis of one or several strategic planning documents.

§ 43. Taking account of results of strategic environmental assessment

Upon preparation of a strategic planning document, the following shall be taken account of:

- 1) the results of the strategic environmental assessment and the adopted monitoring measures;
- 2) the opinions submitted by authorities and persons to the extent possible;
- 3) the results of transboundary consultations.

§ 44. Notification of adoption of strategic planning document

(1) A person responsible for the preparation of a strategic planning document shall give notification of adoption of the strategic planning document by electronic means or by sending an unregistered letter or a registered letter within fourteen days after the decision on the adoption is made to:

- 1) the authorities and persons specified in subsection 35 (4) and clause 36 (2) 3) of this Act;
- 2) a supervisor of the strategic environmental assessment;
- 3) the affected state which participated in transboundary consultations.

(2) Upon giving notification of establishment of a strategic planning document, it shall be ensured that agencies and persons specified in §§ 35 and 36 of this Act and affected states which participated in an environmental impact assessment in a transboundary context have access to the following:

- 1) adopted strategic planning document;
- 2) an overview of how environmental considerations have been taken into account in the strategic planning document;
- 3) an overview of how the results of the strategic environmental assessment have been taken into account in the strategic planning document;
- 4) an outline of the reasons for selecting the alternatives dealt with;
- 5) a description of the measures proposed for the monitoring of potential significant environmental impact resulting from implementation of the strategic planning document.

§ 45. Specifications for strategic environmental assessment in Natura 2000 site

- (1) If implementation of a strategic planning document may potentially significantly affect a Natura 2000 site:
 - 1) the purpose of protection of the site must be particularly taken account of upon strategic environmental assessment;
 - 2) the person who prepared the strategic planning document shall send the strategic environmental assessment report to the administrator of the specified site for approval.
- (2) A strategic planning document may be established if permitted by the protection procedure of Natura 2000 sites and the person who established the strategic planning document is convinced that the proposed activities do not have a negative impact on the integrity of the Natura 2000 site or on the purpose of protection thereof.
- (3) If, regardless of the potential negative effect resulting from implementation of a strategic planning document on a Natura 2000 site, the activity is still necessary for the public due to vital reasons, including social or economic reasons, and due to lack of alternative solutions, the strategic planning document may be established with the consent of the Government of the Republic.

In the case a strategic planning document is established, an obligation to apply compensatory measures shall be imposed.

(21.02.2007 entered into force 1.04.2007 - RT I 2007, 25, 131)

- (4) If the strategic planning document potentially impacts a priority natural habitat type or priority species present in a Natura 2000 site within the meaning of Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, the Government of the Republic shall grant consent only if it is related to the health of persons, environmental safety or a significant positive effect to the state of the environment. In the

case of other public priority reasons, a strategic planning document shall be established only after obtaining the opinion of the European Commission.

(21.02.2007 entered into force 1.04.2007 - RT I 2007, 25, 131)

§ 46. Strategic environmental assessment in transboundary context resulting from implementation of strategic planning document

(1) This section applies if implementation of a strategic planning document is likely to have significant impacts on the environment of another state or if applied for by a state which is likely to be significantly affected.

(2) If it becomes evident upon preparation of a strategic environmental assessment programme that implementation of a strategic planning document is likely to have significant impacts on the environment of another state, the Ministry of the Environment shall send a notice to the affected state as soon as possible or at least at the same time when the publication of the programme is organised in the Republic of Estonia.

(3) The notice specified in subsection (2) of this section shall set out at least the following:

- 1) the name and short description of the strategic planning document;
- 2) information on the person who prepares and adopts the strategic planning document;
- 3) a schedule for preparation of the strategic planning document and carrying out the strategic environmental assessment and a short description of the likely environmental impacts resulting from the implementation of the document;
- 4) the term for responding to the notice and submission of comments.

(4) The Ministry of the Environment shall notify the state in which the transboundary environmental impact originates of its intention to participate in the strategic environmental assessment in a transboundary context and of the need for consultations within thirty days after the receipt of the notice. The Ministry of the Environment shall give notification of publication of the documents on strategic environmental assessment in a transboundary context in the manner specified in subsection 37 (1) of this Act and shall send the proposals and objections submitted regarding the documents on the strategic environmental assessment in a transboundary context to the state in which the transboundary environmental impact originates.

