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Acquisition of Immovables in Public Interest Act

Passed 06.06.2018

Amended by the following acts

Passed	Published	Entry into force
06.06.2023	RT I, 07.06.2023, 14	06.06.2023 – resolution of the Constitutional Review Chamber of the Supreme Court declares unconstitutional § 17 of the Acquisition of Immovables in Public Interest Act in the wording in force before 2 January 2023 to the extent that it did not prescribe compensation of the costs incurred in commissioning a comparative valuation report for an immovable.

Chapter 1 GENERAL PROVISIONS

§ 1. Scope of regulation of Act and application

- (1) This Act provides for the grounds of and procedure for the acquisition, including expropriation, of an immovable in the public interest.
- (2) This Act applies to all cases of acquisition of immovables in the public interest, unless otherwise provided by law.
- (3) This Act does not preclude the acquisition of an immovable without consideration by the state or a local authority.
- (4) Limited rights in things and construction works classified as movables are acquired in accordance with the provisions of this Act.
- (5) The provisions applicable to the owner of an immovable also apply to the holder of a right of superficies, the owner of an apartment ownership and the holder of a right of superficies in apartments.
- (6) A part of an immovable is considered an immovable for the purposes of this Act.
- (7) The provisions of the Administrative Procedure Act apply to the administrative proceedings specified in this Act, taking account of the variations provided for in this Act.

§ 2. Acquisition of immovable in public interest and compulsory possession

- (1) The acquisition, including expropriation, of an immovable in the public interest (hereinafter *acquisition of immovable*) means the acquisition of the immovable in general public interests for fair and immediate compensation. An immovable is acquired by agreement with the owner (hereinafter *agreement procedure*) or, where no agreement is reached with the owner, expropriated.
- (2) The establishment of compulsory possession means the encumbrance of an immovable with an immovable property ownership restriction that substantively corresponds to a personal right of use.
- (3) All costs related to the acquisition of an immovable are borne by the acquirer of the immovable.

(4) The acquisition of an immovable is not precluded by provisions of law which prohibit or restrict the transfer or division of the immovable or by the rights of third parties entered in the land register.

§ 3. Decision-making competence

(1) In the event of a state interest, the minister responsible for the field decides:

- 1) the acquisition of an immovable by way of the agreement procedure where the value of the immovable exceeds 50 times the average gross monthly salary in the year preceding the year of the transaction, which has been published by the Estonian Statistical Office;
- 2) the exchange of immovables;
- 3) the expropriation of an immovable.

(2) The acquisition and exchange of an immovable is decided by the local authority in the event of the local interest.

(3) The authority that conducts the proceedings specified in subsection 3 of § 6 of this Act decides the acquisition of an immovable by way of the expedited procedure and the agreement procedure where the value of the immovable is below or equal to 50 times the average gross monthly salary in the year preceding the year of the transaction, which has been published by the Estonian Statistical Office.

§ 4. Permissibility of acquisition of immovable

(1) It is permitted to acquire an immovable for the following purposes:

- 1) building of a construction work for police, customs, detention or rescue authorities;
- 2) building of a construction work required for the production and supply of energy;
- 3) building of a public port, an airfield and a construction work servicing these;
- 4) extraction of a mineral resource;
- 5) construction of a utility network and utility work;
- 6) construction or expansion of a public educational, medical and welfare institution;
- 7) construction of a national road, local road, public railway infrastructure and service facilities, and a public square;
- 8) public use of a private road;
- 9) alteration or removal of a construction work which substantially damages the surroundings or scenery or is dangerous, unless the owner has done so by the prescribed date;
- 10) acquisition of an apartment ownership upon reorganisation of the housing where more than half of the apartments has been abandoned in an apartment building of at least 18 apartments and in other events where more than three fourths of the apartments has been abandoned and it is not practical to reconstruct the apartment building;
- 11) establishing access to a water body or a cultural monument or ensuring the preservation of these objects;
- 12) construction or expansion of a cultural and sports field, a public beach and a recreational park;
- 13) construction or expansion of a cemetery;
- 14) building of a public waste disposal site and a construction work required for waste management;
- 15) building of a construction work required for the water supply, sewerage and water treatment of a public water intake and water reservoir;
- 16) construction of an environmental monitoring station;
- 17) acquisition of land adjacent to the state border to be used as the border strip or for performance of the international obligations of the Republic of Estonia;
- 18) construction of the infrastructure and service facilities required for guarding the state border;
- 19) national defence needs;
- 20) implementation of an established detailed spatial plan or the comprehensive solution of a special national spatial plan or a special local spatial plan, unless the purpose can be attained without the acquisition of the immovable;
- 21) in another event provided by law.

