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Equipment Safety Act

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Chapter 1 General Provisions

§ 1. Purpose and scope of regulation of Act

- (1) The purpose of this Act is to ensure the safety of equipment and equipment-related processes.
- (2) This Act regulates the putting of equipment into service, the use of equipment, and equipment work.

§ 2. Scope of application of Act

(1) This Act applies to equipment, putting equipment into service, use of equipment and equipment work if the equipment poses a threat to human life or health, to property or to the environment (hereinafter *threat*) and if the prevention of the threat is not regulated by other legislation.

(2) The requirements arising from this Act for the competence of a person and for proving it, for equipment work and for audits apply to the following equipment:

- 1) pressure equipment with an inner operating pressure of over 0.5 bar or pressure equipment used for handling a dangerous chemical regardless of the inner operating pressure;
- 2) gas equipment;
- 3) a machine used for lifting a human, animal or property (lifting equipment), including amusement park equipment;
- 4) electrical equipment.

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

- 1) items, devices, systems, parts thereof, accessories and special components related thereto, including substances, materials, software and technology designed, made, designated, adapted or used for military purposes, or to weapons;
- 2) equipment in the possession of the armed forces of a foreign state and international military headquarters;
- 3) a means of transport, except for equipment installed in a means of transport and fixed equipment such as a pipeline, cableway and another similar means of transport.

(4) The equipment specified in subsection (3) of this section must be in a good mechanical condition and, in the event of absence of statutory requirements, comply with at least the requirements established by the manufacturer.

(5) The requirements arising from this Act do not limit the use of equipment in the case of a rescue event, countering and eliminating a threat, and upon taking unavoidable and urgent steps in mitigating the consequences of a rescue event.

(6) The requirements arising from this Act also apply in addition to requirements arising from the Act that regulates building activities.

(7) The Administrative Procedure Act applies to the administrative proceedings provided for in this Act with the specifications provided for in this Act.

§ 3. Definitions used in this Act

(1) 'Equipment' means a pressure, gas or electrical equipment, a machine or a technological system that consists thereof or another object whereby the energy or fluidum contained in the object or a process taking place with the same gives rise, due to its characteristics, to a threat to human life or health, property or the environment even if handled with diligence expected from a specialist.

(2) 'Pressure equipment' means a vessel or other equipment where pressure is to be generated.

(3) 'Gas equipment' means a device or a system of devices used for the production, treatment, transmission, storage or utilisation of gas or for filling gas vessels, including gaseous fuel vessels containing natural gas, liquid gas, biogas or industrial gas or a gaseous fuel piping, terminal, filling station, fuelling station or gas station.

(4) 'Electrical equipment' means a device designed for the generation, transformation, transmission, distribution or utilisation of electricity and containing or consisting of electrical or electronic components or an operational whole consisting of such devices, including an electrical installation for the purposes of the Electricity Market Act.

(5) 'Machine' means:

- 1) an assembly of interconnected parts or components of which at least one part or component is mobile and that that is equipped or designated to be equipped with an actuator system operated in a manner other than by direct application of human or animal force and connected for a specific activity;
- 2) an assembly specified in clause 1) of this subsection, which lacks merely components for connecting it to an energy and mobility source at the place of use;
- 3) an assembly specified in clauses 1) and 2) of this subsection, which is ready to be installed and able to function once installed in a means of transport or in a building;
- 4) an assembly of the machines specified in clauses 1) to 3) of this subsection or of partially assembled machines which, for the purpose of attainment of a uniform result, is installed and operated in such a manner that it functions as a whole;
- 5) an assembly of interconnected parts or components of which at least one part or component is mobile and that are interconnected for lifting heavy objects and the sole power source of which is directly applied human force.

(6) 'Fluidum' means a gas, liquid or steam in the form of a pure phase or a mixture thereof that may contain solid particles.

(7) 'Equipment work' means the designing, making, building, installation, disassembly, configuration, testing and repairing and, where applicable, also the filling and storing of a device and other similar work that affects the qualities of the device and does not constitute the using of the device.

Chapter 2

Main Requirements

§ 4. Ensuring safety

(1) Upon using equipment and upon performing equipment work, the safety of human life and health, property and the environment must be ensured. To ensure safety, all measures required for preventing, identifying, countering and eliminating a threat as well as for mitigating adverse consequences in the event of an accident must be taken.