(5) If an affected state wishes to participate in a strategic environmental assessment in a transboundary context:

- 1) the Ministry of the Environment shall forward the draft strategic planning document before its adoption and the strategic environmental assessment report before the approval thereof to the affected state;
 - 2) the affected state is allowed to participate in the strategic environmental assessment in a transboundary context, and consultations on the environmental impact and the measures for the mitigation and offsetting of such impact are commenced before the establishment of the strategic planning document.
- (6) During consultations specified in subsection (5) of this section, the competent authorities of states shall ensure that the public and authorities of the state which is likely to be significantly affected are notified and allow them sufficient time for the submission of opinions and agree on all the necessary procedures and an actual schedule for relevant consultations.
- (7) The strategic assessment of transboundary environmental impact originating in the territory of the Republic of Estonia shall be organised and the Republic of Estonia participates in the strategic assessment of transboundary environmental impact originating in the territory of another state pursuant to the procedure provided for in international agreements.

Chapter 3

Organisation of Eco- Management and Audit Scheme and Awarding of Eco-labels

Division 1

Organisation of Voluntary Eco- Management and Audit Scheme

§ 47. Eco- Management and Audit Scheme

- (1) The Eco- Management and Audit Scheme have been established by Regulation No. 761/2001/EC of the European Parliament and of the Council allowing voluntary participation by organisations in a Community Eco- Management and Audit Scheme (EMAS) (OJ L 114, 24.04.2001, p. 1–29).
- (2) For the purposes of this Act, the concepts “verifier” and “organisation” are used within the meaning provide for in Article 2 (q) and (s) of Regulation No. 761/2001/EC of the European parliament and of the Council.
- (3) Verification means organisational assessment conducted by a verifier to ensure that the environmental policy, the environmental management system and auditing procedures

comply with the requirements of Regulation No. 761/2001/EC of the European Parliament and of the Council.

(4) Approval means assessment of the environmental report by a verifier to verify whether the information and data submitted in the environmental report of the organisation are reliable, credible, correct and comply with the requirements of Regulation No. 761/2001/EC of the European Parliament and of the Council.

§ 48. Registration of organisations and authority competent to register

(1) Pursuant to the requirements of Regulation No. 761/2001/EC of the European Parliament and of the Council, a competent authority upon registration of organisations is the Ministry of the Environment with the right to delegate authority to an authority within the area of government of the Ministry of the Environment.

(2) Organisations shall be registered pursuant to the procedure provided for in Regulation 761/2001/EC of the European Parliament and of the Council.

(3) The list of information contained in the registration certificate of organisations and the format of the certificates shall be established by a regulation of the Minister of the Environment.

(4) Expenses relating to the verification of an organisation specified in subsection 47 (3) of this Act shall be paid by the organisation applying for verification.

§ 49. Accreditation of environmental verifier

(1) An environmental verifier shall be accredited by the Estonian Accreditation Centre on the basis of a contract under public law entered into with the Republic of Estonia or by an internationally recognised accreditation institution.

(2) The requirements for the qualifications and accreditation of verifiers arise from Regulation 761/2001/EC of the European Parliament and of the Council.

(3) An assessment concerning activities which affect or may affect the impartiality of a verifier shall be provided by the accreditation body on the basis of an application of verifier.

(4) The decision of the accreditation body is binding on the verifier and remains in force until the circumstances on which the decision was based change or cease to exist. If the circumstances change or cease to exist, the accreditation body shall revoke its decision.

(5) Without the consent of the verifying organisation, a verifier shall not disclose information obtained in the course of verification to third parties or use such information against the verifying organisation, unless otherwise provided by law.

§ 50. Promotion of Eco- Management and Audit Scheme

- (1) In order to promote the Eco- Management and Audit Scheme and to organise the necessary notification campaign and training, the Ministry of the Environment shall prepare a strategy and an activity plan for the promotion of the Eco- Management and Audit Scheme.
- (2) The strategy for the promotion of Eco- Management and Audit Scheme and an environmental audit system shall be approved by the Government of the Republic.

Division 2

Eco-label award scheme

§ 51. Awarding eco-label to product

- (1) The voluntary Community eco-label (hereinafter ecolable) award scheme has been established by Regulation No. 1980/2000/EC of the European Parliament and of the Council on a revised Community eco-label award scheme (OJ L 237, 21.09.2000, p. 1–12) and by Commission Decision 2000/729/EC on a standard contract covering the terms of use of the Community Eco-label (OJ L 293, 22.11.2000, p. 20–23).
- (2) Pursuant to Regulation No. 1980/2000/EC of the European Parliament and of the Council, a competent body is the Ministry of the Environment with the right to delegate authority to an authority within the area of government of the Ministry of the Environment.
- (3) If necessary, the Minister of the Environment may establish a list of information to be submitted in an application for ecolabel and the format of applications by each product group separately on the basis of the corresponding instructions from the European Commission.