(2) The acquisition of an immovable is not permitted where a public purpose can be attained without the acquisition of an immovable owned by another person or where it is more practical to impose compulsory possession to attain the public purpose.

(3) The owner of an immovable may request the acquisition of their immovable by the state or a local authority for a fair and immediate consideration where restrictions established in public law do not allow for the use of the immovable for its intended purpose to date. A request for the acquisition of an immovable is submitted to the person competent to decide the acquisition of the immovable.

(4) Only by agreement with the owner of an immovable may the immovable be acquired for the purpose of providing it as land for exchange or acquired for land consolidation, provided that the immovable is needed for the attainment of an agreement for the purpose specified in subsection 1 of this section. Upon acquisition of an immovable on the basis of the first sentence of this section, additional compensation specified in § 15 of this Act is not paid.

§ 5. Variations upon obligation to prepare plan and give design criteria

(1) Where a plan must be prepared or design criteria given on the basis of a specific Act or the comprehensive plan or county plan in force, the expropriation of an immovable and the imposition of compulsory possession is based on:

- 1) in the case of the obligation to prepare a detailed spatial plan, the established detailed spatial plan;
- 2) in the case of the obligation to prepare a detailed spatial plan, the design criteria;
- 3) in the case of a special national spatial plan or a special local spatial plan, the respective plan.

(2) In the case of the obligation to prepare a plan or to give design criteria, the plan does not need to be established or the design criteria issued, provided that the immovable is acquired by agreement or compulsory possession is imposed with the consent of the owner of the immovable.

§ 6. Parties to proceedings

(1) The parties to the proceedings are the owner of the immovable to be acquired, the holder of a limited right in things related to the immovable to be acquired, the lessee, and the tenant.

(2) The acquirer of the immovable is the state or the local authority.

(3) In the event of a state interest, the proceedings are conducted by the relevant ministry, the Road Administration, the Centre for Defence Investment or the Land Board and, in the event of a local interest, by the rural municipality or city government.

Chapter 2 INITIATION OF PROCEEDINGS FOR ACQUISITION OF IMMOVABLE

§ 7. Notifying of proceedings for acquisition of immovable

(1) The authority conducting the proceedings informs the owner of an immovable about the proceedings for the acquisition of the immovable.

(2) The notice must contain the following:

- 1) the details of the owner of the immovable and the authority conducting the proceedings;
- 2) the geographical address, register part number and cadastral register number of the immovable;
- 3) the ground for the initiation of the acquisition of the immovable;
- 4) information on whether the object of the acquisition is the entire immovable or a part thereof;
- 5) information on the document that serves as the basis for the proceedings and the possibilities of accessing it, provided that the document exists;
- 6) the time limit within which the owner of the immovable is required to inform the authority conducting the proceedings of a third party right related to the immovable, which is not or has not been registered in the land register, including the right of a spouse to the joint property, the right of use arising from a lease contract or tenancy contract in force, as well as submit the details of the current account where the consideration and compensation is to be paid.

(3) The notice is delivered to the owner of the immovable electronically, by registered mail with advice of delivery or against signature on a delivery slip where the time of delivery of the document is recorded. The owner of the immovable has the right to submit their opinion to the authority conducting the proceedings in writing within the time limit specified in the notice.

(4) Where the authority conducting the proceedings fails to deliver the notice to the owner of the immovable in the manner provided for in subsection 3 of this section within three months or where the address of the owner is unknown or where the owner does not reside at the known address and their actual whereabouts are unknown and the notice cannot be delivered in any other way or a party to the proceedings is unknown, the notice is published in a national newspaper and in the official publication *Ametlikud Teadaanded* and by that the notice is deemed to be delivered to the owner.

§ 8. Restrictions of use of immovable

(1) After the delivery of a notice of the proceedings for the acquisition of an immovable, the essential parts and accessories of the immovable to be acquired may be removed from the immovable only with the permission of the authority conducting the proceedings.

(2) The obligations assumed, the loss of income arising therefrom or improvements made to the immovable after the delivery of the notice of the proceedings for the acquisition of the immovable are not compensated.