(2) If legislation does not provide for detailed requirements regarding a measure to be taken, the suitability of the measure will be assessed based on good engineering practice. It is presumed that a measure meets good engineering practice if it is recommended in an Estonian, European or international standard. In the event of absence of standards, the suitability of a measure is assessed based on the criteria set out in subsection 6 (3) of the Product Conformity Act. The measure also includes requirements imposed on equipment.

(3) A person responsible for preventing, countering and eliminating a threat arising from equipment, putting equipment into service and using equipment is defined in accordance with § 15 of the Law Enforcement Act.

§ 5. Putting equipment into service

(1) Equipment can be put into service if:

- 1) it complies with the requirements, is in a good mechanical condition and safe for using for the designated purpose and in the designated manner, including equipped with control and safety devices that are reliable and operational;
- 2) it is installed at the place of use and configured in such a manner that the threat originating from the equipment is minimal and the use, maintenance and inspection of the equipment is not impeded;
- 3) in a prescribed event an audit has been carried out and, according to the auditor's opinion, the equipment is in a mechanically good condition and it is safe to use the equipment for the designated purpose and in the designated manner.

(2) The equipment is deemed as put into service as of the moment when the use of the equipment is commenced for the designated purpose and in the designated manner.

(3) Requirements for equipment may be established by a regulation of the minister responsible for the field.

§ 6. Use of equipment

(1) Equipment must be used for the designated purpose and in the designated manner, following the requirements established to putting the equipment into service.

(2) Upon using the equipment, it must be ensured that:

- 1) conditions required for the proper use and maintenance of the equipment are created, thereby relevant information has been communicated and is available to the persons who come into contact with the equipment;
- 2) the use of the equipment is suspended when a direct threat becomes evident;
- 3) the direct user of the equipment is competent to use the equipment or acts under the supervision and control of a competent person;
- 4) the requirements of use and maintenance (operation) of the equipment are followed;
- 5) in the designated events a person coordinating the adherence to the requirements for use of the equipment (hereinafter *supervisor of use*) is appointed;
- 6) in a prescribed event an audit has been carried out and, according to the auditor's opinion, the equipment is in a mechanically good condition and it is safe to use the equipment for the designated purpose and in the designated manner.

(3) Requirements for the maintenance of equipment may be established by a regulation of the minister responsible for the field.

§ 7. Equipment work

(1) Upon performance of equipment work, the requirements applicable to the equipment and the need for use, maintenance and audit of the equipment must be taken into account.

(2) The person in charge of equipment work ensures that:

- 1) the person directly engaged in equipment work is competent to perform the work or acts under the supervision and control of a competent person;
- 2) the person engaged in the equipment work can perform their tasks properly and safely.

(3) Requirements for equipment work will be established by a regulation of the minister responsible for the field.

§ 8. Audit

(1) For the purposes of this Act, 'audit' means technical inspection aimed at identifying the good mechanical condition of the equipment and the safety of use for the designated purpose and manner as well as possible substantial deficiencies.

(2) The audit body must be independent, competent and ensure the unanimity and reliability of the audit.

(3) In legislation established on the basis of subsection 9 (4) of this Act, it may be provided that audit steps may be replaced with self-inspection. Self-inspection must ensure a result equal to that of an audit and cover steps required for the maintenance of the equipment. Self-inspection steps must be reflected in a certified quality management system. The certification body certifying the quality management system must be accredited therefor and involve in the certification process a person competent to carry out an audit of the respective equipment.

(4) The audit body must be accredited for audit steps as an accredited inspection body by an accreditation body that complies with the requirements established in Regulation (EC) No 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.08.2008, pp. 30–47).

§ 9. Equipment subject to audit and audit requirements

(1) An audit must be carried out upon putting into service of the equipment corresponding to the more detailed criteria listed in subsection 2 (2) of this Act and in legislation established on the basis of subsection (4) of this section as well as after a certain period of time upon using the equipment and in other events provided by law.

(2) The audit body must draw the attention of the person responsible for using the equipment to the deficiencies detected in the course of the audit.