§ 52. State fee for review of application for use of ecolabel and use of ecolabel

- (1) An applicant for the ecolabel shall pay a state fee in the amount provided by the State Fees Act for the review of the application for the use of the ecolabel.
- (2) A person holding the right to use the ecolabel shall pay a state fee in the amount specified in the State fees Act for the use of the ecolabel on its products.
- (3) If a person holding the right to use an ecolabel fails to pay the state fee for the use of the ecolabel on time, the competent authority has the right to suspend the right to use the ecolabel until the state fee has been paid.

(7.12.2006 entered into force 1.01.2007 - RT I 2006, 58, 439)

Chapter 4

Liability

§ 53. Violation of requirement for environmental impact assessment and strategic environmental assessment

- (1) Violation of a requirement for environmental impact assessment and strategic environmental assessment 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.

§ 54. Violation of conditions for use of Community environmental management system and environmental audit system logo and Community ecolabel

- (1) Violation of conditions for the use of the Community environmental management system and environmental audit system logo or the Community ecolabel 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.

§ 55. Proceedings

- (1) The provisions of the General Part of the Penal Code (RT I 2001, 61, 364; 2002, 86, 504; 82, 480; 105, 612; 2003, 4, 22; 83, 557; 90, 601; 2004, 7, 40; 46, 329; 54, 387; 56, 401; 88, 600) and of the Code of Misdemeanour Procedure (RT I 2002, 50, 313; 110, 654; 2003, 26, 156; 83, 557; 88, 590; 2004, 46, 329; 54, 387 and 390; 56, 403; RT III 2004, 9, 96) apply to proceedings regarding the misdemeanours provided for in §§ 53 and 54 of this Act.
- (2) The Environmental Inspectorate shall conduct extra-judicial proceedings in the matters of the misdemeanours provided for in § 53 of this Act.
- (3) The Consumer Protection Board shall conduct extra-judicial proceedings in the matters of the misdemeanours provided for in § 54 of this Act.

Chapter 5

Implementing Provisions

§ 56. Implementation of Act

(1) Environmental impact assessment of proposed activities initiated pursuant to the Environmental Impact Assessment and Environmental Auditing Act (RT I 2000, 54, 348; 2002, 61, 375; 63, 387; 90, 521; 99, 579; 2004, 30, 209; 38, 258; 84, 572) which was valid until the entry into force of this Act shall be completed pursuant to the Environmental Impact Assessment and Environmental Auditing Act.

(2) The licences for environmental impact assessment and environmental auditor's certificates issued pursuant to the Environmental Impact Assessment and Environmental Auditing Act are valid until the date of expiry indicated therein or until revocation thereof.

(3) The holder of a licence who has not submitted to the Ministry of the Environment an application for the determination of the areas of activity and areas of impact the environmental impact of which the applicant has the right to assess shall submit the corresponding application in a freely chosen form by 30 November 2008.

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

(4) This Act applies to the preparation of a strategic planning document which is initiated after the entry into force of this Act.

(5) This Act applies to the preparation of a strategic planning document which is initiated before the entry into force of this Act if the strategic planning document is adopted after 21 July 2006.

(6) Strategic environmental assessment initiated pursuant to the Environmental Impact Assessment and Environmental Auditing Act in force until the entry into force of this Act shall be completed pursuant to the Environmental Impact Assessment and Environmental Auditing Act.

(7) If an expert has failed to submit an application by the date specified in subsection (3) of this section, the Minister of the Environment shall revoke the licence of the expert.

(19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

§ 57. Amendment of Waste Act

Section 29 of the Waste Act (RT I 2004, 9, 52; 30, 208) is amended by adding subsection (5) worded as follows:

„(5) The Ministry of the Environment or the county environmental department has, as the supervisor of environmental impact assessment, the right to determine environmental requirements for prevention of waste production resulting from the proposed activities and for the reduction of the harmfulness of waste.”