§ 9. Notation of acquisition in land register

The authority conducting the proceedings may submit to the land registrar an application for the entry of a notation of acquisition in the third division of the land register part of the immovable. The consent of the owner of the immovable or the consent of other persons concerned indicated by the land register is not required for entering the notation in the land register.

§ 10. Acquisition of part of immovable

(1) Where merely a part of an immovable is acquired and the immovable is therefore divided up or loses value in such a manner that a part or several parts thereof can no longer be purposefully used, the owner of the immovable has the right to demand that the entire immovable or a part thereof be acquired or land consolidation be carried out, where possible.

(2) Where the purpose of acquisition of an immovable can be attained by the acquisition of a part of the immovable, the owner of the immovable has the right to demand that the remaining part of the immovable be not acquired.

(3) Where merely a part of an immovable is acquired, the authority conducting the proceedings does not, upon division of the immovable, have to take into account the detailed spatial plan in force or the obligation to prepare a detailed spatial plan.

(4) Where merely a part of an immovable is acquired, the authority conducting the proceedings has the right to take all the steps and submit all applications related to the division of the immovable instead of the owner of the immovable.

Chapter 3 CONSIDERATION AND COMPENSATION

§ 11. Consideration and additional compensation

(1) The acquirer of an immovable must pay consideration to the owner of the immovable upon acquisition of the immovable.

(2) The consideration comprises the value of the immovable and compensation for material damage and loss of income directly arising from the acquisition of the immovable.

(3) The consideration is paid in money, unless the parties agree otherwise.

(4) Additional compensation is paid to the owner of the immovable in accordance with the procedure provided for in §§ 15–17 of this Act, unless otherwise provided by this Act.

(5) The consideration is determined as of the date of making the first act of valuation.

§ 12. Valuation of immovable, limited right in things and material damage

(1) The authority conducting the proceedings arranges the valuation of the immovable, the limited right in things to be acquired and other material damage related to the acquisition within a time limit that must not be shorter than two weeks or longer than two months.

(2) Where necessary, valuation is commissioned from a property valuator holding a level 7 professional certificate in accordance with the Professions Act or the value is determined by the Land Board on the basis of the transaction data contained in the transaction database maintained on the basis of subsection 2¹ of § 9 of Land Cadastre Act as well as on the basis of a market analysis. The authority conducting the proceedings may determine the value in accordance with the methodology approved on the basis of the Land Valuation Act, Nature Conservation Act, State Assets Act or another relevant Act.

(3) Upon acquisition of an immovable, valuation is carried out for the purpose of compensation. Compensation for damage means an activity aimed at placing the injured person into a situation that is as close as possible to the situation where the person would have been in if no acquisition had taken place.

(4) Where a cut of the immovable to be acquired can be used on its own, the cut is valued as a possible object of sale. Where the cut cannot be used on its own, the basis for the valuation is a decrease of the market value of the immovable as a whole, which is caused by the cut made off the immovable and a change of the surrounding environment.

(5) Where the cost of replacing improved immovable property exceeds the compensatory value of the property, the cost that covers the replacement of the property is relied on when determining the value. Where a construction work cannot be replaced, the cost that covers the construction of the property is relied on.

(6) Upon exchanging immovables and upon transfer of an immovable belonging to the state, the market value of the immovable, which is determined in accordance with subsection 2 of this section, is relied on.

(7) The results of valuation are set out in a valuation report. The valuation report is prepared taking into account the good practice of valuation and, where necessary, an expert of another field is involved in the valuation.

§ 13. Compensation for direct material damage

(1) Clearly identified and proven direct material damage arising from a decrease of the market value of the immovable due to a cut-off is subject to compensation. Direct material damage is compensated for only once.

(2) Above all, the following damage related to the immovable remaining to the owner of the immovable is deemed direct material damage:

- 1) the liquidation of a construction work or a construction work becoming useless as well as other improvements becoming useless;
- 2) the loss of the possibility to implement a detailed spatial plan or a decrease or loss of the possibility to build;
- 3) destruction of a forest, other flora and a plantation;
- 4) liquidation or lengthening of access to a public road from the immovable.

§ 14. Compensation for loss of income

(1) The gains that the owner of the immovable would probably have received, above all, owing to the preparations made by the person, if the acquisition of the immovable had not taken place. The loss of income may also include the loss of an opportunity to receive gains.

(2) The loss of income from a limited right in things or from a lease or tenancy contract is compensated for until the termination of the contract where the contract expires in less than a year. In the event of early termination of the contract, the loss of income to the extent of one year is compensated.