(3) The audit body will inform the Technical Regulatory Authority about the audit results via the information system specified in § 12 of this Act.

(4) The minister responsible for the field will, by a regulation, establish:

- 1) more detailed criteria for the designation of equipment subject to audit;

- 2) requirements for an audit, including the audit methods and self-inspection;
- 3) regular and special audit events preceding the putting into service;
- 4) requirements for presentation of audit results.

Chapter 3

Special Provisions

§ 10. Requirements for competence of person

(1) A competent person must know the characteristics of the equipment used or the equipment work performed, be able to identify, detect and prevent threats relating to the equipment, the use thereof or the equipment work, use technical safety techniques and, where necessary, also audit procedures.

(2) If according to legislation, the competence of a person must be proven, the person may prove their competence by a professional certificate within the meaning of the Professions Act, a certificate of competence issued by a certification body or other evidence in compliance with legislation.

(3) It is presumed that the competence of a person is proven if the person holds a respective professional certificate within the meaning of the Professions Act or a certificate of competence granted by a certification body. The competence of a person is deemed as proven to the extent that corresponds to the field and level of the profession described in the professional standard that served as the basis for issuing the professional certificate to the person or that corresponds to the activity covered by the certification scheme that serves as the basis for issuing the certificate of competence.

(4) A certificate of competence issued by a certification body proves the person's compliance with the requirements arising from this Act if the certificate has been issued by a certification body:

- 1) whose certification scheme complies with the requirements established on the basis of clause 2) of subsection (6) of this section;
- 2) who has been accredited to take the respective steps by an accreditation body that complies with the requirements of Regulation (EC) No 765/2008 of the European Parliament and of the Council;
- 3) who has informed the Technical Regulatory Authority about the certificate of competence via the information system specified in § 12 of this Act.

(5) If, according to this Act, the competence of a person must be proven and the person has acquired the required level of competence in a foreign country, the Recognition of Foreign Professional Qualifications Act will apply to the recognition thereof. In the case of requirements for competence regulated by this Act, the Technical Regulatory Authority is the body competent to recognise foreign professional qualifications.

(6) The minister responsible for the field may, by a regulation, establish:

- 1) requirements for the competence and proving the competence of the direct user of equipment, the supervisor of use, the person performing equipment work and the auditor;
- 2) requirements for the certification scheme specified in clause 1) of subsection (4) of this section.

§ 11. Requirements for making and testing of permanent joint

(1) A non-destructive test of the permanent joints of pressure equipment, gas piping and gas vessel and of a machine as well as a non-destructive test of a permanent joint affecting the pressure tolerance of pressure equipment may be carried out by a competent person. A permanent joint means a joint that can be disconnected only by using the destructive method.

(2) According to Directive 2014/68/EU of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to the making available on the market of pressure equipment (OJ L 189, 27.06.2014, pp. 164–259), the competence of the person making a permanent joint of category II, III and IV and the procedure for making permanent joints must be proven. In the case of a pressure equipment of category III or IV, the competence of a person carrying out a non-destructive test of a permanent joint must be proven.

(3) The suitability of the competence of a person carrying out a non-destructive test of a permanent joint and the suitability of the procedure for making a permanent joint is proven by a conformity assessment body that holds an activity licence in accordance with § 27 of the Product Conformity Act.

§ 12. Technical surveillance information system

(1) The technical surveillance information system is a database (hereinafter *database*) the purpose of maintenance of which is to facilitate state supervision, gather data and make data available for the purpose of improving adherence to the requirements arising from this Act.

(2) The database and its statutes will be established by a regulation of the Minister responsible for the field.

(3) The controller of the database is the Technical Regulatory Authority. The processor of the database is appointed in the statute of the database.

(4) The following is entered in the database:

- 1) data on equipment subject to audit and on audits thereof;
- 2) data on certificates of conformity issued to persons and on recognition of foreign professional qualifications;
- 3) data on state supervision.

(5) In addition to the data specified in subsection (4) of this section, other relevant data relating to the functions of the Technical Regulatory Authority may be entered in the database. The exact composition of data entered in the database and the conditions of submission and accessing of data are set out in the statute of the database.

(6) The data entered in the database has an informative meaning. Auditors' opinions have a legal meaning.