§ 58. Amendment of Fishing Act

Section 23 of the Fishing Act (RT I 1995, 80, 1384; 1996, 27, 567; 1998, 108/109, 1784; 1999, 10, 152; 54, 583; 95, 843; 2000, 13, 92; 54, 348; 81, 514; 2001, 18, 88; 2002, 41, 250; 61, 375; 63, 387; 2003, 9, 43; 88, 589; 2004, 2, 9; 30, 208; 89, 609) is amended and worded as follows:

„(1) In order to erect buildings or constructions or perform other works which may damage fishery resources, environmental impact assessment shall be organised pursuant to the procedure provided for in the Environmental Impact Assessment and Environmental Management System Act (RT I 2005, 15, 87).

(2) The Ministry of the Environment or the county environmental department of the location of proposed activities has, as the supervisor of environmental impact assessment, the right to determine environmental requirements for the protection of fishery resources if the proposed activities may damage fishery resources or marine biota.”

§ 59. Amendment of Environmental Monitoring Act

Section 5 of the Environmental Monitoring Act (RT I 1999, 10, 154; 54, 583; 2000, 92, 597; 2002, 63, 387; 2004, 43, 298) is amended by adding subsection (5) worded as follows:

„(5) The Ministry of the Environment or the county environmental department of the location of proposed activities has, as the supervisor of environmental impact assessment, the right to determine the conditions and extent of the environmental monitoring of an enterprise as an environmental requirement.”

§ 60. Amendment of Radiation Act

Clause 18 (1) 9) of the Radiation Act (RT I 2004, 26, 173) is repealed.

§ 61. Amendment of Nature Conservation Act

Section 14 of the Nature Conservation Act (RT I 2004, 38, 258; 53, 373) is amended by adding subsection (5) worded as follows:

„(5) The Ministry of the Environment or the county environmental department of the location of proposed activities has, as the supervisor of environmental impact assessment, the right to determine environmental requirements to protect a protected natural feature if the proposed activities may harm achievement of the objective of protection of the natural feature or the state of the protected natural feature.”

§ 62. Amendments to Earth's Crust Act

Subsection 35 (3) of the Earth's Crust Act (RT I 2004, 84, 572) is amended and worded as follows:

„(3) The standard format for extraction permits shall be established by the Minister of the Environment.”

§ 63. Amendment of Planning Act

The Planning Act (RT I 2002, 99, 579; 2004, 22, 148; 38, 258; 84, 572) is amended as follows:

1) section 1 is amended by adding subsection (5) worded as follows:

„(5) The strategic environmental assessment resulting from implementation of the planning policy shall be organised in the cases and pursuant to the procedure provided for in the Environmental Impact Assessment and Environmental Management System Act (RT I 2005, 15, 87).

2) section 6 is amended by adding subsection (3) worded as follows:

„(3) Upon preparation of the national planning policy, the results of the strategic environmental assessment shall be taken into account.”;

3) section 7 is amended by adding subsection (6) worded as follows:

„(6) Upon preparation of a county plan, the results of the strategic environmental assessment shall be taken into account.”;

4) section 8 is amended by adding subsection (9) worded as follows:

„(9) Upon preparation of a comprehensive plan, the results of the strategic environmental assessment shall be taken into account.”;

5) section 9 is amended by adding subsection (12) worded as follows:

„(12) Upon preparation of a detailed plan, a strategic environmental assessment shall be organised if required in the cases provided for in clause 33 (1) 3) of the Environmental Impact Assessment and Environmental Management System Act. In such cases, the results of the strategic environmental assessment shall be taken into account upon preparation of the detailed plan.”;

6) section 16 is amended by adding subsections (5) and (6) worded as follows:

„(5) If a strategic environmental assessment is conducted in the course of preparation of a plan, it is required to cooperate with an expert on strategic environmental assessment within the meaning of the Environmental Impact Assessment and Environmental Management System Act.

(6) If expedient, the proceedings regarding the strategic environmental assessment and the proceedings regarding preparation of a plan may be joined. In such case, the requirements established for both proceedings must be complied with.”

§ 64. Amendments to State Fees Act

The State Fees Act (RT I 1997, 80, 1344; 2004, 76, 526; 75, 521; 84, 572; 86, 583; 87, 593; 89, 611; 2005, 1, 1; 2, 4) is amended as follows:

1) clause 24¹) is added to subsection 3 (2) worded as follows:

„24¹) acts performed on the basis of the Environmental Impact Assessment and Environmental Management System Act;”;

2) Division 17² is added to the Act worded as follows:

“Division 17²

Acts Performed on Basis of Environmental Impact Assessment and Environmental Management System Act

§ 183³. Application for and extension of licence for environmental impact assessment

A state fee of 4000 kroons shall be paid for the review of an application for a licence for environmental impact assessment or extension of the validity of the licence.