§ 15. Additional compensation in immovable acquisition proceedings for reaching agreement

(1) Additional compensation (hereinafter *motivation fee*) is paid to the owner of an immovable for reaching an agreement in proceedings for the acquisition of the immovable.

(2) The motivation fee is paid per each immovable to be acquired only for the part that is necessary in the public interest. Where the immovable is acquired to an extent that exceeds the public interest, no motivation fee is paid for the part.

(3) The motivation fee is 20 per cent of the consideration specified in subsection 2 of § 11 of this Act, but no less than 0.8 times the average gross salary in the year preceding the year of the transaction, which has been published by the Estonian Statistical Office, and no more than 50 times the average gross salary.

(4) No motivation fee is paid for a new immovable created upon the division of an immovable where the owner of the immovable divided the immovable after learning the location of the object causing the acquisition of the immovable.

§ 16. Additional compensation for loss of building or dwelling used for living in

Additional compensation at the rate of ten per cent of the consideration specified in subsection 2 of § 11 of this Act is paid to the owner of an immovable for the loss of a dwelling, building or a part of a building permanently or periodically used for living in.

§ 17. Additional compensation for procedural costs

(1) Lump-sum additional compensation is paid to the owner of an immovable for costs related to participating in proceedings, which corresponds to 16 hours of the average gross hourly salary in the year preceding the year of the transaction, which has been published by the Estonian Statistical Office.

(2) Justified procedural costs that are supported by documentary evidence and exceed the rate specified in subsection 1 of this section are compensated to the owner of the immovable on the basis of cost documents, but no more than at the rate specified in subsection 1 of this section multiplied by three.

[RT I, 07.06.2023, 14 - entry into force 06.06.2023 – resolution of the Constitutional Review Chamber of the Supreme Court declares unconstitutional § 17 of the Acquisition of Immovables in Public Interest Act in the wording in force before 2 January 2023 to the extent that it did not prescribe compensation of the costs incurred in commissioning a comparative valuation report for an immovable.]

§ 18. Compensation for deletion of easement, real encumbrance and right of pre-emption

(1) Where an easement, a real encumbrance or the right of pre-emption encumbering the immovable to be acquired is deleted, the acquirer of the immovable must compensate for damage arising from the deletion of such rights in things.

(2) Where the immovable to be acquired is encumbered with a real easement, the owner of the dominant immovable has the right, where possible, to claim the establishment of a new real easement instead of compensation.

(3) Where the immovable to be acquired is encumbered with a usufruct, the usufructuary may, upon an exchange of immovables, request that the state or the local authority establish a usufruct on the acquired immovable on the same conditions.

§ 19. Ranking of mortgage upon replacement of immovable

Where the immovable to be acquired is encumbered with multiple mortgages and replaced with another immovable, the mutual rankings of the mortgages are preserved.

§ 20. Compensation to lessee and tenant for termination of contract

(1) Where a lease contract or a tenancy contract is extraordinarily terminated due to the acquisition of the immovable, the lessee or tenant has the right to demand that clearly identified and proven material damage be compensated for.

(2) In the event of early termination of the contract, the direct material damage and the loss of income until the expiry of the contract is compensated for, but no more than to the extent of one year, and the related damage and loss of income is compensated for once.

§ 21. Deciding payment of compensation to entitled person

The person who is competent to decide the acquisition of the immovable decides the payment of compensation to the lessee, the tenant and the holder of a limited right in things for direct material damage and the loss of income.

Chapter 4 PROCEEDINGS FOR ACQUISITION OF IMMOVABLE

§ 22. Commencement of negotiations for acquisition of immovable

(1) The authority conducting the proceedings commences negotiations with the owner of the immovable and, depending on the purpose of acquisition and the situation, has the right to offer the following:

- 1) acquisition of the immovable;
- 2) acquisition of the immovable by way of expedited procedure;
- 3) exchange of the immovable; or
- 4) land consolidation.

(2) A person authorised by the authority conducting the proceedings may participate in the negotiations instead of the authority.

§ 23. Acquisition of immovable by way of expedited procedure

(1) An immovable may be acquired by way of expedited procedure where the estimated value of the immovable is below 0.3 times the average gross monthly salary in the year preceding the year of the transaction, which has been published by the Estonian Statistical Office.