§ 13. Notification obligation

(1) An economic operator engaged in equipment work must submit a notice of economic activities.

(2) The notice of economic activities must be submitted via the Estonian information gateway or a notary.

(3) If a notice of economic activities is not submitted via the Estonian information gateway or a notary, it must be submitted to the Technical Regulatory Authority that will enter the data contained in the notice in the register of economic activities.

(4) The submission of a notice of economic activities and a respective entry in the register of economic activities have an informative meaning and do not serve as the basis for the economic operator's right to act.

Chapter 4 State Supervision

§ 14. State supervision

The Technical Regulatory Authority exercises state supervision over the compliance with the requirements of this Act and legislation established on the basis thereof.

§ 15. Special measures of state supervision

(1) The Technical Regulatory Authority may, for the purpose of exercising state supervision, take special measures of state supervision provided for in §§ 30, 31, 32, 49, 50, 51, 52 and 53 of the Law Enforcement Act on the grounds and in accordance with the procedure provided for in the Law Enforcement Act.

(2) Along with a precept suspending the use of equipment, the Technical Regulatory Authority may use such special equipment as technical obstacles that prevent or detect the use of the equipment. A technical obstacle may be used if there is reason to believe that the use of the equipment will be continued regardless of the ban imposed by the precept and if the use of the equipment would result in a direct threat to human life or health, property or the environment. The use of a technical obstacle will be terminated in the event of elimination of a threat described in the precept.

(3) The Technical Regulatory Authority may identify the technical reasons of the accidents that have occurred due to equipment, equipment work or equipment-related processes.

Chapter 5 Liability

§ 16. Violation of requirements for putting equipment into service and for use of equipment

(1) The penalty for violation of the requirements for putting equipment into service or for the use of equipment or for equipment work, if it resulted in a threat or damage to human life or health, property or the environment, is a fine of up to 300 fine units.

(2) The penalty for the same act committed by a legal person is a fine of up to 32 000 euros.

§ 17. Violation of audit requirements

(1) The penalty for violation of the audit requirements, if it resulted in a threat or damage to human life or health, property or the environment, is a fine of up to 300 fine units.

(2) The penalty for the same act committed by a legal person is a fine of up to 32 000 euros.

§ 18. Proceedings

The Technical Regulatory Authority is the body that carries out extrajudicial proceedings of the misdemeanours specified in this chapter.

Chapter 6 Implementing Provisions

§ 19. Transitional provisions

(1) Equipment put into service before the entry into force of this Act must comply with at least the requirements in force at the time of putting it into service and be safe for the designated purpose and manner of use. If the conditions of use of the equipment change or if the equipment is altered, the equipment must comply with the requirements in force at the time of use at least to the extent of the change of the conditions or alteration of the equipment.

(2) The permits, authorisations, licences and certificates issued before the entry into force of this Act and valid at the time of entry into force of this Act remain in force, provided that the conditions of granting and issuing them continue to be adhered to.

(3) An economic operator with regard to whom, by the moment of entry into force of this Act, an entry had been made in the register of economic activities under the Acts that are repealed as of the entry into force of this Act, does not need to submit a new notice of economic activities upon entry into force of this Act. Upon entry into force of this Act, an economic operator registered in the register of economic activities in the field of pressure equipment work, gas work, construction of gas installations, electrical work, lifting equipment work and machine work will be deemed as having an equipment work entry.

(4) An act committed by a person before the entry into force of this Act, which can be penalised as a misdemeanour under this Act, is qualified on the basis of the section providing for the elements of the misdemeanour set out in this Act. The misdemeanour proceedings initiated with regard to an act committed before the entry into force of this Act will be terminated if, according to this Act, the act can no longer be qualified as a misdemeanour.

§ 20.–§ 26.[Omitted from this text.]

§ 27. Repealing of Acts

The following Acts are repealed by this Act:

- 1) the Pressure Equipment Safety Act;
- 2) the Gaseous Fuel Safety Act;
- 3) the Machine Safety Act;
- 4) the Electrical Safety Act;
- 5) the Lifts and Cableway Installations Safety Act.

§ 28. Entry into force of Act

This Act will enter into force on 1 July 2015.

Eiki Nestor
President of the Riigikogu