§ 183⁴. Application for Community eco-label

(1) A state fee of 5000 kroons shall be paid for the processing of applications for a Community eco-label.

(2) The amount specified in subsection (1) of this section shall be reduced by 25 per cent if the eco-label is applied for a product of a small or medium-sized enterprise and the enterprise complies with the Annex to the Recommendation 96/280/EC concerning the definition of small and medium-sized enterprises (OJ L 107, 30.04.1996, p. 4–9)."

§ 65. Amendment of Integrated Pollution Prevention and Control Act

The Integrated Pollution Prevention and Control Act (RT I 2001, 85, 512; 2002, 61, 375; 2003, 73, 486) is amended as follows:

1) clause 9 (3) 1) is amended and worded as follows:

„1) an environmental impact assessment report, in the cases and pursuant to the procedure provided for in the Environmental Impact Assessment and Environmental Management System Act (RT I 2005, 15, 87);”;

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

„(4) The Ministry of the Environment or the county environmental department of the location of proposed activities has, as the supervisor of environmental impact assessment, the right to determine environmental requirements to protect human health or the environment if proposed or performed activities may be harmful to human health or the environment, result in damage to material property, or impair or interfere with amenities and other legitimate uses of the environment.”

3) section 17 is amended by adding subsection (4¹) worded as follows:

„(4¹) The requirements established in other legislation for the prevention and minimising of pollution shall also be taken into account upon determination of the requirements specified in subsections (2) and (3) of this section.”;

4) subsection (30) is amended and worded as follows:

„§ 30. Public notice concerning grant of or refusal to grant permit

(1) The issuer of permits shall notify the public of the grant of or refusal to grant a permit in the official publication *Ametlikud Teadaanded* within seven calendar days after the decision to grant or refuse to grant the permit is made.

(2) If the issuer of permits has published a notice concerning the submission of an application for a permit in the local newspaper of the seat of the installation, a notice concerning the grant of or refusal to grant the permit shall also be published in the same newspaper at the expense of the applicant.

(3) The Minister of the Environment may, by a regulation, establish the obligation that notices concerning the grant of or refusal to grant permits be made accessible to the public through the Internet.”

§ 66. Amendment of Ports Act

Subsection 9 (2) of the Ports Act (RT I 1997, 77, 1315; 1999, 88, 805; 2001, 88, 531; 2002, 1, 1; 42, 267; 58, 363; 61, 375; 63, 387; 2003, 88, 591 and 594; 2004, 24, 164; 28, 188) is amended and worded as follows:

„(2) Port rules and amendments thereto shall be approved by the port authority in consultation with the Maritime Administration and the Ministry of the Environment.”

§ 67. Amendment of Sustainable Development Act

Section 8 of the Sustainable Development Act (RT I 1995, 31, 384; 1997, 48, 772; 1999, 29, 398; 2000, 54, 348) is amended and worded as follows:

„§ 8. Environmental impact assessment and environmental management system

The legal bases and procedure for the conduct of environmental impact assessment, organisation of the Community environmental management system and the environmental audit system and the legal bases for awarding Community eco-labels are provided by law.”

§ 68. Amendment of Water Act

The Water Act (RT I 1994, 40, 655; 1996, 13, 241; 1998, 2, 47; 61, 987; 1999, 10, 155; 54, 583; 95, 843; 2001, 7, 19; 42, 234; 50, 283; 94, 577; 2002, 1, 1; 61, 375; 63, 387; 2003, 13, 64; 26, 156; 51, 352; 2004, 28, 190; 38, 258) is amended as follows:

(1) Section 9:

1) subsection (4) is repealed;

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

„(7) An applicant shall submit a written application for a permit for the special use of water to the issuer of permits for the special use of water and the issuer shall decide to initiate or refuse to initiate environmental impact assessment on the basis of the application. A permit for the special use of water shall be issued for a period of up to five years. An applicant for a permit for the special use of water shall be notified of the decision to issue a permit for the special use of water or to refuse the issue thereof by post or using electronic means within three months as of the acceptance of the application for processing. An applicant shall prepare materials submitted in the application for a permit for the special use of water at own expense.”