(2) The consideration for the acquisition of an immovable in expedited proceedings equals 0.3 times the average gross monthly salary in the year preceding the year of the transaction, which has been published by the Estonian Statistical Office.

(3) In expedited proceedings, the additional compensation specified in § 17 of this Act is not paid.

(4) No valuation is carried out in expedited proceedings.

(5) Where no agreement is reached in expedited proceedings within 30 days, the authority conducting the proceedings may commence negotiations for the acquisition of the immovable by agreement or for land consolidation or the person specified in subsection 1 of § 3 of this Act may decide the expropriation of the immovable.

§ 24. Exchange of immovable

- (1) An immovable may be exchanged for another immovable owned by the acquirer of the immovable.
- (2) Upon exchanging an immovable, no motivation fee is paid.
- (3) An immovable is exchanged in accordance with the following criteria:
 - 1) cadastral units with the same intended purpose are exchanged, but by way of exception cadastral units with a different intended purpose may be exchanged where the main purpose of the prospective land use planned in the comprehensive plan of the area of the land provided for exchange against corresponds to the intended purpose of the cadastral unit to be exchanged for it;
 - 2) the immovables to be exchanged must be located in a similar market region.
- (4) The owner of the immovable is compensated for the difference between the value of the immovables to be exchanged where the immovable is acquired by way of exchange. The usual value of the immovables to be exchanged must not differ more than 30 per cent where the owner of the immovable who acquires a state-owned immovable by way of exchange has the obligation to compensate upon exchanging immovables.

§ 25. Land consolidation

- (1) The boundaries of an immovable may be changed in the course of a land consolidation act. Land consolidation is carried out in accordance with the procedure established in the Land Consolidation Act.
- (2) No additional compensation provided for in this Act is paid to a party to land consolidation.

§ 26. Negotiations

- (1) In the proceedings for the acquisition of an immovable, the wish of the owner of the immovable and the opportunities of the authority conducting the proceedings to offer alternatives in order to acquire the immovable are identified.
- (2) The authority conducting the proceedings makes a written offer to the owner of the immovable, giving them a deadline for accepting the offer or submitting objections.
- (3) An offer to acquire an immovable is made on the basis of the identified consideration and the additional compensation provided for in this Act.
- (4) Where an offer to acquire an immovable by way of expedited procedure is made, the consideration specified in subsection 2 of § 23 of this Act is offered to the owner of the immovable.
- (5) Where an offer to exchange an immovable is made, the provisions of § 24 of this Act are followed.
- (6) Where the owner of the immovable wants land consolidation to be carried out and it is possible, the authority conducting the proceedings organises the initiation of land consolidation.
- (7) Where the owner of an immovable accepts the offer made by the authority conducting the proceedings, but not the consideration or the result of the valuation of the immovable offered for exchange, the owner of the immovable may make their own proposal based on a comparative valuation report. Thereafter the parties to the proceedings open negotiations.

§ 27. Conclusion of agreement and acquisition of immovable

- (1) Where the owner of the immovable accepts the offer made by the authority conducting the proceedings, the owner of the immovable submits their consent based on which the authority deciding the acquisition of the immovable decides the acquisition of the immovable for money or the exchange of the immovable for another immovable.
- (2) By agreement with the owner of an immovable, the immovable may be acquired to a larger extent than necessary in the public interest in order to thereafter perform a land consolidation act or transfer the immovable to another owner of an immovable from whom the immovable is acquired in the public interest. Where only a part of a wholly acquired immovable is used in the public interest, the remaining part of the immovable may be included in the state's land reserve or merged with the state forest land.
- (3) The authority that decides the acquisition of an immovable may by way of discretionary procedure transfer the immovable acquired in the manner specified in subsection 2 of this section where it is necessary for ensuring the integrity and practical use of another immovable.

(4) In the proceedings for the acquisition of an immovable, an agreement on the acquisition of the immovable must be reached with the owner of the immovable within three months as of the making of an offer specified in subsection 2 of § 26 of this Act. Where justified, the authority conducting the proceedings may extend the time limit.

(5) Where the owner of the immovable does not submit an acceptance of the offer within the time limit set on the basis of subsection 2 of § 26 of this Act, the authority acquiring the immovable decides to expropriate the immovable.

(6) The authority deciding the acquisition of an immovable sets a time limit for the conclusion of a contract on the acquisition of the immovable. The time limit may be up to two months from the receipt of the decision to acquire the immovable. Where justified, the authority deciding the acquisition of the immovable may extend the time limit.

(7) Where the owner of an immovable evades the conclusion of a contract on the acquisition of the immovable, the acquirer of the immovable decides to expropriate the immovable.

§ 28. Entry of notation concerning prohibition in land register

Where no agreement on the acquisition of an immovable is reached with the owner of the immovable, the authority conducting the proceedings may submit to the land registrar an application for the entry of a notation concerning prohibition in the third division of the land register part of the immovable. The consent of the owner of the immovable or the consent of other persons concerned indicated by the land register is not required for making the notation to the land register.

Chapter 5 DECIDING OF EXPROPRIATION

§ 29. Expropriation decision

(1) A decision to expropriate must contain all the relevant circumstances, including the reasons for the expropriation, the amount of the consideration and additional compensation, and the time limit for a voluntary transfer of possession.

(2) A decision to expropriate is delivered to a party to the proceedings in the manner provided for in subsection 3 or 4 of § 7 of this Act. Where the operative part of the decision is published in a national newspaper and in the official publication *Ametlikud Teadaanded*, the information on who the person must contact in order to receive the granted consideration or compensation is given as well.

(3) Where, for the reason specified in subsection 4 of § 7 of this Act, the owner of the immovable cannot be contacted or a party to the proceedings is not known, a decision to expropriate may be made with regard to their immovable and the consideration and compensation are deposited and paid out in accordance with the procedure provided for in subsections 2–5 of § 30 of this Act.

§ 30. Payment of consideration and additional compensation

(1) The consideration and additional compensation is paid to the current account indicated by the owner of the immovable and the holder of the limited right in things immediately after the making of the decision to expropriate.

(2) The consideration and the compensation specified in § 16 of this Act is transferred to a deposit account administered by the Ministry of Finance or by the local authority where it must be paid out to the person whose whereabouts are not known or whose current account number is not known or where a party to the proceedings is not known.

(3) The consideration and the compensation transferred to a deposit account administered by the Ministry of Finance or by the local authority is paid out to the entitled person or their successor upon submission of a respective application.

(4) The consideration and the compensation transferred to a deposit account administered by the Ministry of Finance or by the local authority is kept on the account for ten years, after which the money will be transferred to the budget of the state, rural municipality or city.

(5) No interest is paid for keeping the consideration and the additional compensation on a deposit account of the state or the local authority.

Chapter 6

TRANSFER OF POSSESSION AND OWNERSHIP OF IMMOVABLE

§ 31. Taking over possession of immovable to be expropriated

(1) The possession of an immovable to be expropriated is taken over within the time limit set for a voluntary transfer in the decision to expropriate after the consideration and the compensation have been paid.

(2) Where possession is not transferred voluntarily, an enforcement officer takes over the possession of the immovable to be expropriated from the owner of the immovable and hands the immovable over to the acquirer in accordance with the procedure provided for in the Code of Enforcement Procedure. The enforcement costs are paid by the acquirer of the immovable.

(3) The enforcement officer sets a time limit of 30 days for the transfer of possession by the owner of the immovable.

§ 32. Report on taking over possession of immovable to be expropriated

(1) The enforcement officer prepares a report on the takeover and handover of the possession of the immovable to be expropriated, which is signed by the parties to the proceedings, the enforcement officer and two impartial observers present at the takeover and handover. Where a party to the proceedings refuses to sign the report, a respective note is made in the report. The report is sent to the parties to the proceedings and to the authority conducting the proceedings.

(2) The form of the report on the takeover and handover of the possession of the immovable to be expropriated is established by a regulation of the minister responsible for the field.

§ 33. Reduction of consideration and additional compensation

(1) The authority deciding the acquisition of an immovable has the right to reduce the consideration and the additional remuneration granted in the decision to acquire or expropriate the immovable where before the registration of the immovable in the name of the acquirer damage that decreases the value of the immovable or makes it more difficult to attain the purpose of the acquisition, such as environmental pollution, extensive drilling, excavation or logging, has occurred.

(2) After circumstances decreasing the value of the immovable have become evident, the authority conducting the proceedings notifies the owner of the immovable of the need to reduce the consideration and the additional compensation.

(3) The authority conducting the proceedings identifies the decrease of the value, involving a valuator holding a respective professional certificate, where necessary. Thereafter the parties open negotiations.

(4) The authority deciding the acquisition of the immovable makes a decision to reduce the consideration and the additional compensation on the basis of the identified value.