(2) Section 9¹:

1) the title is amended and worded as follows:

„§ 9¹. Open proceedings upon issue of permits for special use of water and making issue of or refusal to issue temporary permits for special use of water public”;

2) subsections (5) and (6) are amended and worded as follows:

“(5) The issuer of permits for the special use of water shall make the issue of a permit for the special use of water public in the official publication *Ametlikud Teadaanded* within seven days after the decision to issue or refuse to issue the permit for the special use of water is made.

(6) A decision to issue or refuse to issue a temporary permit for the special use of water shall be made public in the official publication *Ametlikud Teadaanded*.”

(3) Section 23 is amended by adding subsection (6) worded as follows:

„(6) The Ministry of the Environment or the county environmental department of the location of proposed activities has, as the supervisor of environmental impact assessment, the right to determine environmental requirements to avoid polluting and depleting water, littering water bodies and wells, and damaging aquatic biota if the proposed activities may damage the purity of water bodies and ecological balance in water bodies.”

(4) The existing text of § 36 is considered subsection (1), and the section is amended by adding subsection (2) worded as follows:

„(2) Until information specified in subsection (1) of this section is transferred to the environmental register, water resource records shall be kept in a state register as a water cadastre in accordance with the procedure provided by legislation regulating the establishment, introduction, maintenance and liquidation of state registers.”

§ 69. Amendment of Ambient Air Protection Act

The Ambient Air Protection Act (RT I 2004, 43, 298) is amended as follows:

1) section 67 is amended by adding subsection (4) worded as follows:

„(4) The Ministry of the Environment or the county environmental department of the location of the source of pollution has, as the supervisor of environmental impact assessment, the right to determine environmental requirements to avoid or reduce emissions of pollutants into the ambient air and, arising therefrom, prevent damage to the state of the environment.”;

2) clause 78 (3) 4) is repealed;

3) subsections 83 (1) and (2) are amended and worded as follows:

„(1) The issuer of pollution permits shall publish a notice concerning the grant of or refusal to grant each permit in the official publication *Ametlikud Teadaanded* within seven days after the decision to issue or refuse to issue a permit is made and shall send a copy of the decision to issue or refuse to issue the permit to the local government body of the location of the source of pollution and to the Environmental Inspectorate. The issuer of permits shall publish the same notice in the local newspaper or at least in one national newspaper, as necessary.

(2) The notice on issue of a pollution permit shall at least contain the following information:

1) the business name, registry code and seat, or the name, personal identification code and address of the recipient of the permit;

2) a description of the site which shall, among other, indicate the distance between the site and residential buildings, protected natural objects and other sensitive areas and objects;

- 3) a short description of the activities which includes information on the substances and technology to be used;
- 4) a short description of possible environmental impact of the proposed activity based on the information obtained in the process of issue of the permit;
- 5) the details of the issuer of the pollution permit and information on where the pollution permit or a decision to refuse issue of the permit and related documents may be examined by the public;
- 6) other information necessary for providing timely and relevant information to the persons involved.”

§ 70. Repeal of Act

The Environmental Impact Assessment and Environmental Auditing Act (RT I 2000, 54, 348; 2002, 61, 375; 63, 387; 90, 521; 99, 579; 2004, 30, 209; 38, 258; 84, 572) is repealed.

§ 71. Entry into force of Act

- (1) Subsection 15 (14) of this Act enters into force on 1 June 2005.
- (2) Subsections 6 (4) and 22 (4) of this Act enter into force on 1 July 2005.
- (3) Subsection 12 (2) of this Act enters into force on 1 September 2005.

¹ Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (OJ L 175, 05.07.1985, p. 40–48); Directive 2001/42/EC of the European Parliament and of the Council on the assessment of the effects of certain plans and programmes on the environment (OJ L 197, 21.07.2001, p. 30–37); Directive 2003/35/EC of the European Parliament and of the Council providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC (OJ L 156, 25.06.2003, p. 17–25); Council Directive 97/11/EC amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (OJ L 073, 14.03.1997, p. 5–15); Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.07.1992, p. 102–145), last amended by Directive 2006/105/EC (OJ L 363, 20.12.2006, p. 368–408). (19.06.2008 entered into force 1.08.2008 - RT I 2008, 34, 209)

² *Ametlikud Teadaanded* = *Official Notices*

³ Riigikogu = parliament of Estonia

⁴ RT = *Riigi Teataja* = *State Gazette*