(5) Upon reduction of the consideration and the additional remuneration, the acquirer of the immovable has, to the extent of the excessively paid sum, the right of recourse against the person whom the consideration or additional compensation was paid out.

§ 34. Risk of accidental destruction and payment of taxes

(1) The risk of the accidental destruction of the thing transfers to the acquirer of an immovable upon taking over the possession of the immovable.

(2) The acquirer of an immovable is required to pay taxes payable on the immovable starting from taking over the possession of the immovable.

§ 35. Registration of immovable in name of acquirer

(1) Where the consideration and the additional compensation have been paid out or transferred to a deposit account administered by the state or the local authority, the land registry department makes, in the event of expropriation of the immovable, entries on the transfer of the immovable to the acquirer and on the deletion of the limited right in things or notation.

(2) The authority conducting the proceedings submits a registration application for the transfer of the ownership of the immovable, which is accompanied by a decision to expropriate the immovable and evidence of payment

of the consideration and the additional remuneration to the person or to the deposit account administered by the state or the local authority. A registration application may be submitted after the decision to expropriate has entered into force.

(3) Upon expropriation of a part of an immovable, the immovable is divided on the basis of an application of the authority conducting the proceedings and the acquired or expropriated part is registered in the name of the acquirer.

Chapter 7

RETURN OF IMMOVABLE

§ 36. Return of immovable

(1) The former owner of an immovable has the right to demand that the immovable that belonged to them be returned where the acquirer of the immovable or its legal successor does not use the acquired immovable for the purpose for which the immovable was acquired.

(2) An application for returning an immovable may be submitted to the authority who decided the acquisition of the immovable within one year as of the day when the former owner of the immovable learned or should have learned of the use of the acquired immovable for a purpose other than the purpose of the acquisition.

(3) Upon returning of the immovable, the former owner of the immovable is required to refund the consideration received for the immovable. The additional compensation specified in §§ 15-17 of this Act, which has been received for the acquisition of an immovable is not refunded.

(4) An immovable is not returned where the state or the local authority transfers the acquired immovable to a third party for the purpose of attainment of the purpose of the acquisition.

§ 37. Refusal to return immovable

The return of an immovable may be refused where:

- 1) the immovable has considerably changed in comparison with the moment of acquisition;
- 2) the owner of the acquired immovable received another immovable upon exchanging immovables or transfer of an immovable owned by the acquirer of the immovable;
- 3) the acquired immovable is not used for the initial intended purpose of acquisition, but the acquired immovable is used in the public interest at the time of requesting the return.

§ 38. Restoration of rights upon return of immovable

The holder of the rights that encumbered the immovable and were deleted from the land register in the course of the proceedings has the right, within one year after the return of the acquired immovable, demand that the acquirer of the immovable restore the rights formerly held by them.

Chapter 8

ESTABLISHMENT OF COMPULSORY POSSESSION

§ 39. Compulsory possession

(1) The establishment of compulsory possession is decided by a person who has the power to grant a building permit or decide the designation of a private road for public use in accordance with the Building Code.

(2) The provisions governing the expropriation of an immovable apply to the establishment of compulsory possession, unless otherwise provided for in this Chapter.

(3) The authority establishing compulsory possession notifies the owner of the immovable of the proceedings for the establishment of compulsory possession.

(4) The owner of the immovable has the right to submit their opinion to the authority establishing compulsory possession within four weeks as of the receipt of the notice specified in subsection 3 of this section.

(5) Upon establishment of compulsory possession, the owner of the immovable is paid a compulsory possession fee, unless agreed otherwise. Upon establishment of compulsory possession, the additional compensation specified in §§ 15–17 of this Act is not paid. The compulsory possession fee is set in accordance with the procedure provided for in subsection 2 of § 12 of this Act.

(6) The owner of the immovable must be compensated for material damage arising from the establishment of compulsory possession.

(7) A decision to establish compulsory possession must set out the following:

- 1) the details of the person in whose favour the compulsory possession is established;
- 2) the manner in which the person exercising the compulsory possession is entitled to use the immovable;
- 3) the compulsory possession fee, the terms of payment thereof; and
- 4) where justified, information on compensation for material damage.

(8) The site map of the compulsory possession area constitutes an annex to the decision to establish the compulsory possession.

(9) Within seven days as of the day of the entry into force of the decision to establish the compulsory possession, the authority establishing compulsory possession submits to the register of construction works the decision to establish the compulsory possession and to the registrar of the land cadastre the decision to establish the compulsory possession and, in a machine-readable form, the data of the spatial extent of the compulsory possession.

(10) The person in whose favour the compulsory possession is established may use the immovable solely for the purpose prescribed in the decision to establish the compulsory possession.

§ 40. Variation upon establishment of compulsory possession for imposition of obligation to tolerate utility network and utility work

(1) For the purpose of imposition of the obligation to tolerate utility networks and utility works provided for in subsection 1 of § 158¹ of the Law of Property Act, compulsory possession is established in favour of the person specified in subsection 1¹ of § 158¹ of the Law of Property Act on the preconditions provided for in this Act.

(2) A person specified in subsection 1¹ of § 158¹ of the Law of Property Act who wishes to build on an immovable a utility network or utility work in the public interest may submit to the authority establishing compulsory possession an application for the establishment of compulsory possession on the immovable. Where the utility network or utility work for the construction of which the establishment of compulsory possession is applied for is located on multiple immovables, an application for the establishment of compulsory possession may be submitted separately or jointly with regard to all these immovables.

(3) An application for the establishment of compulsory possession must set out the following:

- 1) the details of the applicant along with a confirmation that the person applying for the establishment of compulsory possession is a person specified in subsection 1¹ of § 158¹ of the Law of Property Act;
- 2) the geographical address and the cadastral register number of the immovable with regard to which the establishment of compulsory possession is applied for;
- 3) the sum of the compulsory possession fee where the owner of the immovable and the owner of the utility network or utility work have agreed on it;
- 4) a description of the purpose of establishment of the compulsory possession along with a reference to the established special national spatial plan, the special local spatial plan, the comprehensive plan, the detailed spatial plan, the design drawing or the design criteria issued, based on which the establishment of the compulsory possession is applied for.

(4) An application for the establishment of compulsory possession of a utility network or a utility work must be accompanied by a reference to the number of the building permit or building notice registered in the register of construction works where it is required under a specific Act and by the site map of the area of the compulsory possession.

(5) The compulsory possession fee payable to the owner of the immovable is granted for the obligation to tolerate a utility network or a utility work provided for in subsection 1 of § 158¹ of the Law of Property Act on the basis of an agreement between the owner of the immovable and the owner of the utility network or utility work. Where no agreement has been reached, the authority establishing the compulsory possession sets a periodical compulsory possession fee that does not exceed the fee payable for the direct statutory obligation to tolerate a utility network or utility work on the same conditions. Additionally, the authority establishing the compulsory possession may, where justified, set lump-sum compensation on the ground specified in subsection 6 of § 39 of this Act.

(6) The owner of the utility network or utility work provided for in subsection 1 of § 158¹ of the Law of Property Act has the obligation to pay the fee and, where justified, to compensate for material damage.

(7) The person specified in subsection 1¹ of § 158¹ of the Law of Property Act is required to submit the data of the spatial extent of the compulsory possession in a machine-readable format to the registrar of the land cadastre within seven days as of the entry into force of the decision to establish the compulsory possession.

(8) In the event of compulsory possession, the owner of a utility network or utility work may by a written contract grant sub-use thereof for the purpose of installation of a work necessary for the provision of an

electronic communications service without the consent of the owner of the immovable on the condition that the protection zone of the added work does not overreach the protection zone of the existing work.

(9) The provisions of this section also apply to an existing utility network or utility work.

Chapter 9 **TRANSITIONAL AND IMPLEMENTING PROVISIONS**

Division 1 **Transitional Provisions**

§ 41. Completion of proceedings initiated before entry into force of this Act

Where a decision to expropriate an immovable has been made before 1 July 2018, the proceedings for the expropriation of the immovable are completed on the basis of the Immovables Expropriation Act.

Division 2 **Amendment and Repeal of Acts**

§ 42.–§ 47.[Provisions amending other Acts have been omitted from this translation.]

§ 48. Repeal of Immovables Expropriation Act

The Immovables Expropriation Act is repealed.

§ 49.–§ 70.[Provisions amending other Acts have been omitted from this translation.]

Division 3 **Entry into Force of Act**

§ 71. Entry into force of Act

(1) This Act enters into force on 1 July 2018.

(2) Clause 39 of § 54 of this Act enters into force on 1 January 2019.

Eiki Nestor
President of the Riigikogu